

**Popular sovereignty without populism:  
autonomy, democracy, and citizen  
endorsement**

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# Abstract

This thesis consists of a social criticism of contemporary populism, alongside an investigation into how we should understand democracy's fundamental value. It examines the concerns that drive contemporary populist movements and then considers three implicit understandings of democracy's value that embody those concerns. First, populism can be seen as form of anti-elitism motivated by the intrinsic importance of dividing political power equally: it reacts and seeks an institutional correction to elites' arrogating to themselves disproportionate power in the political process. Second, populism can be seen as a form of anti-elitism that is motivated by the view that political institutions should show equal respect for the decision-making capacities of all citizens and thus reacts to an elitism that gives preference to the views of "experts" in the political process. Third, populism can be seen as a movement that is driven by a perceived dramatic loss in autonomy on the part of its members who see themselves as lacking control over important political outcomes. The dissertation rejects the first two interpretations of populist concern and offers a reconstruction of the third: it construes democracy's value as inhering in its unique capacity to protect the personal autonomy of citizens. However, I argue that it is mistaken to view the personal autonomy of citizens as requiring them to have substantive control over the political decisions that constrain their lives and, drawing on the compatibilist tradition in the free will debate, maintain, instead, that their endorsement of the decision-making system itself is sufficient for their autonomy. I label this view of democracy's value, the "constitutive view" since it presents democracy as constitutive of the autonomy of citizens. Finally, I consider some institutional implications of the constitutive view with respect to the use of the referendum instrument for political decision-making.



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# Declarations

No part of this thesis has been submitted for another degree and all of the work is original and my own.

An article based on Chapter 4 of this thesis has been conditionally accepted for publication in the *Critical Review of International Social and Political Philosophy*.

# Table of contents

|   |           |
|---|-----------|
| Abstract .....  | i         |
| Acknowledgements .....  | iii       |
| Declarations .....  | v         |
| Table of contents .....   | vi        |
| <b>Chapter 1 – Introduction: populism, citizen grievances, and social criticism .....</b> | <b>1</b>  |
| 1.1 Introduction .....  | 1         |
| 1.2 Social criticism and democracy .....  | 3         |
| 1.3 What is populism? .....   | 5         |
| 1.4 Contemporary manifestations of the populist instinct .....                            | 6         |
| 1.4.1 Citizen grievances .....  | 7         |
| 1.4.2 Identarian populism .....   | 10        |
| 1.4.3 Utopian populism .....  | 13        |
| 1.5 Instrumentalism: throwing the baby out with the bathwater? .....                      | 16        |
| 1.6 Some more promising responses to populism .....                                       | 20        |
| 1.6.1 The distribution view .....   | 21        |
| 1.6.2 The respect view .....  | 22        |
| 1.6.3 The constitutive view .....   | 23        |
| 1.7 Conclusion .....  | 25        |
| <b>Chapter 2 – The intrinsic value of democracy: a distributive view .....</b>            | <b>27</b> |
| 2.1 Introduction .....  | 27        |



|   |           |
|---|-----------|
| 2.2 A Dworkin glossary .....  | 30        |
| 2.3 The problems with equally distributing political power .....                | 34        |
| 2.3.1 Nelson Rockefeller and Martin Luther King .....                           | 37        |
| 2.3.2 Disaggregating “political influence” .....                                | 39        |
| 2.3.3 A further problem with equal distribution .....                           | 42        |
| 2.4 Dworkin’s alternative: intrinsic value in disguise? .....                   | 43        |
| 2.5 Conclusion .....  | 50        |
| <b>Chapter 3 – The intrinsic value of democracy: a respect-based view .....</b> | <b>52</b> |
| 3.1 Introduction .....  | 52        |
| 3.2 Waldron and Mill on the implications of respect .....                       | 56        |
| 3.3 The “proper recognition” argument for equal respect .....                   | 60        |
| 3.4 The symbolic argument for equal respect .....                               | 66        |
| 3.5 Conclusion .....  | 70        |
| <b>Chapter 4 – The constitutive view: democratic compatibilism .....</b>        | <b>73</b> |
| 4.1 Introduction .....  | 73        |
| 4.2 Democracy, personal autonomy, and the problem of negligible influence ..... | 75        |
| 4.3 Existing treatments of the PNI .....  | 83        |
| 4.3.1 Neo-republicanism .....   | 86        |
| 4.3.2 The deflationary view .....   | 89        |
| 4.4 Democratic Compatibilism .....  | 91        |
| 4.4.1 Vindicating democracy .....   | 96        |

|   |     |
|---|-----|
| 4.5 Conclusion .....  | 102 |
| <b>Chapter 5 – Referendums and democratic compatibilism</b> .....       | 106 |
| 5.1 Introduction.....   | 106 |
| 5.2 The referendum question .....                                       | 108 |
| 5.3 Two controversies regarding the use of referendums .....            | 112 |
| 5.3.1 Content.....  | 112 |
| 5.3.2 Procedure .....   | 115 |
| 5.4 Referendums and sustainable endorsement .....                       | 116 |
| 5.4.1 Competence and good faith .....                                   | 118 |
| 5.4.2 Democratic compatibilism and referendum content.....              | 120 |
| 5.4.3 Democratic compatibilism and referendum procedure.....            | 121 |
| 5.4.4 Good faith: constraints on content and procedure in practice..... | 123 |
| 5.5 Conclusion .....  | 126 |
| <b>Conclusion</b> .....   | 129 |
| Populism .....  | 131 |
| Political theory.....   | 132 |
| References.....   | 135 |



# **Chapter 1 – Introduction: populism, citizen grievances, and social criticism**

## **1.1 Introduction**

This chapter will serve as an introduction to the problem addressed in this thesis by providing a background to the problem, a discussion of the nature of the task to be accomplished, as well as a survey of the arguments that follow in subsequent chapters. In a nutshell, the problem I address is whether we can understand democracy in some way that renders it a form of popular rule without its succumbing to populism. Democracy is commonly understood as government controlled and directed by the people (Christiano 2012, 81); however, this leaves open a wide scope for interpretation of what such popular rule should mean, including various interpretations that are inimical to both the stability of democracy over time and the protection of various rights and freedoms that are necessary for such stability and, also, a fundamental requirement of justice. Populist interpretations of democracy, I argue, fall into this set of problematic interpretations. While I will, later in this chapter, provide a more coherent overview of the nature of populism and populist ways of doing politics – as well as of why these should be viewed as problematic – for introductory purposes it is enough to point to the recent populist turn in European and US politics.

Underlying this populist turn is a discontent with the political and economic status quo among many citizens of the developed democracies of the West (Sandel 2017b). While many of these grievances driving the populist turn have some legitimacy, or are at least understandable, the populism – at both ends of the traditional left/right political spectrum – that has emerged from this discontent, and disrupted long-established ways of doing politics, is

unsatisfactory in a number of ways. Indeed, these new forms of political expression and organisation – both in the *identarian* and *utopian* forms that I will identify – are unlikely to deliver the changes that their supporters advocate and are, in fact, more likely to be counterproductive in terms of the material improvements to their lives that most citizens supporting these new movements seek.

After discussing the recent populist turn in US and European politics, as well as the forces driving this turn, this chapter will then turn to examining several ways of interpreting the populist approach to the democratic ideal of popular rule. However, I first consider a view – *instrumentalism* – that dismisses the populist position in its entirety and argues that we are mistaken to believe that there is fundamental, or intrinsic, value in the people ruling. This view takes the value of popular rule as contingent on its being able to deliver certain outcomes and is thus in principle prepared to dispense with popular rule if it is no longer able to deliver such outcomes. I will argue that would should set instrumentalism aside as it cannot vindicate core features of democratic decision-making such as, for instance, the equal vote. Three more promising possibilities are then considered. These three views all try to make sense of how democratic authority can be valuable for a reason or reasons that are independent from the reason adopted by the instrumentalist view; i.e. that democracy is valuable because it produces good outcomes. Each of these views thus emphasises a different value-conferring feature of democratic authority: one view emphasises the fact that democracy distributes power equally, another that it displays equal respect for all citizens, and a third that democracy is constitutive of the autonomy of citizens. I thus term these three approaches to understanding the fundamental value of democracy as the *distribution* view, the *respect* view, and the *constitutive* view, respectively. Each of these are only given a brief treatment in this chapter as the subsequent three chapters of the dissertation will examine them in turn and in more detail. However, it can be noted here that the first two of these views will be found wanting before

the third – the constitutive view – is taken up as the preferred option and fleshed out in more detail in Chapter 4. The final chapter of the dissertation, Chapter 5, then examines the implications of the constitutive view of democracy for democratic institutional design.

## **1.2 Social criticism and democracy**

Before considering the problematic interpretations of popular rule that drive the contemporary populist turn, let me first describe the type of political theory this dissertation undertakes. Political theory is often, and necessarily, an abstract discipline that seems far removed from the quotidian issues facing citizens living with the reality of social life and political authority. However, it also contains powerful and constructive theorising that engages directly with the problems faced by such citizens. This dissertation is an instance of one such type of “engaged” political theory, namely “social criticism” (Walzer 1987; 1988). Social criticism aspires to offer insights that are closely connected to the concerns of those whose lives it addresses and thus earns its authority by arguing from within a certain political culture and milieu rather than in a way that is detached from or above it. In Walzer’s words, social criticism is performed from “a little to the side, but not the outside” (Walzer 1987, 61) of the target of its intended audience.

Perhaps one way to better understand social criticism as a type of political theory is to first consider what its opposite – a detached or disconnected account of political morality – looks like. As an archetypical example of such an approach, Walzer invokes the case of Bolshevik theorising in pre-revolutionary Russia (1987, 62-64). These theorists, Walzer argues, operated at a level largely detached from the common values and mores of ordinary Russian subjects. While, of course, they drew effectively on Russian circumstances to successfully engender a revolution and seize power, this was purely tactical in nature and they did so from an external perspective; the Bolsheviks had made a great doctrinal discovery – one that had its origins, both literally and figuratively, at a great distance from Tsarist Russia – and they sought to seize

the apparatus of the state to impose this doctrine on the Russian people. The detachment of their critique meant that once this power had been secured, it was then necessary to “compel the people to an enforced awakening” (Gramsci 1971, 20; Walzer 1987, 63). While the Bolsheviks clearly represent a particularly extreme example of detached theorising about political morality, Walzer hints at less egregious perpetrators closer to home. For instance, he sees John Rawls and Ronald Dworkin as exemplars of the view that justice can be done, or at least be persuasive to most, on the basis of the imperative of rationality alone (Walzer 1987, 11, 19). The examples of Rawls and Dworkin may not be entirely fair, however, since Rawls, at least, is explicit in stating that we must develop our political morality in ways that leave it in tune with the fundamental ideas we find in the public political culture of our contemporary democracies. Furthermore, Dworkin’s work on, for example, putative rights to abortion and euthanasia are intimately connected to existing debates in these areas. Yet one need not endorse Walzer’s assessment of Rawls’ and Dworkin’s contributions in order to accept his point that there is great value in theories that seeks to reconstruct and express whatever true and compelling ideas there might exist in certain widely endorsed political traditions or movements in a given society.

In contrast with these problematic examples, Walzer believes, then, that we must develop political morality in a way that is connected to a particular shared culture and immersed in the problems of the culture that one wishes to critique (Walzer 1988, 233-34). Undertaking social criticism in this vein, I aim to bring some coherency to the grievances of citizens that have been driven to the populist turn. My aim will be to do this without simply dismissing populists as reactionary or aberrative manifestations of political dispositions that deserve to be condemned, suppressed or merely ignored. In this respect, the task is to reformulate or make more coherent the fundamental ideals behind these grievances. Second, I will attempt to offer an alternative approach to addressing these grievances to the one offered by contemporary populist

movements. This will involve engaging with the fundamental ideal underlying populist sentiment – that democracy should be understood as a form of popular rule and that existing ways of conducting democracy fall short of this – and seeking a formulation of democracy that will take this view seriously without lapsing into the ills of populism. Any such formulation will need to meet two criteria. First, it must be a theoretically plausible interpretation of democracy’s value. And, second, it must offer some hope of addressing and expressing the grievances and drivers behind the current turn to populism.

### **1.3 What is populism?**

Finding an adequate definition of populism has been notoriously difficult and bringing all instances of political phenomena generally considered to be populist under one theoretical roof has proved to be an elusive task. Indeed, as Margaret Canovan has argued, those setting out on such an endeavour are faced with a trade-off between comprehensiveness and clarity (Canovan 1982, 548); the rich diversity of all the cases commonly deemed populist means that more general theories will find they are able to embrace political movements not generally accepted as being populist, while narrower ones will necessarily exclude some cases and will thus have to exist in a state of mutual exclusivity with similar theories (Canovan 1982, 549). Confronted with this difficulty Canovan takes an alternative tack and instead seeks to create a taxonomy of the empirical landscape by constructing a typology of populism that divides instances of the phenomena into various types: for instance, peasant movements and agrarian socialism, populist dictatorships, populist democracies, reactionary populisms and politicians’ populisms (Canovan 1981, 12; 1982, 550-1). However, for my purposes in this dissertation, neither the approach that Canovan criticises – the search for a watertight theory of what is and what isn’t populism – nor her own approach – a typology of all phenomena and political movements deemed to be populist – are necessary. Instead, I will give an impressionistic outline of the



basic features that populist impulses in politics seem to share, with particular emphasis on the extant populist movements of the late twentieth and early twenty-first century.

In this respect, the key feature of populism, both left and right, is the conviction that a division exists between “the people” and “the elite” (or “the establishment”) and that the latter are either exploiting the former to some end, or perhaps just ruling in their own interests rather than the interests of all (Mudde 2004, 543). Populist movements thus seek to redress this imbalance by calling for the people to reclaim power, or for democratic politics to better represent the will of the people in some purer, undiluted or less mediated form. In short, populist movements share the belief that it is the people that should rule in a more direct and unmediated form than is currently the case in many democracies.

#### **1.4 Contemporary manifestations of the populist instinct**

That the people should rule seems to be an uncontroversial proposition and, indeed, would feature in most ordinary citizens’ definition of what it means for a system of decision-making to be democratic. However, different populist movements have interpreted or manifested this feature in varying ways. For instance, it is not always clear who forms part of “the people” and who is excluded from this group. In this section I will discuss two forms of contemporary populism that have taken two different interpretations of the call for the people to rule. I term these *identarian* and *utopian* populist movements; in some cases these categories roughly pertain to right and left populism respectively, but I have chosen this alternative designation because, as I will argue below, the left/right distinction is not wholly adequate here. However, before turning to these different forms of contemporary populism, I will first discuss the political, social and economic drivers behind the recent upsurge in populist sentiment in many developed democracies. In order to formulate a conception of democracy that better responds

to the demand that the people should rule, it is worth asking the question of what it is that those supporting populism actually want.

#### *1.4.1 Citizen grievances*

The result in the UK's referendum on exiting the EU, the election of Donald Trump in the US, and the growing success of populist movements across many countries – initially from the right of the political spectrum, but now also on the left – can all be viewed as parts of this populist turn or instinct in the politics of many developed democracies. While this populism, especially on the right, often contains nativist and xenophobic strands, to reduce populism to racism or bigotry, or to attribute these movements wholly to such drivers, would be to miss much of what has caused the recent reaction against established political parties and the technocratic approach to political decision making that has held the consensus for recent decades. Moreover, to view this populism only in terms of racism and bigotry would lead us to focus only on right-populism and miss what contemporary populists from across the traditional left/right political spectrum have in common. Instead of taking this approach, I will – following Michael Sandel and others – focus on several issues that relate to the “social esteem” (Sandel 2017a) of citizens in modern democracies. These are issues that, I argue, are both representative of legitimate grievances that many citizens feel and, most importantly for the purpose of this dissertation, are issues that can be addressed by reassessing the way we conceive of democracy's value. The three issues or grievances that I will focus on in this respect concern economic alienation, meritocratic and technocratic hubris, and national community.

First, with respect to economic alienation, it is clear that income gains in recent decades across western societies have not been shared evenly. In the US, for example, the middle 60% of households saw their income grow by 46% between 1980 and 2015 (Stone et al. 2017), while the top 20% enjoyed a 70% rise, and the top 1% a 192% rise. A similar, albeit less egregious,

situation exists in the UK where inequality increased rapidly in the 1980s and early 1990s, with some stabilisation since then (Tetlow 2016). However, even more significant than actual changes in relative incomes and inequality is the perception among the least well off and those in the middle that an increasingly globalized economy and the greater ease with which workers can move between countries in order to seek better paid work – an issue of particular relevance within the UK and the other states of the EU – has not benefited everyone equally (Johnson and Rodger 2015). These inequalities in wealth and income growth have, unsurprisingly, led many citizens of developed western societies to seek new political solutions removed from status quo ways of conducting democratic politics, and the recent success of populist parties and movements are one example of this. Indeed, the traditional assumptions and responses to such inequalities among the established parties of both, to varying degrees, the centre right and left – that providing for social mobility offers both an antidote to, and a justification of, economic inequality – have failed to either practically deliver equality of opportunity nor to convince the less well-off that such opportunities are available.

This failure to provide for real equality of opportunity and thus realistic chances of social mobility, is directly related to a second issue of grievance: that of “meritocratic hubris” (Sandel 2017a). The idea that modern democracies provide a level playing field in terms of equality of opportunity indirectly promotes the idea that those who are more or less economically successful are in some way deserving of their respective positions. This has the effect of creating both resentment among the less successful – who may either view the system as rigged against them and/or be demoralised by their relative lack of success – and a sense of hubris among the more successful who are led to believe that they have earned their position by virtue of superior talents or industry. Both the hubris of the winners, and the demoralisation and alienation of the losers, are contributory factors behind the appeal of populist forms of politics that seek to emphasise the divisions between a people and an elite. Changing our conception

of participatory democracy and its value should seek to remove or greatly reduce the appeal of populism by taking seriously the luck egalitarian intuition that nobody should be worse off due to no fault of their own – or rather that inequality is only justifiable when it is attributable to choices for which an individual can be held responsible (Cohen 1989, 908) – without falling into either the hard right view that agency will always triumph over structure nor the corresponding hard left view that agency is impossible given the prevailing structure.

The final issue driving populist politics that a reconception of the value of democratic politics should seek to address is that of the erosion of a sense of national community in many developed democracies. A preponderance of free trade agreements and, in the EU in particular, the opening up of borders to higher levels of immigration, are both common targets of populist ire. Indeed, even new populist movements ostensibly from the left of the political spectrum have begun to question the value of mass immigration and the role it is playing in changing the wages and conditions of workers in the countries most affected by these influxes (Lewis 2017). While these developments have clearly aided what are the most pernicious forms of populist sentiment – nativism and the vilification of immigrants, and even of settled immigrant communities – the response of “liberal” politicians has been inadequate. Treating such sentiments as forming part of a principled moral issue, and thus rejecting them outright while emphasising the virtues of multiculturalism and common humanity, is in a certain respect valid, yet the total moralization of an ostensibly political and economic problem has the effect of placing beyond the pale the genuine and understandable grievances of those citizens who are not racist or nativist (Mouffe 2005, 75-6). Moreover, dismissing any such concerns and grievances as manifestations of racism or xenophobia disables a political community from addressing broader questions such as the moral implications of national borders and the relative weight we should ascribe to national solidarity and universal cosmopolitanism (Sandel 2017b). My aim is thus to reconsider the value of democracy in order to determine whether there is a

view of its value that is both independently attractive and also manages to express the grievances of citizens that are driving contemporary populist movements. These two criteria correspond to the task of social criticism that I have outlined above.

#### *1.4.2 Identarian populism*

The political landscape in both Europe and North America is currently dominated by movements that are widely considered as being examples of a populist backlash against established politics. In Europe this is taking the form of a reaction against the European Union, against demographic changes caused by increasing levels of global migration and refugee crises, and against economic crises engendered by a financial system that seems beyond the control of national governments and ordinary citizens. Moreover, resentment at such systems is heightened by the – arguably justified – feeling that it is these ordinary citizens that are paying the price for the failures of such systems via struggling economies and stagnant or falling standards of living, while those responsible – whether they be the high financiers of global capitalism or the politicians and bureaucrats of national and transnational governments – escape relatively unscathed. This new form of politics has found its expression in the rise of identarian populist movements promising to reclaim power for ordinary European citizens: rising support for the *Front National* in France, the *Alternative für Deutschland* in Germany, the *Partij voor de Vrijheid* in the Netherlands and, perhaps most significantly, the success of the UK Independence Party in securing the United Kingdom's exit from the European Union, are all instances of this new right-wing populism in Europe. These parties have all had varying degrees of success in channelling popular resentment against established elites and ways of doing politics, against the federalizing project of the EU, and against immigrants from the predominantly Muslim countries of North Africa and the Middle East.

The election of Donald Trump as President of the United States has many similarities with the success of these right-wing populist movements in Europe. The latter's hostility towards the EU finds a reflection in Trumpism's antipathy towards the globalization of trade – blamed for “stealing” American jobs – while both movements seem to share a form of ethno-nationalism that is manifested in an opposition towards immigration, particularly from Muslim majority states, and is often cashed out in the form of strident rhetoric decrying the dangers of Islamic radicalism and the existential threat this poses to European or American values and ways of life. I term these movements on both sides of the Atlantic “identarian” due to this ethno-nationalism and nativism that privileges the rights and aspirations of an “indigenous” culture above those of both recent immigrants and more settled diaspora communities.

However, these movements on both sides of the Atlantic also contain elements that seem contradictory. The first is that their leaders are figures who seem to very much embody the character of the elite politician rather than the ordinary citizens. For instance, Trump, the property billionaire who received his start in life by virtue of inherited wealth, and Farage, the publicly educated former stockbroker, seem like strange figureheads for movements that purport to be reclaiming power for ordinary citizens and working people. Moreover, despite their nativism, many of these movements borrow extensively from ideas that would normally be considered of the left – a hostility to free trade and liberalized labour markets, for example. It is for this reason that while categorizing them as being “right-wing” might pass casual inspection, it is not wholly satisfactory and I have instead chosen the identarian designation.

Contradictions such as these raise the question of what it is such movements are really offering and whether or not they can really deliver on making democratic politics serve the interests of the masses rather than elites. I argue here that they cannot, and reformulating the ideals underlying those grievances driving contemporary populist movements, in order to find a less problematic way of addressing and resolving them, is thus a necessary element of the

task of social criticism that I have set myself. While the majority of ordinary citizens, both in Europe and the US, have legitimate grievances in terms of how established democratic politics has ceased to work in their interests, Trumpism and the new European identarian populism offer an illiberal response which will actually undermine many of the gains for ordinary citizens that have been made over recent years and decades. For instance, the antipathy of some of these movements to institutions such as universal healthcare and the safety net of the welfare state in its various forms, as well as their resistance to judiciary-led efforts to ensure basic human and civil rights are guaranteed, show how damaging to the interests of ordinary citizens these movements may end up being.

Furthermore, as already alluded to, these manifestations of the current populist impulse in democratic politics draw heavily on notions of cultural and ethnic identity to advance a divisive form of politics that fails to take pluralism seriously. This identarian form of politics views “the people” as a homogenous unit and excludes from this unit those that dissent. Those excluded might be new immigrants or those that hold a different faith to the majority, but also indigenous citizens viewed as members of elites: for instance, leftist and liberal academics, and human rights advocates. This division between members of the in group – the people – and others means that populists of this type fail to respect points of views that differ sharply from their own and, moreover, fail to recognize that reasonable disagreement is possible in good faith. This attitude has been manifested, on both sides of the Atlantic but in particular during the recent referendum campaign in the UK, in a scepticism towards the views of “experts” that advance positions which differ from their particular populist narrative. For instance, Michael Gove’s notorious comments during the recent campaign preceding the UK’s referendum on EU membership, delivered in response to economists’ predictions of the negative effect of Brexit – that “people in this country have had enough of experts” – provide one of the most notable examples of this (Clarke and Newman 2017). More generally, the widespread antipathy

towards climate science and scientists on the populist right is also indicative of this resistance towards technocratic perspectives on public policy.

#### *1.4.3 Utopian populism*

This populist instinct among European electorates has also found expression in another new form of radicalism, albeit one that has enjoyed less consistent levels of success than the identarian movements just discussed. I term this other form of populism, “utopian populism” (though the “left” designation possibly fits more comfortably here than the labelling of the movements discussed above as “right”). These utopian movements include the Occupy movements on both sides of the Atlantic, *Podemos* in Spain, and the direction taken by the UK Labour Party under the leadership of Jeremy Corbyn and his acolytes. The Occupy movement styles itself as being opposed to social and economic inequality and what it views as a deficit in “real democracy” around the world, but particularly in the most economically developed states of the capitalist West. It views large corporations and financial institutions as exerting an undue level of control over the lives of ordinary people in a way that benefits an elite minority at the expense of the majority of citizens, and thus undermines democracy. The Occupy movement’s view of who constitutes the people is clear from the slogan “We are 99%”; the excluded 1% refers to the wealthiest people in society that control a disproportionate share of both the means of creating wealth and political influence. *Podemos* in Spain shares the Occupy movement’s opposition to economic and social inequality, but is a more conventional political party and thus seeks to effect change by taking power, rather than the less orthodox strategies of social movements such as Occupy. As well as radical economic policies such as greater wealth redistribution via measures such as an unconditional basic income and the withdrawal from some free trade agreements (something they have in common with the



identarian movements discussed above), *Podemos* also advocates a greater use of direct democracy via instruments such as referendums and citizens' councils.

Even though its perceived success is at least in part a result of exceeding expectations rather than actual electoral performance, the fortunes of Corbynism in the UK is possibly the most successful example of the utopian tendency in contemporary populist movements. The direction the Labour Party has taken can be viewed as populist in a number of ways. First, as embodied in the slogan – reminiscent of Occupy's claim to be for the 99% – of “For the many and not the few”, the party now clearly draws a dividing line between its own supporters or those it claims to represent and those interests advanced by the elites supported by other parties and even former leaderships and dissenting members of the Labour Party. Indeed, a considerable amount of the ire of the new leadership of the Labour Party is directed at perceived opponents in the centrist or more moderate faction of its own party. The appeal to worthy “people” in opposition to corrupt elites, and the need to establish purity in this respect, drawing clear lines between the two groups is, as we have seen, as common trait of populist political movements across the spectrum. And the Corbynist reliance on a cult of personal authenticity and a tendency to prefer ecstatic mass rallies of supporters rather than seeking to actually persuade the doubtful or undecided is surprisingly similar to Trump's style of political campaigning on the other side of the Atlantic. Furthermore, both movements share a strand of authoritarianism; Corbyn's may be less overt than that of his populist counterparts on the right, but is nevertheless evident in his historic support for dictators and dictatorial regimes, including those of, among others, Iran, Cuba, Libya and Venezuela.

I have termed these populist movements and parties *utopian* due to their emphasis on radically reshaping the way politics and economics are conducted, as well as their possibly naïve view of how this can be achieved. Occupy, for instance, has always been vague on what exactly they want to achieve and how it wants to achieve it. Indeed, it has at many points

appeared to be a movement focused on protest for its own sake rather than one having a clear view of its goals and how they could be achieved. *Podemos*, on the other hand, has a clear policy platform and is seeking to effect change via the more conventional route of securing political power via the conventional institutions of Spanish democracy. However, both *Podemos*' rhetoric and policies have displayed a naivety with regards to how such change will happen. For instance, it is not at all clear that their promotion of the greater use of direct democratic measures will engender the sort of changes that they wish to see. Indeed, as recent experience in the UK has shown, there is a danger that the institutions of direct democracy, such as referendums, can be captured by forces wholly inimical to the type of radical social and economic change that *Podemos* advocates. Corbynism in the UK has also displayed a similar level of naiveté with respect to how political and economic power can be wielded within a modern state. For instance, while Conservative jibes at Labour relying on the existence of a “magic money tree” are perhaps rather hackneyed, the promises of Labour’s 2017 manifesto – such as extensive renationalisation and student debt relief – would likely never see the light of day in the context of an economy dominated by the activities of the City of London and the capital flight that would inevitably follow from any Corbyn victory in a General Election. Indeed, the view that such economic goals are achievable and desirable despite the contrary views of many economists and others speaks to the disdain for “expert” opinion that is a trait of many populist movements.

Notwithstanding these critiques of the new populisms of Europe and the US, as we have seen, citizens’ disenchantment with democratic politics as currently practiced is real and, to varying degrees, legitimate – at least in the sense that it deserves to be taken seriously and deserves a response. And given the threat that this new populism presents to the democratic order in the West, the question arises whether there exist alternatives to this flawed manifestation of the populist instinct that the people should rule. In the remainder of this

chapter I will first examine one response to populism – that there is in fact little or no inherent value in the idea that the people should rule – before examining several other responses that take the populist view of “people power” more seriously. The discussion of these responses will help to set the stage for the argument that unfolds in the following chapters of the dissertation.

### **1.5 Instrumentalism: throwing the baby out with the bathwater?**

If we understand the current threat that populism seems to be presenting to established ways of conducting democratic politics as a reaction to grievances that are a result of the way that this politics is itself conducted, then a potentially valid response to this is to ask what purpose democracy serves, or should serve. Put differently, it is to ask where the value in democracy lies. One reply to this question is to assert that democracy’s value lies *only* in its ability to generate outcomes that are superior to those possible under other forms of political decision-making (Dworkin 2000, 190; Arneson 2004). For example, we might believe that democracies tend towards a more equitable distribution of material goods, or are perhaps better at safeguarding basic human and civil rights. This view is thus dismissive of the idea that there is something intrinsically valuable in the people ruling themselves and sees the value of democracy adhering solely in its ability to generate better outcomes for citizens.

To understand instrumentalism more clearly, it is helpful to understand the distinction between intrinsic and instrumental value. Objects have intrinsic value if they are good in themselves. Objects have instrumental value if, by contrast, they have value because they lead, either directly or by way of another instrumental good, to something else that is of intrinsic value. Democracy is then presented as valuable either due to its capacity to produce favourable outcomes of some sort – which are themselves intrinsic goods – or because it is valuable, somehow, in itself. An approach to the value of democracy that uses the distinction between

intrinsic and instrumental value presents us with a series of puzzles, or at least several questions that seem to resist democracy's easy classification into this system of value. That democracy is valuable due to its promotion of certain outcomes might well be plausible, but the claim that democracy only has instrumental value is intuitively inadequate. Our attachment to democratic decision-making does not seem so contingent that we would be prepared to easily abandon it should it be shown that some other form of political decision-making could promote better outcomes. Our intuitive unease at thought experiments that invoke the idea of a "benevolent" or "enlightened" despot as an alternative to democracy captures the inadequacy of purely instrumental explanations of democracy's value. Furthermore, we find worrying the idea that experts should be given more authority than us in certain areas and we intuitively recoil from the idea of plural voting, or an epistocracy, in which the better educated have more votes than the less educated, even if we grant that such a system might well produce better outcomes than one in which all citizens have an equal vote (Estlund 2008, 219-22).<sup>1</sup>

However, to argue for the intrinsic value of democracy also seems inadequate, or perhaps too obscure. For instance, what exactly does it mean to say that a system of decision-making is intrinsically valuable (Beerbohm 2012, 36)? A fine painting or a beautiful vista are the type of things that are often cited as having intrinsic value, but it isn't obvious how a system of political decision-making can be valuable in the same way as these types of things. So are we here claiming that there is intrinsic value in the procedures inherent in democratic decision-making? It certainly seems strange to refer to a set of procedures or legal norms as entities that possess intrinsic value. An examination of democracy's value must then, among other tasks, clarify what it is about democracy that could imbue it with intrinsic value.

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<sup>1</sup> These issues are discussed in considerably more detail in the subsequent two chapters of this dissertation.

A helpful first step such an examination might take is to consider some examples of features of democratic politics that might possess intrinsic value. One such possible feature that it seems we can discard from the outset is that participatory aspect of democratic politics. Someone might suggest, for example, that democratic politics is intrinsically valuable because it possess features that are akin to social activities such as dancing or conversing, or even more abstract notions such as friendship or love, all of which intuitively strike us as intrinsically valuable. While participating in democracy certainly seems to share a social aspect with these activities, however, it would clearly be implausible to say that its intrinsic value is of a similar type. Indeed, construing democratic participation in a similar way to these types of social activities seems to miss something fundamental about the political experiences of those engaging in political decision-making; we are thus seeking an intrinsic conception of democracy's value that resists the more romantic aspects that characterise certain kinds of closer or more intimate interpersonal relationships between individuals and keeps its feet more firmly on the ground.

Let us then consider a more grounded and plausible account of what is intrinsically valuable about democracy. Perhaps, more realistically, it is the equal distribution of political power that is inherent in democratic procedures that is of intrinsic value. This certainly seems more plausible and promising as we can easily think of other instances where we view equal distributions of important goods as valuable in themselves. Think, for example, of the way in which parents confer gifts on their children or provide education for them. Many parents believe that it is intrinsically valuable that they should achieve an equal distribution of these goods between their children. This familial example points to a broader conception of the intrinsic value of an equal distribution of certain goods in terms of its ability to provide for equal opportunities for individuals to develop their skills and, for example, to find meaningful work in society. In this example we do not find this equal distribution of goods as purely instrumental in value – in terms of it being instrumental in providing for the possibility of just

outcomes – but rather view it as valuable in its own right. In both the cases of the parents distributing goods equally between their children and of society providing equal opportunities for citizens to develop their capacities, it is the distribution itself that we view as valuable due to its intrinsic fairness rather than due to its capacity to generate certain outcomes. Likewise, it is possible that the same might be true about political power; perhaps it is intrinsically valuable that nobody should have more or fewer votes, or more or less valuable votes, than others. This view also seems to value equal distribution as valuable in its own right, rather than presenting its value as being contingent on some or other outcomes that it may lead to.

While, at this stage, I have only given a very general critique of the instrumentalist view, I argue that this view presents intractable problems, both in relation to contemporary political developments and at a more abstract theoretical level. If we view the outcomes of recent processes of political decision-making as objectively inferior to the alternatives that were available, then it seems that democracy, as currently understood, is now failing to deliver the best possible outcomes. Does this mean that we should thus reject democracy, or perhaps curtail democratic decision-making in some way? For instance, with respect to the Brexit vote in the UK, if we believe this decision to be incorrect and to bring with it serious negative consequences – even for those that supported it – then we are left in the difficult position of having to argue that perhaps this is a decision that should not have been taken by the people as a whole due to their preference for an objectively worse outcome. This leaves the supporter of an instrumentalist view of democracy in a difficult position where they are forced into supporting “less democracy” in order to achieve a better outcome, and it seems particularly problematic to suggest that the people as a whole should not have a say on a major constitutional change such as this.

More generally, the instrumentalist view fails to fully explain what it is in democracy that we deem to be valuable. Our instinctive antipathy towards the idea of a benevolent dictator

who is able to select the best course of action in any given situation, without recourse to consulting ordinary citizens, captures this. Instead of the instrumentalist view of democracy that views the “people power” of the populist instinct as wrong-headed, I thus will examine three other potential interpretations of the view that the people should rule. The remainder of this chapter will provide a brief outline of each of these views, while the subsequent three chapters will examine them in more detail.

### **1.6 Some more promising responses to populism**

Given these worries about the instrumentalist view and what it can offer as a response to the grievances driving the current wave of populist politics, it is worth seeking to reinterpret the anti-elitism that underpins these movements in some other way. In this section I will outline three possible alternative responses that each involve a way of understanding democracy’s value. Each of these responses will then be fleshed out in more detail in the subsequent chapters. First, and as alluded to a moment ago, democracy can be understood as equal political power for citizens. On this view, democracy’s value lies in its ability to distribute power equally among all citizens and thus give all citizens an equal say in political decision-making. I term this first view, the *distribution view of democracy*. Second, democracy can be viewed as an exercise in expressing respect for the equal worth of all citizens. I term this the *respect view of democracy*. Finally, democracy can be viewed as constitutive of the equal autonomy of all citizens. By this I do not mean that democratic procedures cause people to acquire autonomy, or the opportunities that allow them to live autonomous lives (which it may well do) but rather that it constitutes their autonomy in a sense that I will outline in more detail below. I thus term this third view, the *constitutive view of democracy*. These three views of democracy all differ in how they view it to be valuable; however, unlike the instrumentalist approach, they all take the populist notion that the people should rule seriously.

### 1.6.1 *The distribution view*

The first of these interpretations of the populist demand for a more anti-elitist politics is to conceive of democracy as requiring a more equal distribution of political power than is currently found in most representative democracies. As we will see in the subsequent chapter, an equal distribution of political power can be conceived of in several ways; however, I will here briefly outline how political power can itself be understood. Following Ronald Dworkin, political power can be disaggregated into *impact* and *influence*. *Impact* refers to a citizen's ability to cast a vote that is then tallied among others in some way in order to determine which among several competing outcomes should be pursued. *Influence*, on the other hand, is understood as the ability to influence the votes of others – perhaps through access to the media or through the sheer persuasive force of argument (Dworkin 2000, 191-194). As we will see in the next chapter, a distribution view of democracy can aim to equalize each of these different forms of political power in one of two ways; it can seek horizontal equalization among ordinary citizens or it can seek to equalize power vertically by minimizing the difference in power between ordinary citizens and government officials (Dworkin 190-191). The first kind of equality, or *horizontal equality* as we might call it, is less controversial, especially with respect to impact. However, the second kind of equality, namely, *vertical equality* of power, is more contentious: it would perhaps involve the greater use of referendums and other forms of direct democracy that might give ordinary citizens the type of power more commonly associated with their elected representatives, and these are institutional mechanisms whose value is subject to much disagreement. This type of populist response has been advocated in varying degrees by European populist parties of both right and left, with parties and movements as disparate as UKIP and *Podemos* advocating a greater use of referendums and direct democracy.



However, with respect to the task of social criticism that I have set myself, there are two issues with this approach to the value of democratic decision making, as indeed there are with any attempt to reconceive of how we should interpret democracy: we must capture and express a view of democracy's value that is implicit in the type of citizen grievances outlined above, as well as finding a view that will suggest changes to democratic institutional design that will serve to ameliorate these grievances. So, first, we must ask if this is really a sound and theoretically coherent way of understanding the value of democracy. And, second, we need to ask whether such an approach to democracy's value – and the associated changes to institutional design that it would imply, if any – can really serve to address the type of citizen grievances addressed in the previous section and thus negate the appeal of populist parties and movements. For instance, perhaps a greater vertical equality of political power would serve to negate the influence of certain interest groups on the political life of a democracy and thus lead to a more equitable distribution of goods within democracy. Or perhaps differently distributing power might engender a greater feeling of national solidarity among citizens and work against the corroding effects of, in this respect, more open and globalized economies and societies. These two questions – regarding the efficacy and the potential effects of conceiving democracy's value in terms of the distribution of political power – will be addressed in more detail in Chapter 2 of this dissertation.

### *1.6.2 The respect view*

Another way of viewing the worth of democracy, both as a response to the grievances driving populism and as a more general perspective on its value, is to view democracy as the only political system capable of treating all citizens with equal respect. This equal respect can be based on a range of characteristics or features – perhaps on each citizen's equal worth, their equal right to serve as decision-maker, or their equal right to see their interests advanced

(Waldron 1999, 148; Christiano 2004, 269-270) – and focusing on the value of this equal respect has the potential to serve as an antidote to the populist perspective on disdaining the views of “experts” who are seen as only serving their own interests or those of an elite. The respect view of democracy thus seems particularly plausible in terms of asserting the equal right of all citizens to rule, especially in light of the issue of meritocratic hubris discussed above; perhaps such a view of democracy’s value can work to counter the prevailing populist view that decisions in society are mainly taken by and for those who have benefited the most from existing political and economic arrangements. However, as with the distribution view, this approach needs to both be plausible in terms of its ability to offer a coherent theory of democracy’s value and the design of democratic institutions, as well as its ability to offer a convincing antidote to the existing ways of conducting democratic politics that have led to such widespread disenchantment and the associated rise in populist parties and movements. These aspects of a respect approach to democracy will be addressed in Chapter 3.

### *1.6.3 The constitutive view*

The final view I would like to consider as a response to the citizen grievances that have driven the populist trend in contemporary politics is to see the value of democracy as lying in its ability to be constitutive of the autonomy of the citizens who live under its procedures of decision-making. This idea of constitutive value steps outside of the more familiar dichotomy of intrinsic and instrumental value. An instrumental value is conventionally viewed as being one that is causal of another, separate, intrinsic value. Just as we might say that a hammer is instrumentally valuable in helping us to hang up a beautiful painting whose presence on the wall is valuable in its own right, or intrinsically valuable, so, as we have seen above, we might say that democracy is instrumentally valuable insofar as it tends to produce outcomes that are of intrinsic value;

perhaps it is better at producing just laws or developing the characters of those who participate in it, where we view these latter outcomes as valuable in themselves.

The notion of constitute value differs from that of instrumental and intrinsic value. A constitutive view of democracy's value argues that while democracy may not be valuable in itself – i.e. intrinsically – it is nevertheless constitutive of other values that *are* valuable in themselves. In this case I refer to the ability of democracy to be constitutive of the autonomy of citizens who live under its decision-making procedures. In this respect, constitutive value differs from instrumental value as the latter suggests causation between democracy and other intrinsically valuable goods, whereas constitutive value implies a relation of constitution not causality. To see this more clearly, it is perhaps worth considering a different example. Ronald Dworkin (1992) has argued that justifications for free speech can be viewed instrumentally or as a constitutive value of a free society. The instrumental view sees free speech as producing positive effects for society as a whole – perhaps, as Mill argued, free speech better helps us to root out falsehood and discover the truth (Mill 1991, Ch. 3) – while the constitutive view sees it as being a fundamental and indispensable part of a just political society. The constitutive view here is not suggesting that free speech is, alone, an intrinsic good, nor that it is causative of justice, but rather that it forms a necessary part of a society being just. More everyday examples of the nature of constitutive value include an arbitrary part of a beautiful painting – the bottom half of the Mona Lisa, for example, is not instrumentally or intrinsically valuable, but valuable as a constitutive part of the whole work – or several bars from a great symphony, or even the individual branches of an ancient tree. None of these things have value in themselves, nor are they causative of something else that is of value, but rather are constitutive and essential parts of a valuable whole.

Similarly, in Chapter 4, I will argue that democracy – or, more specifically, the procedures of democratic decision making – are constitutive of the autonomy of citizens who live in

societies that are governed in such a way; put differently, without democratic forms of decision making it is not possible for citizens to live autonomous lives. Of course, as with the distribution and respect views, the constitutive view must not only show that this is a theoretically viable way of interpreting democracy's value, but also that this offers us some way to at least ameliorate the current disenchantments of citizens in democracies that have experienced a rise in populism. These points will be addressed in more detail in Chapter 4.

## **1.7 Conclusion**

This chapter first introduced the idea of political populism and the defining idea behind populist movements – that it is the people who should rule – as well as discussing the drivers behind the recent popularity of populist political movements and parties in some of the world's most developed democracies. It also showed why contemporary populist movements offer an inadequate interpretation of this idea that the people should rule, and how they are in fact unlikely to be able to address the grievances of those citizens who support them. I then turned to discussing various ways of interpreting the value of democracy and the idea that it is the people who should rule. First, the instrumentalist view was discussed and after showing the problem with wholly dismissing the idea that the value of democracy lies in its placing political power in the hands of the people, I briefly outlined three possible interpretations of democracy that embrace the populist ideal that the people should rule – and have the potential to address the disenchantments of citizens supporting populist movements. These interpretations present democracy's value in different ways. I term these the *distribution*, *respect*, and *constitutive* views of democracy's value. The following three chapters of the dissertation will examine these three views in more detail. Chapters 2 and 3 look at the distribution and respect views of democracy respectively and, by way of examining several notable interrogators and proponents of these views, will find them wanting. Chapter 4 will then make the case for my own view:

that the value of democratic procedures lies in their ability to constitute the autonomy of citizens. Finally, Chapter 5 will examine the issue of reforming democratic institutional design, both in response to the populist impulses discussed in this chapter and the arguments made in Chapter 4.

# Chapter 2 – The intrinsic value of democracy: a distributive view

## 2.1 Introduction

Chapter 1 outlined the problem that I will address in this thesis – that of how to take seriously the idea that democracy should be construed as popular rule, without lapsing into populism – as well as providing an overview of several relevant themes, such as the recent growth in populist movements in the developed democracies and various possible ways of interpreting the value of democratic political systems in light of the criticisms of contemporary democracies made by these populist movements. These possible ways of interpreting democracy's value included the *instrumental* approach, as well as three possible forms of understanding democracy's value intrinsically which I called the *distribution*, *respect* and *constitutive* approaches, respectively. These different possibilities are worth investigating as they seem to be both plausible ways of interpreting the motivation of contemporary populist movements – for instance, in the first two cases, as the claim that democracy should involve a more equal division of power between elites and the masses, or that it should show greater respect for the views of lay people – as well as ways of understanding what lies behind our intuitive attachment to the intrinsic value of democracy.

The rest of this dissertation will proceed in two stages. The first stage, which takes place across this and the subsequent two chapters, will defend the constitutive view of democracy's intrinsic value, with Chapter 4 providing the core of my defence. The second stage, which takes place across the latter part of Chapter 4, as well as Chapter 5, will then elaborate some institutional implications of the constitutive view. The constitutive view provides both, I argue,

the best interpretation of the intrinsic value of democracy, as well as the best interpretation of, and response to, contemporary populist movements that argue that the masses have somehow lost control over political processes and decision-making.

The first stage of my argument in this dissertation thus aims to show that, of the different approaches to democracy's value mentioned above, it is the constitutive view that provides the best solution to the following problem. A central and defining characteristic of democratic decision-making is that it fulfils the equal right of all citizens to participate in decision-making at some point in the process (Christiano 2004, 276). Now, what exactly an "equal right to participate" amounts to is a complex question, but it seems reasonable to say that a core part of that equal right must include the right to an equal vote in key political elections. A system of decision-making that accorded a greater number of votes to some citizens than to others during these elections is, to that extent, presumptively undemocratic. A challenge facing any account of democracy's value, therefore, is whether it is capable of justifying this equal vote. I will argue that the instrumental, distributive, and respect-based accounts of democracy's value do not satisfactorily meet this challenge. The constitutive approach, by contrast, fares better in this regard and this gives it a distinctive advantage over the other approaches as a way of explaining democracy's value.

This chapter will make the following contribution to that argument: it will critically address both the instrumental view and one of the intrinsic value approaches, namely, the distribution view (i.e. the view that democracy is justified on the basis that it equally distributes political power among citizens). In Chapter 3 I argue that the respect-based approach (i.e. the approach that justifies democracy as a form of political authority that is uniquely able to demonstrate equal respect for all citizens) also fails to address the core problem of justifying the equal vote. Chapter 4 will then set out my own view: that democracy is justified on the basis that it is constitutive of citizens' personal autonomy.

This chapter's critical discussion of the instrumental view and the distribution view will turn to Ronald Dworkin's discussion of political equality.<sup>2</sup> Dworkin's view is that democracy's value is purely instrumental; he does not believe that there are any good reasons to attribute intrinsic value to how democratic systems of decision-making distribute political power equally, and he is therefore only wedded to the equal distribution of political power to the extent that it lends itself to producing certain outcomes, or avoiding others. While my examination of this perspective will involve endorsing Dworkin's arguments on the failures of the distribution view, the key contribution of this chapter lies in the following points.

First, Dworkin's attempt to justify the equal vote on instrumental grounds fails. Once we carefully scrutinise the case Dworkin makes for why we should uphold the equal vote, it becomes clear that he resorts to non-instrumental considerations. Dworkin cannot, therefore, adequately justify the equal vote without abandoning a purely instrumental approach to understanding democracy's value. The second key point I make in this chapter applies to the distribution view. The main idea in that view – that it is intrinsically valuable that political power be distributed equally between citizens – faces a fatal problem. The problem is that due to the large number of voters in a mass democracy, the actual level of control over outcomes enjoyed by individual citizens casting their vote is virtually nothing. How can there be intrinsic value in equalizing political power across citizens when the value of what we are seeking to equalize is negligible?

Dworkin is chosen as an interlocutor in this chapter because he provides one of the most sustained, elaborate and thoroughgoing examinations of the distribution view in favour of democracy. What follows will thus show that while Dworkin provides some strong arguments against attaching value to an equal distribution of political power, and is thus correct to argue

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<sup>2</sup> This will mainly be based on the arguments found in *Sovereign Virtue* though will also draw, more briefly, on his later work.



that equality of political power is not sufficient for providing an account of democracy's value, he is himself nevertheless mistaken in his inference that we must seek an instrumental justification of democracy's value insofar as that justification cannot underpin the core commitment to an equal vote.

The remainder of this chapter is split into several sections. The next section will discuss Dworkin's terminology and his general approach to discussing the value of democracy. Section 3 will then examine his rejection of an intrinsic – or, as he puts it, a “detached” – view of democracy's value (which, as we shall see, is tantamount to the distribution view). Section 4 interrogates Dworkin's preferred approach to justifying democracy– that of an exclusively instrumental (or, in his words, “dependent”) conception of its value – and finds it wanting due to fact that it introduces concepts under the umbrella of instrumentalism which can only really be understood in terms of intrinsic value. The conclusion will then summarize how this chapter has informed this dissertation's arguments regarding democracy's value and the concerns of contemporary populists, as well as how the discussion herein has anticipated some of the arguments that will be made in the subsequent two chapters.

## **2.2 A Dworkin glossary**

I will begin by considering some key concepts that Dworkin uses in his evaluation of the distribution view – for instance, his distinction between “detached” and the “dependent” conceptions of democracy – as well as discussing these concepts in more general terms. The terms “detached” and “dependent” are broadly analogous to the intrinsic and instrumental justifications of democracy respectively. The detached conception judges a democracy by looking at its procedures. It uses an “input test”: democracy's value here depends on whether the decision-making process itself is correct. Dworkin's dependent conception, on the other hand, judges a democracy on the basis of outcomes; it uses an “output” test and seeks

institutional arrangements that produce substantive results which treat all citizens with equal concern (Dworkin 2000, 186). So Dworkin uses the terms “detached” and “dependent” to refer to the relationship that should exist between the procedures of democracy and the substantive outcomes that democracy generates; the detached conception tells us that the basis for selecting appropriate procedures is detached from whatever outcomes we might want democracy to produce. The dependent conception tells us that the appropriate procedures are those that produce the outcomes we want. It is thus clear how Dworkin’s use of these terms corresponds to the intrinsic and instrumental approaches to the value of democracy.

Dependent conceptions of democracy can refer to at least two different kinds of outcomes as bases for judging appropriate democratic procedures: the nature of the laws that these procedures produce, and the nature of the character and temperament of citizens that they produce. This first set of instrumental benefits of democratic procedures can further be divided into strategic and epistemic advantages (Christiano 2012, 81-2). The former refers to the ability of the democratic process to take into account the preferences and interests of most, if not all, members of a polity. It is strategic in that, so the argument goes, it is less likely than other forms of political decision-making, such as monarchy or oligarchy, to result in outcomes that seriously infringe the rights or interests of large groups of citizens. Amartya Sen’s frequently quoted assertion that no serious famine has ever occurred in a free society is an expression of this type of strategic benefit (Sen 1999, 152). The purported epistemic advantages are, as we will see, more controversial and refer to the capacity of the democratic process to assist participants in making more “accurate” public policy decisions and laws in terms of these decisions reflecting both the advancement of citizens’ interest and the needs of justice. The second set of instrumental benefits – the positive effect of democratic procedures on the character and temperament of citizens – reflect one aspect of John Stuart Mill’s approach to representative government (1991). Mill argued that the democratic process has educative

effects on the participants in that process. That is, he believed that taking part in the deliberative decision-making process inherent to democracy would improve certain capacities of citizens (Mill 1991, Ch. 2).

However, a dependent approach to legitimate procedures of political decision-making can also be used to attack democracy, rather than to support it. For instance, Plato and Hobbes both opposed democracy on instrumental grounds; the former due to the belief that it lacked the expertise needed to manage society efficiently (Plato 2000, 558c), and the latter due to the view that democracy would cause societies to become divided and thus unstable (Hobbes' preferred form of political decision-making was monarchy) (Hobbes 1991, 87-88). Indeed, expertise-based instrumental arguments of the former type are often also used by some purported advocates of democracy – such as J. S. Mill or Edmund Burke – to argue for the restriction of democracy to a representative, mediated form, rather than a more direct form. Furthermore, such an argument has also been used to justify plural voting or the practice of distributing votes according to expertise, and hence, if necessary, unequally (Mill 1991, Ch. 8).

Dworkin follows the tradition of identifying democracy's value in terms of certain benefits or valuable consequences that it is better able to bring about compared to alternative forms of political decision-making. Let us briefly review his account of the consequences which he views as relevant for judging whether democracy is superior to alternative forms of decision-making. Dworkin distinguishes between what he calls “distributive” and “participatory” consequences. Distributive consequences are economic and pecuniary, pertaining to the distribution of public and private wealth. Participatory consequences are more abstract and hence less easy to understand – they “flow from the character and distribution of political activity itself” (Dworkin 2000, 187). These participatory consequences refer to the effects of democratic participation on the character, outlook and general dispositions of citizens in a

democracy. According to Dworkin's topography, participatory consequences can be further dissembled into several categories that he calls “symbolic”, “agency” and “communal”.

Focusing on the positive aspects of these consequences (there could, of course, be negative participatory consequences though this is not something that Dworkin addresses), Dworkin gives some brief outlines of what these consequences constitute. Democracy can have positive symbolic consequences if it affirms an individual's free and equal membership of the polity by virtue of his or her role in the collective decision making process. Symbolic consequences are largely determined by the distribution of voting power within a polity; the universal franchise and fair districting thus imply a symbolic declaration of equal standing for all members of a political community (Dworkin 2000, 200). Agency values connect institutions with citizens as individual moral agents who bring passion and conviction to their role as political actors. They are linked to agency as these values reflect the opportunities individuals have to express their commitment to their convictions and potentially see this commitment making a difference to the political life of their societies. There is thus a connection, according to Dworkin, between agency values and free speech and other liberal rights that we associate with democracy (Dworkin 2000, 202). Yet, beyond these rights, agency values also demand that each citizen enjoys a degree of political leverage: we cannot engage fully in politics unless we have a sense that our speech and actions can actually make a difference. And given that, in most cases, the individual votes of citizens have a negligible impact on outcomes, this demand for leverage means that citizens also need to enjoy unfettered access to media and the means to influence others (however, this does not necessarily imply that all citizens' access to the means of influencing others should be equal).

Finally, communal consequences consist of the impact the political process has on fostering an interpersonal investment in collective decision-making, thus engendering a cohesive and sustainable political community (Dworkin 2000, 203). Dworkin argues that a plausible

dependent conception of democracy must take into account all three of these participatory consequences – indeed, they are especially relevant in demonstrating the superior value of democracy to other forms of political decision-making. While a benevolent despot might conceivably ensure distributive justice, he cannot, by definition, advance desirable participatory consequences.

On the other hand, detached conceptions of democracy can also take several forms. As we saw above and in Chapter 1, the three forms of detached or intrinsic value that I wish to consider in this dissertation are the *distribution*, *respect* and *constitutive* views, and this chapter will focus on the first of these. The following section will thus engage with Dworkin’s discussion and rejection of a detached view of democracy’s value that is based on its ability to equally distribute political power. The subsequent section will then turn to his defence of the dependent approach to democracy’s value.

### **2.3 The problems with equally distributing political power**

In order to examine what it would mean for political power to be distributed equally, Dworkin begins by disaggregating political power into two kinds: “impact” and “influence”. “Impact” refers to the difference an individual can make via formal political decision-making, usually through the act of voting; for most citizens this will involve choosing between candidates for elected office or voting in referendums. At the level of political representatives, impact refers to the ability to vote on the various legislative options available. Impact is therefore made up of the effect on political decision-making that an individual can make on his or her own through the act of voting. “Influence”, on the other hand, refers to the difference an individual can make to the preferences and judgements of others, thus leading them to adopt the positions – and, perhaps to some extent, the voting preferences – of the influencing party, or at least to become more sympathetic to these positions (Dworkin 2000, 191).

So, by equal political power, we could mean “equality of impact’ or “equality of influence”. Dworkin next tells us that equality of both impact and influence can be measured on a horizontal dimension and a vertical dimension. The horizontal dimension of political power compares the power of individual private citizens with each other, while the vertical dimension compares the power of private citizens with that of public officials (Dworkin 2000, 190-1). The vertical dimension of power can presumably also be used to compare the differences in power between officials at various levels of the state hierarchy; for instance, in the British system, to compare the power of backbench Members of Parliament with those that are more than just MPs, such as ministers or the leaders of Parliamentary Select Committees. However, it is with the difference – or inequality – of power between private citizens and elected representatives generally that we will be most concerned here.

These two disaggregations – impact vs. influence, horizontal vs. vertical dimensions of comparison – generates four possible interpretations of equality of political power: vertical equality of political impact, horizontal equality of political impact, vertical equality of political influence, and horizontal equality of political influence. Let us briefly consider each in turn.

From the perspective of a detached conception of democracy, complete vertical equality of impact seems like an impossible ideal, or indeed a pointless one where a system of government that contains at least some elements of political representation is concerned: “...it makes no sense, even as an unattainable ideal, to call for vertical equality of impact in a structure of representative government, because a representative structure is necessarily one in which impact is sharply different from a vertical perspective” (Dworkin 2000, 192). However, calling for vertical equality of influence seems less controversial; according to Dworkin, vertical equality of influence would entail a mandate conception of representative behaviour. On this conception, the representative should disregard his own personal views and implement the views of his constituents:

Suppose that officials accept that they have a duty to vote as a majority of their constituents wish. Suppose that elections are held sufficiently frequently, communication between officials and constituents is good enough, and recall mechanisms sufficiently efficient and in-expensive, so that officials do in fact hold to that duty. In those circumstances rough vertical equality of influence is realized. Because Senator X will vote for tax reduction when but only when he believes that a majority of his constituents favor it, the information that he would personally prefer a reduction does not increase the probability that he will vote for it any more than the information that any other of his constituents would prefer it increases that possibility. (Dworkin 2000, 192-3).

So it seems that, according to Dworkin's analysis, total vertical equality of impact and total vertical equality of influence actually yield the same result. The former leads to a situation where the vote of a private citizen on a policy issue is worth the same as that of an elected representative, thus rendering the representative redundant as taking a decision on a policy issue would necessarily entail canvassing the entire electorate. This leaves us with the characteristic view of direct democracy: the people as a whole acting as legislature. The latter situation that Dworkin describes, total vertical equality of influence, also leads to the same substantive result. In the example outlined, as Senator X always follows the wishes of a majority of his constituents, his actions are merely robotic and representation itself collapses – if the representative is merely an automaton, acting as a majority of his or her constituents would act, then no *re-representation* is taking place; the will of the constituents is simply present (Pitkin 1967, 153). So we see that, at its extreme, the delegate theory of representation (which the example that Dworkin gives corresponds to) seems to collapse into a form of direct

democracy, and both of total vertical equality of impact and total vertical equality of influence yield this result.

With respect to the horizontal dimension of political equality, the problem with equality of impact in this regard is not that it is too much to ask but that, alone, it is not demanding enough; it says nothing about why freedom of expression and association, for example, are considered integral parts of democratic politics. Indeed, it cannot tell us why censoring certain views while maintaining (horizontal) equality of political impact would be objectionable (Dworkin 2000, 193). To do this, we need to also take into account equality of political influence. However, while it would seem that appealing to equality of political influence would ensure that no body's views were censored and all citizens were allowed to articulate their positions freely to their peers, Dworkin argues that achieving equality of this type would in fact achieve the opposite and thus be inimical to democracy.

### *2.3.1 Nelson Rockefeller and Martin Luther King*

To illustrate his arguments regarding the undesirability of a horizontal equalization of political influence, Dworkin considers the common complaint that some private citizens have more political power than others because they are richer – and thus have, for example, greater access to and control of the media. Dworkin argues that we should be careful to distinguish two forms of this objection to unequal influence. The first form of the objection attacks the unequal influence of the rich but is insensitive to the source of this unequal influence; it is the failure of unequal influence *per se* that constitutes a failure of democracy. The second form of the objection attacks the unequal influence of the rich but only insofar as this inequality of influence reflects a failure of distributive or economic justice (Dworkin 2000, 195-6). To illustrate the distinction, consider this question: when we object to (what we believe to be) the undue political influence wielded by a wealthy industrialist such as Nelson Rockefeller, are we



objecting to Rockefeller's political influence in isolation (the first form of the objection), or are we in fact objecting to a broader failure in distributive justice that has made him far wealthier than others, and given him his undue influence (the second form)? To put this another way, if we were to prevent or correct for distributive inequalities of this type, but some individuals still retained much greater political influence than others, would this still be indicative of a defect in democracy? The first form of the objection says "yes", the second says "no" (Dworkin 2000, 196). Dworkin believes that the intuitively correct answer to the question is "no" and that we should therefore reject the first form of the objection. If the objection takes the second form, however, then it does not show that equality of influence is valuable *per se* and does not support the distribution view.

Dworkin has, he believes, an even more compelling criticism of the ideal of horizontal equality of influence. Even if we eliminate those sources of distributive inequality that give rise to unequal influence, "legitimate" sources of unequal influence will remain; some people – perhaps individuals such as Martin Luther King Jr.<sup>3</sup> – would remain more interested in politics, more charismatic and able to influence others, or more naturally skilled at rhetoric and persuasion. Dworkin contends that the only effective way of levelling out these remaining differences in individual influence would be to reduce the opportunities that citizens have to engage in debate and deliberation with each other, thus undermining freedom of speech and association; basic liberties that are fundamental to democracy (Dworkin 2000, 198). Furthermore, accepting horizontal equality of influence as a constraint limits the ability of individuals to exercise moral agency, thus reducing politics to "a pointless minuet of deference" (Dworkin 2000, 198).

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<sup>3</sup> The example of Luther King Jr. is not one that Dworkin makes explicitly, but rather one I have inferred from his description of individuals "more convincing and effective in leading others" (Dworkin 2000, 197).

### 2.3.2 *Disaggregating “political influence”*

What shall we make of this last argument on Dworkin’s part? Is it effective in discrediting the idea that equality of political influence is intrinsically valuable? The example of the unequal influence wielded by Nelson Rockefeller or Martin Luther King – and of how equalising influence horizontally across the board might be attractive in terms of reducing the unequal influence of the former but unacceptable or impossible in terms of doing the same to the latter – seems to miss something about the difference in the sources of the unequal influence exercised by these two figures. Assuming that the greater political influence Rockefeller possesses stems solely from his unequal wealth (and not from any greater talents of persuasion that he may also be likely to have possessed), his greater influence would have to be exercised, presumably, through a greater ability to access the media, fund political campaigns, organize political events such as rallies, and so on. The nature of Luther King’s greater influence, on the other hand, is different: it would presumably stem from his greater powers of persuasion and his raw ability to offer us good reasons to reflect on and endorse his political vision. This difference between the nature of Rockefeller’s and King’s influence seems relevant and Dworkin’s arguments has overlooked it: Rockefeller’s influence depends on an exercise of a type of power over its intended audience that we are more suspicious of than then type of “power” that King is able to exercise (if indeed “power” is the right term to use in King’s case).

Put differently, it seems intuitively plausible that curbs should exist on the greater influence that Rockefeller is in a position to exercise. For instance, most democracies already have, to varying degrees, restrictions that seek to limit the exercise of this type of influence. Political advertising on television is so heavily restricted in the United Kingdom – to take one example – that it is in effect banned, while even privately owned British broadcasters have a statutory obligation to remain impartial on partisan political matters. Furthermore, political funding is heavily regulated in the UK and remains a perennial source of controversy. In the United States,

fewer restrictions exist on political advertising, but donations to and the funding of political parties is likewise regulated and restricted. These laws exist on both sides of the Atlantic in order to curb the types of influence that can be exerted by particularly wealthy individuals and groups. By contrast, democracies do not impose any restrictions on the kind of influence that King was in a better position than most to wield on democratic decision making. The reason we draw a distinction in practice between these types of influence seems to come down to this: in the case of Rockefeller's influence, wealth is being used to present a particular political outlook and sway the minds of citizens in ways that seem troublesome from the perspective of an ideal of good deliberation about the decisions we, as a given democracy, must take. In the case of King's influence, on the other hand, influence is more a function of persuading individuals via offering them good reasons and thus complies with an ideal of good deliberation. The latter type of influence is an exercise in persuasion via reflection, reasoning and deliberation, without the support of large resources that can occlude alternative possibilities, have a pernicious effect on the free circulation of ideas, and thus the ability of individual citizens to reflect on the options available and choose according to their consciences.

Having considered the types of influence exercised by our emblematic Rockefeller and King, we can now see that we should disaggregate Dworkin's idea of political influence into two types of influence. The first, the influence wielded by a Rockefeller, is not only exercised by virtue of greater access to resources, but also has the potential to distort public perceptions of political issues and the choices available in a way that is inimical to the exercise of reason and reflective deliberation. Once we notice that Rockefeller's influence has this character, we may well be concerned about its unequal distribution even if Rockefeller acquired his ability to wield his greater influence under just economic circumstances. Dworkin may, in other words, have been too quick to dismiss the idea that unequal political influence matters only if it has been acquired through an unjust economic process and it may be correct to try and seek

the equalisation of this type of influence regardless of how it has emerged – or even to try and minimize it altogether. Furthermore, as we have seen, laws to this effect already exist in many democracies. The second type of influence, on the other hand – that exercised by a King – is in fact encouraging of reason and reflective deliberation in quite the opposite way to the first type of influence and the unequal distribution of this type of influence may not, therefore, be of serious concern.

The contrast between these two types of political influence shows us that the issue of the equalization of influence, or otherwise, is best considered in terms of an autonomy-based view of democracy. Put differently, this disaggregation of influence shows us that what we should seek in democracy – and perhaps what is valuable about it – is the promotion of the personal autonomy of citizens who participate in its procedures. Rockefeller’s influence is likely to have a pernicious effect on the ability of citizens to exercise this type of autonomy – by using wealth to wield power in a way that minimizes citizens’ ability to reflect and deliberate – while the influence of Luther King operates by promoting these abilities. The case for an autonomy-based view of democracy will be returned to in more detail when I discuss the constitutive view in Chapters 4 and 5. Chapter 4 will examine personal autonomy in more detail and show how democracy can be constitutive of this, while Chapter 5 will examine the implications for institutional design of taking this approach to democratic decision-making. The remainder of this chapter will consider Dworkin’s support for a purely detached view of democracy’s value. It will raise several issues with this view and these issues will provide the basis for the discussion of a respect-based view in Chapter 3, as well as being returned to in my Chapter 5 discussion of democratic institutional design.

### 2.3.3 *A further problem with equal distribution*

A further problem with the equal distribution of political power in a mass democracy is that the level of control over outcomes enjoyed by individual citizens in such polities is effectively zero. Indeed, this is a problem which Dworkin addresses, albeit in a different context, in a later work:

The measure of *positive political control* ... is so small that it can be sensibly rounded off only to zero. Your decision to vote one way or another would not improve the odds on your preference succeeding to any statistically significant degree. People in a large community whose political impact is actually or close to equal have no more power over their own governance by themselves than they would if priests took political decisions by reading entrails (Dworkin, R. 2011, 390, my emphasis).

We should note two key points about the problem Dworkin is raising here. First, it appears to be fatal for distribution view. The distribution view says that democracy is justified because of the intrinsic value of distributing political power equally between citizens. However, if this power is in fact zero, then an equal distribution of it seems intrinsically worthless. There is no intrinsic value in a distribution of something that is worthless.

The second point is this: the problem Dworkin raises seems to be a problem not just for the distribution view, but for any proponent of democracy, including Dworkin himself. The idea that all citizens must have an equal vote is a core commitment of democratic politics (at least of contemporary democratic politics). If individual votes make virtually no practical difference to democratic politics, it is hard to see why anyone – not only proponents of the distribution view – should be wedded to this commitment. As I now argue, Dworkin's attempt to address this problem compels him to abandon a purely instrumental view of democracy's value.

## **2.4 Dworkin's alternative: intrinsic value in disguise?**

So far I have shown that Dworkin gives us good reasons for rejecting an intrinsic view of democracy value based on its ability to equally distribute political power. When broken down into its component parts, an equal distribution view seems to be either implausible or undesirable. However, I have also shown that disaggregating Dworkin's view of political influence shows us that an autonomy-based view can perhaps be more instructive in terms of a search for democracy's intrinsic value than a distribution-based view. Given this rejection of a detached conception of democracy's value, Dworkin sketches the outline of a dependent conception of democracy that completely rejects equality of influence while providing some room for an equal vote (or equality of impact). I will raise several objections to Dworkin's conception. What these objections have in common is that they show Dworkin's difficulty in articulating his conception of democracy while remaining a pure instrumentalist; he often, instead, ends up relying on some form of implicit appeal to intrinsic value. The purpose of raising these objections is to further demonstrate the problems inherent in attempting to mount a purely instrumental defence of democracy's value, as well as providing more foundation for the arguments I make in subsequent chapters.

Dworkin's dependent conception of democracy is, he argues, sensitive to both the participatory and distributive goals of democracy outlined in my "Dworkin Glossary" above, compromising between these goals where they seem to conflict. The symbolic participatory goals of democracy demand horizontal equality of impact, at least within voting districts, while agency goals demand that each citizen enjoys a degree of political leverage, normally provided through liberty (i.e. freedom of speech and association, etc.) and the opportunity to impact and influence the political process – though, as we have seen, according to Dworkin there is no

demand for this influence to be equal across citizens; it is the opportunity for some influence that is key, rather than ensuring everyone has equal influence (Dworkin 2000, 200).

The idea of participatory values, goals and consequences (all three terms are used) and their use in constructing a dependent view of democracy's value presents a problem for Dworkin. It seems that Dworkin is engaging in a sleight-of-hand here; he is introducing, under a consequentialist umbrella, concerns that can only really be explained via an intrinsic conception of democracy. The values, goals or consequences that Dworkin cites as being crucial to his dependent conception of democracy – symbolic, agency and communal – are, he tells us, the “consequences that flow from the character and distribution of political activity itself” (Dworkin 2000, 187). So by his own admission, these factors depend on political procedure at the most fundamental level (in Dworkin's own terms, they are an “input test”). They are, therefore, considerations that can only be explained with recourse to an intrinsic or detached conception of democracy and Dworkin is mistaken to introduce them under an instrumentalist umbrella. This can most easily be seen if we consider the idea that an equal vote has valuable “symbolic consequences”. The very notion of a “symbolic consequence” of the equal vote seems incoherent. To attach value to the equal vote on symbolic grounds is to attach intrinsic value to the equal vote – it does not amount to valuing it for a particular consequence that it brings about. This suggests that Dworkin's view is incoherent with respect to its goal of being an exclusively detached conception of democracy's value.

Turning to the substantive – that is, distributive – goals of democracy, Dworkin seeks to ascertain how we can improve the accuracy of such decisions within a polity. The term “accuracy” is used deliberately as Dworkin distinguishes between those decisions which are “choice-sensitive” and those which are “choice-insensitive” (Dworkin 2000, 204). The former, we are told, apply to decisions where the correct solution is dependent on the aggregation of preferences – whether to build, for example, a new sports centre or a new road network is cited

as such a choice-sensitive decision – while the latter pertains to matters where justice demands that a certain option is chosen regardless of preferences – the decision to use capital punishment or to outlaw some forms of discrimination would, according to Dworkin, constitute this type of choice. So accuracy is a largely meaningless concept when applied to this first class of decisions – aside from ensuring accuracy in the aggregation of preferences – while it takes on a specific meaning with the second class: Dworkin argues that such decisions can be compared against objective standards of justice and they are thus accurate to the extent that they correspond with these standards. And while there will certainly be disagreement over which decisions are choice-sensitive and which are choice-insensitive, this second-order question is itself choice-insensitive (Dworkin 2000, 204-5).

It is clear that a democracy based on equality of impact (at the horizontal level, at least) will be best suited to determining choice-sensitive issues; these issues merely require impact to be distributed equally and a tally of votes to be taken. However, while Dworkin has used the word “accuracy” deliberately and suggested that its meaning is quite different when applied to the two classes of decisions he has outlined, these two distinct meanings appear to break down as Dworkin retreats away from arguing that complete equality of impact is best suited to making accurate choices with respect to choice-insensitive decisions:

It does not argue for complete equality of impact, however, even as an ideal, because it is easy to imagine variations in impact that would seem to improve ex ante accuracy in the decision of choice-sensitive issues. The residents of sparsely settled sections of a country or state, for example, might have interests special to them that would be neglected or overridden in an election in which equality of impact was enforced to as great a degree as in technically possible. Over the course of many such elections or political decisions. Their interests would be less well served than any plausible account



of accuracy in the decision of choice-sensitive issues would allow. We might do better, in deciding such issues, to use some judicious gerrymandering (Dworkin 2000, 205).

So, it seems that Dworkin is appealing to some metric other than aggregated preferences when he suggests that some citizens might have certain interests that necessitate political impact being distributed unequally on the horizontal dimension. That is, it seems that the “character and distribution of preferences” is not the only thing on which the correct solution of choice-sensitive decisions depends, as he previously asserted (Dworkin 2000, 204).

With respect to choice-insensitive issues, it is clear that aggregating votes or preferences will not automatically indicate what the correct decision is. We therefore have no reason for assuming that political equality of any sort (that is, impact or influence on horizontal or vertical dimensions) is more likely to deliver accuracy in choice-insensitive decisions. However, given that the participatory goals already discussed do argue for particular types of equality – largely some form of horizontal equality of impact – Dworkin argues that we should use the same structures to determine choice-insensitive decisions unless two conditions are met: that we have good reason to think that a different procedure would improve the accuracy of results when deciding such issues, and that such a procedure would not “outrage” the participatory goals of democratic politics already discussed (Dworkin 2000, 207).

As an example of such a procedure, Dworkin invokes the idea of judicial review, as practiced in the United States and elsewhere, arguing that this institution does not violate the conditions stipulated and therefore is not necessarily “undemocratic” (Dworkin 2000, 207-9). The overriding or invalidation of legislation on the basis of judges deeming it to be incompatible with a nation’s constitution clearly compromises vertical equality of political power, both in terms of impact and influence. However, given that Dworkin is defending a dependent conception of democracy that does not appeal to any such equality beyond what is

necessary to uphold his “participatory values”, he argues that judicial review of this type is not necessarily an undemocratic institution (Dworkin 2000, 208). Instead, Dworkin argues, to judge the democratic character of an institution such as this, we must test it against the ideals of this dependent conception – that is, we must be careful that it does not “outrage” the participatory goals of democracy, as well as ensuring that the institution is justified by improving the accuracy of political decisions. While saying nothing here about the likelihood that the court will improve the accuracy of decisions, Dworkin is clear that he does not believe that the existence of an institution such as the US Supreme Court conflicts with the participatory goals of his dependent conception of democracy:

But it seems plain that, in the form in which it exists in the United States, judicial review does not offend any symbolic or agency goals. It does not impair equality of vote because, because it is a form of districting and does not, in itself, reflect any contempt for or disregard of any group within the community. Nor does judicial review damage the agency goals of democracy. On the contrary, it guards those goals, by giving special protection to freedom of speech and to the other liberties that nourish moral agency in politics. It does more: it provides a forum of politics in which citizens may participate argumentatively, if they wish, and therefore in a manner more directly connected to their moral lives than voting almost ever is. In this forum, moreover, the leverage of the minorities who have the most negligible leverage in ordinary politics is vastly improved. (Dworkin 2000, 209).

It should be noted that Dworkin's defence of judicial review here, or constitutionalism more generally, is a modest one; he is not suggesting that judicial review is necessary, but rather that it should not be immediately ruled out as a possibility within a democratic polity as it does not

necessarily conflict with the goals – both substantive and participatory – of the dependent conception of democracy that he has outlined.

However, the example of judicial review as an acceptable institution under such a conception of democracy's value is problematic. Dworkin states that equality of vote (i.e. horizontal equality of impact) is not impaired because "judicial review is a form of districting and does not... reflect any contempt for or disregard for any group within the community" (Dworkin 2000, 209). This seems a strange claim to make. In what respect is judicial review a form of districting? Dworkin is not clear on this, but seems to be suggesting that equality of vote is unimpaired because each judge has one vote and the decision of the court is taken by majority rule. But judicial review in fact consists of a tiny subset of all citizens ruling against the putative wishes of the entire polity. Indeed, Dworkin is right that judicial review does not reflect any contempt or disregard for any group within the community as it in fact reflects contempt or disregard – or disrespect – for the entire community, or at least for their judgements and their capacities as moral agents.

As we have seen, central to Dworkin's defence of a dependent conception of democracy are his use of the terms "outrage" and "accuracy". He argues that departures from political equality in the form of horizontal equality of impact are acceptable if they lead to greater *accuracy* in outcomes while not *outraging* the participatory goals of democratic decision-making. He invokes judicial review as an example of a practice reflecting these goals. However, Dworkin's use of both of these terms is problematic. With respect to outrage, we are told that some departures from equal political power are outrageous – on the basis of race, for example – while others such as unequal districting are not. Yet this distinction presents several problems. First, the issue of unequal districting does indeed provoke outrage in many instances. Controversies surrounding the gerrymandering of electoral districts are testament to this. Furthermore, departures from equal political power in the name of accuracy are likely to outrage citizens in

another respect. As Christiano argues, formal equality of political power allows for the public realization of the equal advancement of interests (Christiano 2008, 71). Put differently, equality here allows all citizens to see that their interests are being treated equally, and departures from this principle in the form of institutions such as judicial review will obscure this and thus potentially lead to “outrage” in this way. The idea of not outraging certain symbolic goals of democracy will be considered in more detail in Chapter 3 where a respect-based intrinsic view is considered. This view argues that democracy is the system of political decision-making that can best provide for all citizens being treated with equal respect.

Dworkin’s idea of the accuracy of political outcomes also presents some problems. Even if we accept Dworkin’s premise that on choice-insensitive matters accuracy should prevail over the aggregation of the personal preferences of citizens, there will still be considerable reasonable disagreement over what constitutes just outcomes. The issue here is not the disagreement itself – it is uncontroversial that some citizens’ views on just outcomes will be incorrect and thus should be disregarded – but rather the method through which accuracy is determined. Departures from equality of political power present the problem that they may occlude this process and thus also undermine citizens’ perceptions that their interests are being given equal weight and thus, in Christiano’s terms, being publicly equally advanced. It is thus possible that there is a further condition – independent of the accuracy of outcomes of choice-insensitive decisions – that should guide us in choosing the best form of decision-making. I will argue in Chapter 4 that this condition is determining which form of decision-making is most likely to engender the endorsement of citizens over time – an endorsement that is, as we will see, necessary for them to exercise personal autonomy in a democracy. Chapter 5 will then make more concrete suggestions regarding the actual decision-making procedures best suited to engendering citizen endorsement.

## 2.5 Conclusion

This chapter has critically engaged with Dworkin on the value of democracy in order to achieve several goals. First, it was shown that we have good reasons for rejecting a view of democracy's value based on its ability to distribute power equally among citizens. It was shown that both equality of impact and equality of influence – on both horizontal and vertical dimensions – face problems in terms of their plausibility or desirability as methods of equalizing power. These problems give us good reasons for rejecting a *distribution*-based view of democracy's intrinsic value. Indeed, a further problem with the distribution view – that of citizens' negligible level of control over outcomes – was also identified and will be addressed in more detail in Chapter 4. Furthermore, it was also shown that a further disaggregation of Dworkin's idea of political influence is possible, and that this further disaggregation points to an autonomy-based, rather than distribution-based, conception of democracy and its value. Second, by critically interrogating Dworkin's preferred conception of democracy's value – an exclusively instrumental or detached view – several problems were highlighted which gave us further reasons, beyond those briefly discussed in the previous chapter, to reject this view. One of these problems is with Dworkin's ideal of not “outraging” the participatory goals of democratic decision-making, where he seems to be seeking to include intrinsic concerns under the umbrella of an instrumental justification of democracy.

So my engagement with Dworkin in this chapter can be summarized as follows. While his view of political power correctly rejects a distribution-based attempt at justifying democracy, he nevertheless cannot justify democracy's core commitment to the equal vote on his own, instrumental, terms. He attempts to do so by appealing to the ideas that decision-making procedures have symbolic value and that they should not be designed in a way that produces “outrage”, but in making this arguments, Dworkin seems to be appealing to something more

akin to an intrinsic justification of democracy's value, rather than one based on purely instrumental considerations.

In the context of the main themes of this thesis, the arguments made in this chapter have achieved several things. First, in terms the social criticism of contemporary populist movements and the search to find the best expression of their political demands and impulses, it has been shown that focusing on equality of political power – the distribution view – is not a fruitful or coherent way of understanding these. Furthermore, this chapter has shown that this distribution view represents a flawed way of understanding the intrinsic value of democracy, as well drawing attention to the difficulty with seeking to justify the equal vote due to the problem of the negligible effect of these individual votes in a mass democracy. In the following two chapters, I consider two ways forward; two ways of construing democracy's value that would allow us to both respond to the concerns of populists, as well as upholding the core democratic commitment to the equal vote. The first is the *respect*-based approach to democracy's value: democratic procedures are intrinsically valuable because they are able to show appropriate respect for all citizens. The second way in which we might justify the equal vote is on the basis of its being constitutive of something else – namely citizens' personal autonomy. This is the *constitutive* view that I will defend in Chapter 4. Chapter 5 will then examine the implications of this constitutive view for democratic institutional design.

# **Chapter 3 – The intrinsic value of democracy: a respect-based view**

## **3.1 Introduction**

As discussed in Chapter 1, the overall aim of this dissertation is an exercise in social criticism aimed at drawing out and shedding light on what, if anything, is valuable in the core message advanced by contemporary populist movements. As we saw in the previous chapter, alongside this task, and inextricably bound up with it, is an investigation into how we should understand democracy's value and, given its place as a central characteristic of democratic decision-making, how we can justify the principle of the equal vote. Put differently, I aim to take seriously some of the complaints expressed by the supporters of contemporary populist movements, yet respond to these complaints in a way that avoids the pitfalls of the exclusionary and ultimately counterproductive forms of politics discussed in Chapter 1, as well as using this exercise to shed light on democracy's fundamental value. This task will necessarily involve a reformulation of the type of complaints and demands expressed by the supporters of populist movements and parties; a reformulation that has the aim of both putting them into terms more amenable to the type of political-theoretic exercise that a dissertation such as this constitutes, but also to emphasise the most justifiable sentiments of these complaints and demands, while creating some distance from their worst sentiments. As we have seen, the task I have set myself is thus one of social criticism in that the problem that I address, and the insights and solutions that I hope to offer, are all situated within a particular political culture and milieu, rather than above or detached from it.

Chapter 1 also identified three ways of interpreting those grievances of contemporary populists movements that may have something valuable to say about how we understand the call for democracy to be interpreted as popular rule: democracy as an equal distribution of political decision making powers (the distribution view); democracy as a system that equally respects the decision making capacities of all citizens (the respect-based view); and democracy as a system of political decision making that affords all citizens the equal opportunity to live in a way that respects their personal autonomy (the constitutive view).

As we have seen the main argument in this thesis will proceed in two stages: the first – across Chapters 2 to 4 – defends the constitutive view of democracy’s value, while the second – across Chapters 4 and 5 – will elaborate some of the implications of this view for democratic institutional design. Chapter 2 initiated this first stage by addressing and rejecting the claim that democracy finds its value in the ability of its procedures to provide for a particular distribution of power between citizens. This discussion was instructive in several ways and two principal lessons can be taken from it.

First, we saw that Ronald Dworkin offers us good reasons to believe that an exclusively intrinsic view of democracy’s value based on its ability to distribute political power equally is problematic. These problems are to be found in both the possibility and desirability of equalizing political power across all citizens in any meaningful way. However, Dworkin’s disaggregation of political power into impact and influence drew attention to one aspect of the latter – i.e. political influence – that he may have overlooked. Dworkin argued that, notwithstanding the practical difficulties in equalising political power of this type, it would in fact not be desirable to equalize political influence across all citizens as to do so would undermine other values – such as freedoms of speech, the press, and association, for example – which we view as necessary aspects of a democratic political culture. Yet this view overlooks a further possible disaggregation within the idea of political influence. In particular, I argued



that we should distinguish between that kind of influence that is likely to have a pernicious effect on an individual citizen's ability to reflect and deliberate on various courses of action – or, put differently, on their ability to act autonomously – and that kind of influence that is a necessary part of such deliberation and reflection. The influence exercised by the contrasting figures of Nelson Rockefeller and Martin Luther King were here used as archetypal examples of these differing forms of political influence. The second lesson arises from Chapter 2's discussion of the distributive view – and in particular my interrogation of Dworkin's preferred alternative to it, namely, the instrumental or *detached* view of democracy's value. According to Dworkin, democratic procedures must not outrage certain participatory goals of democracy – for example, by allocating more votes to some citizens than others. While Dworkin's use of participatory goals was questionable in terms of his couching these goals as being an element of a dependent view of democracy's value, his overall point still stands: democracy must at least appear to be respectful of the equal participation of all in its decision making procedures.

This chapter examines whether the respect-based view of democracy can succeed where the distribution view fails. The respect-based approach holds that the capacities for judgement of all citizens, including judgement about politics, should be equally respected by democratic procedures, and that it is the fact that democratic procedures manifest such equal respect that gives those procedures their intrinsic value. The respect-based view thus seems to be a promising way of enabling us to defend democracy's core commitment to an equal vote as well as the idea that democracy must be respectful towards the decision making capacities of all citizens. Furthermore, Chapter 2 showed that to simply reject the idea of equalizing political influence – as the distribution view suggests – is potentially a mistake and, instead, we should be more sensitive to different types of political influence and the ways that they are exerted. This was the lesson taken from the contrasting examples of John Rockefeller and Martin Luther King. A respect-based approach seems to thus have the potential to allow us to distinguish

between the types of influence that ought to be equalized, and those that ought not, as well as providing a sound basis for upholding the principle of the equal vote.

That democratic procedures should treat the decision-making capacities of all citizens with equal respect reflects one expression of contemporary populism that was addressed in Chapter 1 and mentioned above: a disdain for the views of “experts” and a desire to reject technocratic styles of decision-making in favour of those that are rooted in and better reflect the “common sense” of lay citizens. By interrogating a view of democracy that is based on an equal respect for the decision-making capacities of all citizens, this chapter thus addresses a central concern of contemporary populist movements. And, as we have seen, taking this concern seriously, as well as seeking to reformulate and represent it in a way that lends it greater coherence, reflects the broader approach and task of social criticism that I have set myself in this dissertation.

What follows is split into several sections. The first section, following this introduction, discusses an argument by Jeremy Waldron (1999b, Ch. 5) that equal respect entails giving each citizen’s judgement equal weight in political decision-making. This argument, I show, faces a key challenge: it is by no means obvious that equal respect entails equal weight, as opposed to according the weight to each citizen’s judgement that that judgement deserves. This challenge, which was originally made by John Stuart Mill (1859, 324-25), implies that we should reject the equal vote in favour of plural voting (at least assuming that different citizens exercise their judgement with different degrees of success). In short, there is a gap in Waldron’s argument from equal respect to the equal vote. The subsequent section then discusses in more detail what an argument needs to look like in order to fill this gap and shows that any gap-filling argument of this kind will face difficulties. The final section of the chapter criticises the argument that equal respect accorded by equal votes is purely symbolic and does not presuppose that citizens are actually equal in their capacities for judgement (Ottonelli 2012). On the assumption that no further plausible respect-based arguments are available, this chapter will then have shown that

arguing for the value of democracy based on equally respecting the decision-making capacities of all citizens is mistaken and, moreover, we will have rejected one way of interpreting the populist impulse for popular rule.

### **3.2 Waldron and Mill on the implications of respect**

The respect-based argument advanced by Jeremy Waldron grows out of his critique of judicial review as a fundamentally undemocratic instrument (Waldron 1999b, 285-9) – due to the radically unequal distribution of political power between, on the one hand, nine judges and, on the other, many millions of citizens, that it entails – and one that should thus be rejected. Furthermore, Waldron’s main opponent in these debates was Ronald Dworkin (1986, 356, for instance) and thus the arguments made take on an extra relevance here as many stand in direct opposition to some of those claims made by Dworkin that were discussed in the previous chapter. Following Waldron, the type of argument that I will consider here assumes that there exists persistent and reasonable disagreement between citizens, as well as the need for citizens to coordinate in order to establish a common set of laws. In light of these two circumstances – persistent disagreement and the need to overcome coordination problems – citizens require a method of making decisions that does not rely on the merits or otherwise of the different courses of action available (as it is disagreement over precisely this issue that has caused the coordination problem in the first place). Democracy based on majority rule is one solution to this problem as it treats each citizen equally by being equally respectful of all of their capacities for judgement, and thus by not implying that anyone’s position is based on faulty reasoning or self-interest (as is implied by approaches that aim at consensus (Waldron 1999b, 91-2)). In addition, the respect accorded to citizens by these procedures – and the remarkable feat of achieving coordination in the light of such pervasive disagreement – means that legislation produced in this way is itself worthy of respect and thus has authority.

The novelty of this argument lies in the transition from equal respect to majority rule, something that is not at all intuitive. Indeed, the most notable advocate of this position, Jeremy Waldron, accepts that other methods of decision making – such as tossing a coin – might also appear to be an apt solution to the coordination problems we face, especially if the need for a decision is a pressing one (Waldron 1999, 157). Yet majority rule, as Waldron argues, is preferable to tossing a coin (or other similar ways of selecting one option over others) as it is not only an effective method of selecting a solution, but also a fair and *respectful* one (Waldron 1999, 158). Indeed, while tossing a coin to decide political decisions might well give us an equal distribution of political power between citizens, it certainly cannot be said to be a method that respects the decision making capacities of citizens as it is a form of decision making that obviates the use of decision making capacities altogether.

The first way that Waldron argues for majority rule is in terms of its fairness. Indeed, Waldron goes further and argues that considerations of fairness *require* the use of majority rule. This is due to an appeal to May's theorem (Risse 2004, 47):

Which way of proceeding is the fairest to each and all of the individuals involved?...  
*When we put the question this way, it seems we can move directly to the majority principle as the obvious answer.* For it can be demonstrated that no other principle gives greater weight to the views of any individual member, except by giving their views greater weight than that assigned to those of some other individual members. Indeed, the method of majority-decision attempts to give each individual's view the greatest weight possible in this process compatible with an equal weight for the views of each of the others (Waldron 1999a, 148 original emphasis).

Second, and more pertinent to my aim in this chapter, Waldron argues that decision by majority is a *respectful* mode of rule. This is because it recognizes the existence of persistent reasonable disagreement and does not view consensus as the natural embodiment of successful debate and deliberation. To view consensus in this way would necessarily imply that some positions are “incorrect” and are thus “ignorant or prejudiced or self-interested or based on insufficient contemplation of moral reality” (Waldron 1999, 159). Waldron’s formulation of majority rule, on the other hand, implies no such thing about any actor’s position *and is thus equally respectful of everyone’s judgements*.

Is Waldron correct to assume that majority decision-making amongst citizens with an equal vote is an implication of our having to show all citizens equal respect? Waldron does not tell us exactly why we should think this is the case. Note that Waldron’s objection to consensus does not necessarily imply that we should instead have majority decision-making with an equal vote. There are in fact other possible alternatives. Indeed, the idea that respect requires equal votes is by no means obvious and was famously dismissed, for example, by John Stuart Mill. According to Mill, the more educated or more able members of society should be given greater access to political power via their votes counting for more than those of the less educated or politically competent. While Mill certainly believed that all literate adults should be afforded the vote, he did not believe that all votes should be counted as equal, but instead weighted on the basis of “competence”:

The most direct mode of effecting this, would be to establish the plurality of votes, in favour of those who could afford a reasonable presumption of superior knowledge and cultivation... The perfection, then, of an electoral system would be, that every person should have one vote, but that every well-educated person in the community should have

more than one, on a scale corresponding as far as practicable to their amount of education.

(Mill 1859, 324-25)

It is worth noting that Mill explicitly addressed the issue of the “respectfulness” of plural voting in terms of whether anyone would be justified in taking offence at others being afforded a greater role in political decision-making. His response to this concern proceeds as follows:

Entire exclusion from a voice in the common concerns is one thing: the concession to others of a more potential voice on the ground of greater capacity for the management of joint interests is another... Everyone has a right to feel insulted by being made a nobody and stamped as of no account at all. No one but a fool, only a fool of a peculiar description, feels offended by the acknowledgement that there are others whose opinion, and even whose wish, is entitled to greater amount of consideration than his (Mill 1991, 474).

Mill’s point here is that while it might indeed be disrespectful to exclude an individual completely from participation in collective processes of decision making that pertain to the management of issues that affect everyone’s interests, it is certainly *not* disrespectful to draw attention to the fact that certain people’s views on certain matters are likely to be better informed, perhaps better thought-out, and thus worthy of greater consideration. Indeed, it is plausible to suggest that Mill’s point carries even greater weight today given the circumstances of governance nearly 150 years after his death, where the complexities of public administration are so great that lay people can only ever hope to scratch the surface of the issues at stake, and even experts in particular fields are relatively ignorant of affairs outside of their own specialisms.

Mill's view thus stands as a challenge to arguments such as Waldron's respect-based case for majoritarian decision-making amongst equal voters. Indeed, aside from this issue of how to conceive of the respect accorded to citizens by Waldron's conception of democracy, there are further things missing from his theory of majoritarian democracy if it is to be successful. For instance, despite Waldron's claims to the contrary, his argument does not tell us why majoritarian democracy is superior to, for example, some forms of sortition or lottery; in order to resolve disagreements over policy these mechanisms would also present a solution to the coordination problem and not necessarily be disrespectful of anyone's judgements in the way that a pure coin toss or the deliberative approach to democracy might be. Respect based arguments of the type advocated by Waldron's thus do not say enough to adequately refute the Millian proposal in favour of plural voting. They do not provide us with a sound basis for why respect requires allocating an equal vote to all citizens. Despite the circumstances of politics being those of persistent disagreement and the need for coordination, it remains the case that individuals possess unequal capacities and the soundness of judgement possessed by all citizens is not in fact equal.

### **3.3 The “proper recognition” argument for equal respect**

To consider this matter more closely, let us try to identify what is needed in order to successfully develop a respect-argument for an equal distribution of political power. We can draw a distinction between two main types of respect-based arguments for equal votes, what I will term the *proper recognition* and the *symbolic* forms of the argument. Proper recognition entails an appeal to the assumption that to respect people is to properly recognize their capacities and thus grant them powers that reflect these capacities. The symbolic argument, on the other hand, involves treating people as if they have equal capacities, even if this is not

necessarily the case. I will first address the proper recognition form of this argument before, in the subsequent section, turning to the symbolic form.

The following three premises and the consequent conclusion form one possible schema for a proper recognition argument that derives an equal vote for all citizens from the need to treat them all with equal respect:

1. A political society respects citizens only if it properly recognizes their capacities (or values their capacities properly).
  2. A political society properly recognizes or values the capacities of its citizens only if it gives them rights to political participation, including the right to vote, that reflect their capacities for political judgement. .
  3. All adults of sound and rational mind have the same capacities for political judgement.
- C. Therefore, if our political society is to respect all its adult citizens it must give them an equal right to political participation, including an equal vote.

Premise 1 seems uncontroversial. Situations where people's capacities are not properly recognized are intuitively disrespectful. Consider some examples: denying higher levels of education to certain racial groups on the basis that they lack the capacity for learning; denying women a similar access to higher education, or perhaps restricting them from driving cars due to a belief that their temperament makes them unsuited to such activities; or denying homosexual couples the opportunity to be parents. All of these examples involve failures to recognize an individual's proper capacities and are clearly grossly disrespectful to the groups in question.



Premise 2 is, if not quite so uncontroversial, then still highly plausible. However, what exactly it means to give people rights that “reflect” their capacities requires some clarification. One way of understanding this premise in light of the specific arguments of this chapter is to view it as meaning that we should give people decision making power in proportion to their capacities to use this decision making power well. For instance, imagine a school orienteering trip in which children must, as a group, use a map to navigate their way through a forest. Where there is disagreement as to which way to travel, a vote is taken in order to resolve this and the group travels in the direction that the majority decides. This would seem like a fair way of resolving differences within the group and, moreover, one which is equally respectful of the decision making capacities of each of the children involved. However, now imagine that the teacher overseeing the orienteering trip decides to give each boy in the group two votes compared to one for each girl, perhaps on the basis that the teacher believes that boys are much better at reading maps or are possessed of a superior sense of direction to girls. This state of affairs would clearly be disrespectful towards the girls in the group as there is no good reason to believe that they have anything but the same capacities as the boys with respect to map reading or navigation. The parallel between this analogy and a right to participate equally in democratic decision making is clear: it would be disrespectful to any particular group in society to give them less of a say in political decision making if they have the same capacities for political decision making as others since this suggests that they are possessed of inferior capacities in this respect when, in fact, they are not.

Of course, the final part of the above argument depends on the veracity of Premise 3 – that all adult citizens of sound and rational mind do, in fact, have the same capacities for political judgement – something which is much more controversial than Premises 1 or 2. What we mean here by “political judgement” can be interpreted in one of several ways. For instance, we could take political judgement to refer to an individual’s ability to know what justice requires in any

given situation; for instance, in terms of whether a taxation system should be more or less progressive, or whether a state should or shouldn't go to war. Or we could take political judgement to include also a more technical meaning: to refer to an individual's ability to weigh certain courses of state action and decide upon which is most likely to better serve their interests, or the interests of society as whole; decisions regarding macroeconomic management, for example, might fall into this category. However, either of these interpretations are problematic. In terms of the first interpretation, it is immediately clear that some individuals have more finely tuned senses of justice than others. This is true both in terms of the quotidian decisions that all citizens must make, as well as in terms of more abstract arguments and thought exercises that are normally only the preserve of academic seminar rooms. With respect to the more technocratic understanding of political judgement that removes this ability from an individual's capacity to act morally or otherwise, then it is perhaps even less controversial to suggest that individuals are very unequal in this respect. For instance, lay citizens and those who are trained in macroeconomics are likely to have vastly differing capacities to assess whether or not a country should join a certain trading block or perhaps adopt a single currency. And even within the lay citizenry, individuals' capacities to reflect on these issues and reach a considered judgement differ greatly. As Mill says, it would take "a fool of a peculiar description" (Mill 1991, 474) to believe that all men are equal in this respect and to take offence at the suggestion that the opinion of others might be worth more than one's own.

Given these difficulties with the empirical claim of Premise 3, the argument from equal respect to equal political power thus seems to fail. Let us then consider one potentially plausible way a defender of the argument might try to revise Premise 3:

- 3\*. All adults of sound and rational mind have capacities for political judgement that lie within the same range and above a minimum threshold.

This approach, which uses a minimum threshold for the capacity for political judgement in order to justify the granting of equal political power, relies on what Rawls calls a “range property” (Rawls 1971, 508). Rawls’ own discussion of range properties is somewhat vague and obscure, but Jeremy Waldron provides a useful and concise definition:

R is a range property if it is a binary or non-scalar property (one either has it or one does not) which applies to a class of items that may also be understood in a scalar way, i.e. in terms of a scale measuring the degree to which an item possesses the associated scalar property S (Waldron 2008, 32).

So possessing a minimum threshold of some capacity, including a capacity for political judgement, is, by definition, a binary property – one either reaches the minimum, or one does not – and the property is thus possessed equally by all who reach the minimum. Perhaps we can thus assume that all, or the vast majority of, adults who are of sound mind possess the capacities for decision-making that fall above the minimum, thus satisfying Premise 3\*.

To sum up, the revised argument from equal respect to equal votes now runs as follows: the idea is that a political society respects its citizens if it properly recognises their capacities and that since the capacity for political judgement of each citizen (of sound and rational mind) falls within the same range – in particular, lies above a minimum threshold – a political society must give each citizen equal political power.

However, even this revised argument ultimately fails for the following reason. It is arbitrary to guide our recognition of citizens according to whether or not they possess a range property as opposed to guiding our recognition of them according to the scalar empirical capacities that underlie that range property. Put differently, if the range property – in this case, lying above a

minimum capacity to make political decisions – is morally relevant, then how can differences in degrees of that capacity above the minimum be irrelevant? (Carter 2011, 549-50). To see the problem more clearly, consider the parallel form of the argument that applies in debates over whether all individuals should be regarded as having equal moral worth. Even abstract qualities that we do all seem to possess equally, such as “personhood” – or Bernard Williams’ “self-awareness” (Williams 1970) – are in fact superventions upon other capacities that are possessed in different degrees by different people. For example, if we were to define the quality “personhood”, we might make a list of features that a being must have to qualify for this category – such as, for instance, the ability to be rational or to be moral – but then we soon find that these qualities are possessed by people to different degrees. This then raises the question of why we should take “personhood” as morally relevant and ignore those scalar qualities upon which the property “personhood” is based. The same question arises in the context of our discussion: why should we take the fact that persons have *more than a minimal capacity* for political judgement as relevant for establishing equal political power if they differ in terms of their capacities above that threshold?

The upshot of these reflections is that Premise 3\* is faced with what seems to be an insurmountable problem. The pertinent empirical capacity that ties respect with equal political power – that allows us to move from the premise that we must show respect to the conclusion that we must grant equal political power– i.e. the capacity for judgement or for political decision making – does not seem to be shared equally by all. Furthermore, adopting a minimal capacity, or “range property”, approach does not seem to offer a solution as it runs into the problem of why we should take the minimum or the range as morally relevant while ignoring the underlying scalar quantity.

Given the difficulties for anyone wishing to refute Mill’s arguments for plural voting by using a proper recognition argument – namely, that Premise 3 is empirical unsound and Premise

3\* normatively arbitrary – the subsequent section considers the alternative type of respect-based argument for equal votes that I alluded to earlier, namely, the symbolic argument. This argument still makes the case that democracy’s value inheres in its ability to treat the judgements of all citizens with equal respect, yet argues that the equal respect that democracy accords all citizens’ capacities should be viewed as symbolic rather than a reflection of actual equal competence. Put differently, the symbolic argument takes equal respect to be justified by virtue of its being a way of affirming something, or of communicating a message: a political society must treat citizens *as if* they possess equal capacities for political decision-making, even if this is in fact empirically false, because treating them as if they do is a way of affirming their equal value.

### **3.4 The symbolic argument for equal respect**

The next respect-based argument that I will consider is one that seeks to escape altogether from the problem of how to justify according equal respect to all citizens’ capacities for judgement in the face of the empirical reality of citizens’ unequal capacities. An argument of this kind views the accordance of equal political power as a symbolic exercise in affirming each citizen’s equal worth. Schmidtz and Brennan (2010, 189) aptly summarise this type of argument as follows: “It is not that equal votes have much practical utility...The right to [an equal] vote is a metaphorical badge of equality”. The equal vote is thus seen as a symbolic badge of equality and an affirmation of equal respect. Conversely, denying this equality would imply or symbolize disrespect.

To better understand the symbolic argument, it is helpful to recall the above argumentative scheme we used when considering the first version of the respect-based argument for equal political power. Recall, in particular, Premise 1. As originally stated, that premise read: “A political society respects citizens only if it properly recognizes their capacities (or values their

capacities properly.” The symbolic argument for equal respect denies the “only if” in that statement and instead allows that political society properly respects all citizens if it treats them *as if* they had equal capacities. The promising feature of the symbolic argument is that it thus allows us drop the problematic Premise 3 as there is no longer any requirement for the argument to claim that citizens do indeed have equal capacities for political judgement in any meaningful sense.

However, the argument so presented does not specify what it is that the vote is equally respecting. Notwithstanding the difficulties, discussed above, in finding any morally relevant feature that all persons share equally, what we are concerned with here is equally respecting citizen’s judgement or capacities for decision making. For this reason, I will examine one particular form of the symbolic argument for equal respect that focuses specifically on the notion that the equal vote symbolizes an equal respect for all citizens’ capacities for decision making, even if these capacities are indeed unequal. An argument of this type thus modifies Premise 3 in the schema outlined above; instead of arguing that all adults have the same capacities for political judgement, it instead claims that we should treat all adults *as if* they have the same capacities in this respect.

Yet, as we will see, arguments of this type run into problems. Not only is treating all adults as if they have equal capacities, when we know that they do not, a questionable strategy, but an examination of the symbolic aspects of this approach casts this argument into doubt, even if we could argue for the soundness of the empirical claim of Premise 3 in the unmodified form discussed above.

Valeria Ottonelli (2012) offers us a form of respect-based argument that adopts this strategy. Ottonelli argues that democracy’s value lies in its ability to accord each citizen with equally respectful treatment even if they are empirically *unequal* in some ways (in their abilities as competent decision makes, for example). In order to ensure that equal respect for citizens is

decoupled from any unrealistic and pernicious assumptions about their actual (equal) competence as political decision makers, Ottonelli argues that we merely need to treat citizens *as if* they were equally competent. The rationale for this is that treating citizens in this way serves a performative function:

Representing each citizen as equally worthy of respect as a political actor is a fundamental goal in democratic societies because political power has traditionally been one of the most visible and entrenched sites of the hierarchical organization and self-representation of society along gender, race and class lines. If we understand the democratic ideal as the ideal of a society in which we treat each other as equals, and in which entrenched social hierarchies are publicly disavowed, then treating people as equally worthy of respect as rulers is an important part of the project (Ottonelli 2012, 211).

The main problem with this approach to modifying Premise 3 is that it seems to function as some sort of “noble lie”. Indeed, it is a lie that seems to be the reverse of the noble lie espoused by Plato in his *The Republic*. While, in the case of Plato, the substance of the lie is the myth that hierarchical social classes are immutable and thus unchallengeable, Ottonelli’s version suggests that we maintain a myth of absolute human equality (in the sphere of political competence, at least) in the face of genuine differences in talents and abilities. Aside from the possible practical implications of telling citizens that they are in fact equally competent, treating people in a way which is contrary to how we actually perceive or believe them to be hardly seems like a way of treating them with equal respect.

This criticism of the symbolic argument could be met with at least two replies. First, it might be argued that, in certain circumstances, the principle of respect might mean that we should in

fact tell not the truth. For instance, when a friend asks “do you think I’m stupid?” or “do you think I’m ugly?”, it might seem disrespectful to tell the truth if you do indeed believe these things to be true, and thus more respectful to lie in this case. However, these examples do not show that it would be respectful to lie; on the contrary, respect demands that we tell the truth here. What these examples do tell us though is that, in certain cases, other factors outweigh the imperative to be respectful: we lie in order to preserve one’s relationship with one’s friend and avoid hurting his or her feelings. This could be termed “lying in good faith”. Second, a proponent of the symbolic argument might argue that her support for treating people *as if* they are equally competent irrespective of their actual competence does not constitute lying to them. Instead, it could be argued that treating “each citizen as equally worthy of respect as a political actor” serves the purpose of ensuring that inequalities in capacities and competence are not rendered visible. Ensuring that an individual’s relatively inferior competence is not made public does not constitute lying and, indeed, respecting them may require that we do this.

However, neither of these replies seems convincing in the final analysis. Consider, first, the reply that it is sometimes there are reasons which outweigh respect and therefore we should, in certain circumstances, lie to people. Even if we accept this, there are clearly also circumstances where we might want to protect people’s feelings regarding their own capacities, but it would be inexpedient to do so – for instance, when appraising students’ work at school or university. There is thus clearly a line to be drawn regarding when respect should be our primary motivation and where other factors can be allowed to outweigh this. This latter case – that of appraising students’ work – is analogous to the treatment of citizens by political institutions; to treat citizens as equal on some basis that we do not really believe to represent true equality is not just disrespectful, but would also undermine any argument for democracy based on this equally respectful treatment.



One further interpretation of the symbolic argument is worth considering. Perhaps the goal of treating people as if they had equal capacities is to ensure that they are respected by each other and nobody is deemed inferior in the eyes of their peers. For instance, we can envisage a situation where a teacher treats their pupils as if all have an equal ability in mathematics. This serves to help ensure that all the children respect each other equally and avoid any problems that might arise should any pupils be relegated to a position of permanent inferiority in the view of their classmates. The same reason, it might be suggested, justifies the state's treating all citizens as if they had equal capacities for judgement.

Yet while there might be a case for teachers behaving in such a way with children – and this itself is far from certain – it is clearly an inappropriate way to treat adults. Aside from the infantilizing aspects of such treatment, such an approach would assume that the only way that adults can truly respect each other is if we are deceived about each other's capacities. However, my respect for the equal moral worth of other adults doesn't depend on what I believe their capacities for making political judgements is, nor on how I perceive their capacities to carry out any other analytical tasks. It is surely more respectful of adults to acknowledge that our respect for each other does not depend on our assessments of these capacities. Given these problems, and those discussed above, the symbolic argument's attempt to escape the problem of vastly different capacities for political judgement among citizens thus fails, and we are still no closer to finding an adequate respect-based argument for equal political power.

### **3.5 Conclusion**

This chapter has addressed the argument that democracy's value is to be found in its unique ability to accord equal respect to all citizens by virtue of giving all an equal share in political power via an equal vote. This theme was chosen for several reasons. First, the idea that democratic political institutions should be equally respectful of the views of all lay citizens is

a theme often advanced by contemporary populists and has been recently manifested in the disdain for the views of “experts” articulated by some supporters of both Brexit and, in the US, Donald Trump. Second, the respect-based view seemed to offer us a potential basis for justifying the equal vote, an intuitively important democratic principle that, as the previous chapter showed, is difficult to defend.

I thus took a version of the respect-based argument put forward by Jeremy Waldron, and a key challenge to it, Mill’s persuasive case for plural voting, as starting points and then explored the argument for equal votes based on equal respect for decision making capacities in more detail. This examination raised several issues. The case for equal votes based on a respect for the equal decision-making capacities of all citizens is shown to run into empirical difficulties, namely that citizens are in fact very unequal in their capacity for political judgement in many key respects. Furthermore, taking a threshold or “range property” approach to individual capacities for decision making does not help salvage this argument. Given these empirical difficulties, an alternative approach was considered: that the respect implied by an equal vote should be viewed as *purely* symbolic and not a reflection of equality in any underlying characteristics. I rejected this on the basis that, among other factors, attributing certain capacities to people when they do not in fact possess them seems to be an exercise in disrespect rather than the respectful treatment that this approach suggests. However, the pure symbolism of this approach to equal respect via equal votes also highlights a problem with the symbolic nature of respect arguments in any form. Even if we believe that the equal votes reflect some empirical truth about the equality of all citizens, or just their capacities in some certain respect, it is questionable whether democratic political decision-making can justifiably be viewed as an exercise in symbolic respect for all those participating in it.

The arguments have shown that the respect-based approach fails to provide us with justification for the equal vote as it does not in fact give us a plausible basis for the claim that

the judgements of all people should be afforded equal weight. Furthermore, its failures in this respect also show that it cannot provide us with an avenue to taking seriously the populist claim that the views of experts and specialists should be disdained in favour of treating equally the decision-making capacities of all. In the subsequent chapter, Chapter 4, I will defend a way of both justifying the equal vote and responding to the concerns of contemporary populists that argues that democracy is in fact constitutive of the personal autonomy of all citizens that live under such a form of political rule and participate in its procedures.

# Chapter 4 – The constitutive view: democratic compatibilism

## 4.1 Introduction

Recalling Chapter 1, the problem that I am addressing in this thesis is to find a way of conceiving of democracy that brings out what is valuable and true in the populist approach to democratic politics. As we have seen, this dissertation is thus, at least in part, an exercise in social criticism that seeks to critique and reconstruct the valuable core of contemporary populism. Chapter 1 also identified three possible ways of interpreting this valuable core: democracy as an equal distribution of political power, as a way of equally respecting the decision-making capacities of all citizens, and, finally, as being constitutive of the autonomy of all citizens. Chapters 2 and 3 then examined and tested the first two possible approaches to this problem. I argued in those chapters that both of these approaches should be rejected. Rejecting these ways of reconstructing populist politics means that we have yet to find an adequate way of reinterpreting the concerns of contemporary populists in a valuable way. Furthermore, Chapters 2 and 3 showed the difficulties in finding a sound justification for the equal vote; an intuitively troubling state of affairs given how central this concept is to our understanding of democracy. My rejection of the distribution view in Chapter 2 also touched on a problem that appears to not just form a basis for rejecting that specific view, but also seems to have the potential to undermine democracy altogether. This is the problem of the complete lack of substantive control that any individual citizen has over decision-making and outcomes in a democracy, or what I am terming the *problem of negligible influence*.

In this chapter I will outline a third possible approach to addressing the concerns of contemporary populists and that seeks to draw something true and valuable from the populist project. This approach will focus on the idea, discussed in Chapter 1, that citizens in a modern mass democracy lack control over the outcomes that these systems of decision-making produce. In response to this concern I will outline an argument – which I term the *constitutive view* – that aims to achieve several things. First, it will make the case that what is valuable in democratic decision-making is the respect for citizen autonomy that such systems afford. Second, in making this case, I will also respond to populist concerns regarding citizens’ apparent lack of control over outcomes. Here I will draw on currents within the free will debate to argue that such control is not necessary for citizens’ personal autonomy. Instead, what matters for citizen autonomy is whether or not citizens endorse the system of decision-making that generates their outcomes; I have termed this aspect of my argument *democratic compatibilism*. Finally, by changing the focus away from control and towards endorsement, I will thus have successfully responded to the problem of negligible influence that was first touched on in Chapter 2 and is explained more thoroughly below. I have termed this approach the constitutive view because it shows that the value of democracy lies in its ability to be constitutive of the personal autonomy of citizens that participate in its decision-making processes.

This chapter will be structured as follows. First, I will briefly outline the nature of the form of autonomy under discussion and then detail the problem of negligible influence. The subsequent section considers several extant approaches to the problem, and shows how these approaches either fail to take the problem seriously or do not respond to it in a satisfactory way. The remainder of the chapter outlines my own response to the problem, a response that draws heavily on the literature relating to the compatibility of free will and determinism. This response – which I call democratic compatibilism – contains two parts. The first of these shows

that, given certain background conditions – including an agent possessing a threshold level of rationality and the existence of certain basic civil and political rights – political authority and personal autonomy are indeed compatible. The second shows that democracy is the form of political authority most likely to fulfil these conditions and is thus, from the perspective of ordinary citizens, the most desirable form of political decision-making available. The arguments in this chapter will then have shown how the populist concern regarding control over outcomes, or a lack thereof, is both correct yet, at the same time, misplaced. It is correct insofar as it reflects the great value of personal autonomy, but it is misplaced insofar as it assumes that this value requires that it is control rather than endorsement that democratic procedures should secure for all. The subsequent and final chapter of this dissertation will then examine what the practical implications for the findings in this chapter are for democratic institutional design with respect to one particular instrument of decision-making: the referendum.

#### **4.2 Democracy, personal autonomy, and the problem of negligible influence**

According to a widely held view, one feature of democratic authority that renders it superior to alternative forms of political authority is that it better respects the autonomy of citizens. One way in which democracy may better respect the autonomy of citizens is in the kinds of outcomes it tends to produce for them. For instance, democracy gives citizens the opportunity to participate in political decision-making and so might enable them to acquire greater virtues and capacities of various kinds, thus enhancing their autonomy (Mill 1991, Ch. 3). Or perhaps democratic government tends to promote autonomy by producing outcomes better suited to protecting those rights that guarantee citizens against arbitrary interference in their lives (Pettit 1997, 200-1). But the version of the autonomy-based justification of democracy that I want to uphold in this chapter focuses not on the *outcomes* democracy tends to produce but on

democratic *procedures*, such as the means by which representatives are selected or laws are chosen. In short, this view maintains that the procedures of democratic decision-making respect the autonomy of individual citizens to a greater extent than do the decision-making procedures that characterise other forms of political authority.

The main objection that confronts this view is that democratic procedures do not enable any individual citizen to exert any meaningful influence in determining political decisions. I term this the *problem of negligible influence*. To put it bluntly, the chances of casting a pivotal vote in a mass democracy are virtually nil and the probability that any ordinary citizen can significantly influence political decisions through means other than the vote – e.g. through exercises of political speech – are not much larger. This fact seems to undermine the contention that democratic procedures show greater respect for personal autonomy than alternative forms of political decision-making. Given that these procedures do not enable anyone to exert any meaningful influence over the political decisions under which they live, why would we associate democratic decision-making with their personal autonomy?

In order to better explain the problem of negligible influence (henceforth, the PNI), I want to begin by discussing what I mean by personal autonomy. As I understand personal autonomy, there are two necessary conditions for an individual to be autonomous. The first condition is the absence of certain internal and external constraints on action. With respect to internal constraints, these have been notoriously difficult to describe in a way that has attracted consensus among philosophers. However, it is widely accepted that an individual must possess a minimum level of rationality, and that further conditions pertain to the nature of an individual's relationship with his or her desires. Put differently, personal autonomy depends on the *authenticity* of these desires. For instance, individuals with a pathological compulsion to act in certain ways – perhaps with respect to drug addiction – cannot be said to be acting autonomously, even if their behaviour is free from any external constraint (Christman 1991,

13-14). With respect to external conditions, an individual must be able to act free of certain constraints, physical or otherwise. Furthermore, she must also have available a range of valuable options for action (Raz 1986, 373).<sup>4</sup>

The second condition that is necessary for personal autonomy is what has been called “independence”. This condition can be illustrated by the example of a slave who, thanks to a benevolent master, may have an extensive range of options open to them – perhaps even a range that would, if all other conditions were fulfilled, be considered sufficient for a non-slave to be autonomous – yet still lacks autonomy as their range of options for action is dependent on the will of their master (Raz 1986, 378-9). This state of affairs violates the second, independence, condition for autonomy, and it is this second condition that the PNI is explicitly concerned with.

While this sketch of personal autonomy leaves much open, it is sufficient for my purpose in this chapter.<sup>5</sup> However, two further things should be said about my view of personal autonomy and, more specifically, the relationship between personal autonomy and democracy, or indeed political authority of any kind, that I posit in this chapter. First, while the term “personal” autonomy is used, this should not be taken to mean that citizens in a democracy should only be concerned with the consequences that political decisions have for themselves; the use of “personal” here merely refers to each individual enjoying the necessary conditions to be able to make decisions and live their life in a way that satisfies the requirements of autonomous

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<sup>4</sup> While self-government of some form may be possible with only a limited range of options, I assume that personal autonomy is not. Self-government makes up a core part of the idea of personal autonomy but it does not exhaust it.

<sup>5</sup> This treatment of personal autonomy also makes clear the difference between the specific form of autonomy that I am interested in and an alternative form, which is often termed *moral autonomy*. Moral autonomy refers to the Kantian ideal of living according to some objective moral standard: the autonomous individual is one that abides by such moral standards. Personal autonomy, on the other hand, is less concerned with the content of an individual’s actions, but rather the conditions that led them to take such actions (Dworkin, G. 1988, 34-47).



behaviour. Second, I make the background assumption that democracy must respect the personal autonomy of all citizens. This background assumption places my view of the relationship between democracy and personal autonomy in the liberal tradition, whereby liberalism is understood as a tradition of thought that places great value on personal autonomy. This encompasses so-called “comprehensive liberalism” as defended in recent times by, for example, Joseph Raz – where personal autonomy is a good in itself and a necessary constituent of the good life (Raz 1986, 408) – as well as the political liberalism of John Rawls.<sup>6</sup>

As we have seen, accounts of political authority that argue that democratic procedures best preserve personal autonomy, or that make the weaker claim that democratic procedures do not necessarily conflict with autonomy, encounter a serious problem that I have termed the PNI. Of course, while citizens in a democracy will likely have a great scope to exercise their freedom to make decisions in the absence of external constraints, it seems they will nevertheless fail to meet the independence condition stipulated above. Like the slave in the example just given, citizens in a democracy have no substantive control over the constraints that they live under.

However, someone might object that a democracy equalizes influence between citizens and therefore that the relations between citizens in a democratic polity differs markedly from the relationship between the master and slave as, in a democracy, every ordinary citizen gets an equal part of the total influence, and no more than that part. Yet, even if this is true, it still remains the case that nobody can be said to have any substantive measure of control over

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<sup>6</sup> For instance, Rawls argues that among citizens’ “higher-order interests” is ‘the capacity to form, to revise, and rationally to pursue a conception of one’s rational advantage or good’ (2005, 19).

outcomes.<sup>7</sup> This is due to the negligible influence individuals have on democratic decision-making.

So, according to the PNI, the absence of explicit control over the laws that regulate one's life means that self-government, even under democratic political authority, is impossible due to the violation of the independence necessary for personal autonomy. The independence condition, as discussed above, leads to an ambitious notion of control that is clearly very hard to satisfy: the chance of an individual voter in a mass democracy exerting a meaningful level of control over any particular vote is, as Dworkin argues in the quoted passage, virtually nil. However, even if we were to set the bar much lower – to argue that a much more modest level of control is necessary to satisfy the independence condition, and thus necessary for personal autonomy – then the outcome is much the same. For instance, Dworkin argues that “the measure of positive political control” of people in a large community can sensibly be rounded to zero as this level of control is equal to  $1/(\text{the total number of people participating in any given vote})$  – a very small number indeed in any mass democracy. However, we can think of other types of situations where this number might be high enough to argue that autonomy is retained; for example, if I must share a household decision with my partner, or my partner and my child, or even with my partner, child, and my parents, then my measure of control would be  $1/2$ ,  $1/3$ , and  $1/5$  in each case, respectively. And it is plausible to suggest that my personal autonomy is not compromised by having to share control of a decision to these extents. Yet wherever we set the bar for an adequate level of control to be retained for us to be considered autonomous, it is unlikely to be low enough for these conditions to obtain in any plausible democracy. Whether we choose a minimum of, say, one tenth share of control, one twentieth,

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<sup>7</sup> Though, as pointed out by Dworkin, it is not actually the case that we enjoy equal influence in a democracy. For instance, some enjoy greater influence by virtue of their superior charisma or powers of persuasion (2000, 195-6).

or even one hundredth or one thousandth, this share is still going to be well above the level of practical control we have when participating in political decision-making in a democracy where we must share control with at least many thousands, hundreds of thousands, or even millions of other actors. Such autonomy therefore cannot obtain in a democracy, even if we soften the independence condition so that merely some plausible level of shared control is required. Of course, casting a vote may have other effects outside of making an explicit difference to legislation or to a citizen's choice of representative, perhaps by way of contributing to the democratic mandate or a particular political group or as an expression of political dissent on a particular issue. However, from the perspective of the ideal of personal autonomy, making a difference to legislation in some way remains crucial as laws constrain us and guide our actions in a unique way.

There are several reasons why one might think that the PNI is not as fundamental a problem for democratic authority as I have claimed and I will here address four of the most convincing. First, it might be argued that citizens' lack of control over political outcomes does not in fact mean that they lose their autonomy as, despite this lack of explicit control, their votes do in fact have a non-trivial value. This non-trivial value can be seen by, for example, the fact that we might reasonably subject citizens in a democracy to censure should they decline to use their right to vote. For instance, Alvin Goldman argues that the "partial responsibility" that citizens share for electoral outcomes by way of their "contributory influence" means that citizens have a moral obligation to vote even if their own actual individual contribution to a given outcome is very small (Goldman 1999, 203). However, while views such as Goldman's might be successful in providing some moral basis for why citizens should vote, they still do not meet the problem described by the PNI. While, on Goldman's terms, we might be right to morally chastise a non-voter for her free riding on the votes of her fellow citizens, her individual vote still has a negligible impact on the outcome of election. Furthermore, even if, under majority

decision-making, most individuals could be said to be determining the rules they live under (by virtue of being in the majority), this decision is reached as a group and not by each citizen individually. Put differently, while it might be true that *majorities* decide the constraints that individuals live under, it is also true that no *individual* decides this. An individual citizen cannot thus be said to be exerting any control over the range of options for action that political decision-making will give her – and thus the constraints that shape her life – and therefore cannot be deemed to be living a fully autonomous life.

Second, while it is clear that individual citizens cannot exert any meaningful level of control over political decision-making in a democracy through the act of voting, there remains the possibility that control could be brought to bear on political decision-making in other ways. Given that democratic politics involves not only the chance to express a preference in regular elections, but also the opportunity to freely express ideas and engage in debate with one's peers, perhaps citizens can exert control over the democratic process by ways other than voting; for instance, through seeking access to the media, through campaigning, or perhaps simply through being particularly persuasive advocates for certain causes.<sup>8</sup> However, it remains the case that most citizens' ability to influence decisions in this way is as negligible as their opportunity to do so via voting. While some citizens may indeed be able to exert a degree of influence over their peers, the numbers that can do so are very small and achieving such influence is likely to come at a high cost, in terms of time and other limited resources, which puts it beyond the capacities of most. Indeed, even where it is the case that certain individuals have a non-negligible degree of influence – perhaps through a privileged access to the media achieved by

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<sup>8</sup> This distinction between formal and informal methods of control mirrors the distinction Dworkin makes between the power to *impact* political decisions and the power to *influence* them (2000, 191-194).

virtue of great wealth – this still does not provide a response to the PNI, but rather weighs against democracy being compatible with the autonomy of most citizens of ordinary means.

Third, it might be argued that people who live in a democratic society only lose autonomy over a range of options that are in any case not valuable. For instance, we lose the autonomous ability to decide to murder or steal. However, while it may be true that democratic society deprives us of the ability to decide whether or not to pursue some specific courses of action that in any case lack value, it would be implausible to say that democratic society deprives us of personal decision-making power *only* over courses of action that lack value. Consider an example: democratic societies deprive people of the autonomous ability to decide how much property they can leave to their children. They regulate this matter by imposing some level of tax on inheritance. However, unlike murder or theft, the act of leaving a certain amount of property to one's children is not a course of action that is obviously lacking in value. So it is not true that our lacking influence over democratic decision-making deprives us of decision-making power over a range of options that is, in any case, lacking in value.

Fourth, while we do surrender autonomy over some valuable options in a democratic society, it could be argued that we are compensated for this because we receive, in exchange, (a) certain non-autonomy-related goods and/or (b) more secure autonomy over *other* valuable options. For instance, perhaps it is worth surrendering autonomy to decide over some courses of action in order to receive the good of security because security is highly valuable in its own right and/or because security enhances our autonomy in pursuing *other* courses of action. However, the problem with this exchange-based argument, is that individuals do not set the terms of this exchange with the democratic state that regulate their lives. It is then far from obvious that their autonomy is in any way retained when they live under a democratic state, *even if* the terms of the exchange are favourable to them in either of the respects just distinguished. We are not autonomous when others restrict our options without our consent

even if they do so in ways that are favourable to us.

In what follows, I wish to take a more ambitious view which argues that we can fully retain personal autonomy in political society, and, moreover, that democracy is the form of political society best suited to this. The view I defend shares the same ambition that Rousseau aimed to achieve in the *Social Contract*, namely “to find a form of association ... in which each, while uniting himself with all, may still obey himself alone, and remain as free as before” (Rousseau 2002, 163). Rather than showing that individuals do in fact have sufficient influence or control over political decisions for them to be autonomous, I will instead argue that it is not control over laws that is necessary, but rather endorsement of the system of decision-making that produces these laws. When considering the personal autonomy of citizens in a democracy, we must thus move out of a framework of considering their degree of control over decisions, and into one that considers their level of endorsement of the procedures of decision-making. I call this view *democratic compatibilism* in line with analogous solutions to the free will problem. I spell this view out below, but I will first review some existing treatments of the PNI in the political theoretic literature.

### **4.3 Existing treatments of the PNI**

In this section I will show how several possible responses to the PNI, which are either implicit or explicit in several strands of the democratic theory literature, are unsatisfactory. The responses I will focus on are those I term the *neo-republican* view and the *deflationary* view. However, before addressing these responses in some detail, I will briefly discuss – and set aside – appeals to *tacit consent* and *instrumentalism*. While all of these responses take different approaches to the PNI, they all face a recurring objection: instead of showing how democratic procedures can afford citizens control over political decisions, they show that such procedures

fulfil some other condition or conditions. And while these other conditions may be closely related to those conditions needed for autonomy, they are not the same as those conditions. These responses do not thus adequately address the PNI.

With respect to the appeal to *tacit consent*, this response claims that in a democracy citizens tacitly consent to the laws that bind them (Locke 1998, 120). While consent usually requires the explicit approval of a given state of affairs, tacit consent consists of approval that is implied by the actions or behaviour of an individual. When an individual enjoys the benefits of democratic authority it might be said that she has given her tacit consent to the outcomes, however she chose to vote in any given poll. Tacit consent – if it can indeed be assumed of most citizens in democracies – thus seems to present a promising reply to the PNI. If citizens tacitly consent to democratic decision-making then they can be said to be in control of their actions when they submit to laws produced by these procedures. However, this appeal to tacit consent faces the classic Humean objection. The issue here is that we cannot attribute tacit consent to an individual if they did not have a genuine opportunity to withhold consent (Hume 1987, II.12). As Hume points out, it is not true that citizens have a genuine alternative to living within the political society that chance has seen them born in to. Hume’s objection thus seems to undermine the argument that tacit consent renders mass democracy compatible with the personal autonomy of citizens. These citizens do have a legal right to leave the state, yet the costs associated with leaving are so high that we cannot really attribute tacit consent to them just by virtue of the fact that they remain within the state’s borders, even if they obey all the state’s laws, pay lip service to its political procedures, or enjoy the benefits that democracy provides them with.

Another potential response to the PNI is to reject altogether the view that the value of democratic authority inheres in its procedures and instead to adopt a purely *instrumentalist* approach to the value of democracy. Consider, for example, Ronald Dworkin’s theory of

democracy. Dworkin rejects the view that democratic decision-making procedures are *intrinsically* valuable (he calls this a *detached* view of democracy's value because it detaches democracy's value from the valuable outcomes it produces) in favour of the view that its value inheres in its capacity to produce valuable outcomes (he calls this a *dependent* view of its value) (Dworkin, R. 2000, 185-6). The implication of his position is that a lack of substantive control over democratic outcomes on the part of citizens is not particularly regrettable so long as democracy produces the correct outcomes (i.e. the outcomes demanded by justice), or outcomes that are at least closer to the correct outcomes than the outcomes that would be obtained under alternative systems of decision-making. However, the problem with the instrumentalist response is that the conditions for personal autonomy cannot be supplied to citizens without regard to *how* they are supplied. Let us assume that the "correct" outcomes of political decision-making tend to be more favourable to citizens' autonomy – perhaps through ensuring the observance of basic rights or enhancing external security, or promoting the production of public goods such as healthcare and education. Even if democratic procedures more reliably supply these correct outcomes, this does not answer the PNI. While, given the interdependence of all human beings and the ways that our modes of living are historically conditioned, it is implausible to suggest that such conditions must be wholly self-supplied, citizens must still have some substantive measure of influence over how the conditions for their autonomy are supplied. And this can only occur through control over of the political decision-making process itself. The instrumental view of democracy's value thus fails to take the PNI seriously as it does not acknowledge that the relationship between citizens and the procedures of political decision-making by which they find themselves bound is relevant for their autonomy.



### 4.3.1 *Neo-republicanism*

Consider, next, the *republican* response to the PNI. To understand this response we need to observe the central distinction republicans make between freedom as non-interference and freedom as non-domination. Taking again Raz's example of a slave with a benevolent master who generally leaves the slave to her own devices despite having a legal right to treat her as he pleases, according to a non-interference view, we must accept that this slave enjoys a considerable amount of freedom. However, according to the non-domination view that republicans favour, the slave remains unfree as the master enjoys the right to arbitrarily interfere with her life at will, even if he chooses not to do so. Indeed, as Philip Pettit argues, there are situations where individuals may be dominated by others yet, by virtue of their own cunning or guile, or perhaps through luck or the benevolence of others, they still live without interference (Pettit 1997, 64). Notice that the situation faced by these individuals is similar to that faced by the citizen who enjoys outcomes under democratic authority that are favourable to his autonomy. Republicans must regard this situation as potentially unsatisfactory from the point of view of freedom as non-domination as such non-interference is contingent and uncertain. It is also unsatisfactory from the point of view of personal autonomy as the citizen whose ability to be author of her own life is dependent on outcomes produced by a set of procedures over which she has no control. Indeed, both the absence of freedom as non-domination for the slave and the citizen's lack of autonomy could be said to arise from the failure of their circumstance to meet the independence condition that I discussed in the preceding section.

Yet Pettit's approach to democracy falls short of responding to the PNI. Consider his treatment of the problem of establishing citizen control of government – and thus securing their non-domination – in his two most notable discussions of the subject. First, in *Republicanism* (1997), there are two main elements to Pettit's approach. The first element involves

contestability. Pettit maintains that democracy should be based on contestability rather than consent (Pettit 1997, 183). The idea here is that democratic institutions and procedures should give citizens adequate opportunity to contest the decisions made by law-makers, and that this possibility of contestation means that while political authority will necessarily involve interference in the lives of those subject to it, it will not dominate their lives in the way that uncontestable authority would. Citizens subject to such authority will thus remain free in the republican sense as they are not subject to arbitrary interference. However, the problem is that contestability can only be seen as an effective bulwark against non-domination if citizens' contestation has a realistic prospect of being effective. The PNI shows that this is unlikely to be the case. How likely is it that any given citizen in a mass democracy can contest political decisions in a way that could actually overturn them? Furthermore, a life largely free of the type of domination described by Pettit is not necessarily one in which citizens control those forms of interference that do occur. Pettit thus falls short of making a satisfactory argument here from the point of view of autonomy, as well as non-domination, and falls into the same problem that he has identified with respect to freedom as non-interference. As the non-interfered with slave is still dominated due to the fact that this non-interference depends on the will of a benevolent master, the citizen in Pettit's conception of democracy is not autonomous as they do not necessarily control the laws which they live under. This republican response is thus inadequate in terms of its appeal to contestability.

The second element of Pettit's approach in *Republicanism* is that democracy is the best form of political authority for tracking the interests of citizens (Pettit 1997, 195-8). Pettit might thus argue that autonomy is not undermined when political decisions successfully track the interests of those that they affect. This is the element of Pettit's approach that, with respect to the PNI, is most promising as the "tracking of interests" bears some similarity to the form of solution to the problem that I will outline in the subsequent section. However, it needs further development

if it is to adequately solve the PNI as this response faces the same problem as other varieties of instrumentalism: it fails to take the PNI seriously as it does not acknowledge that the relationship between citizens and decision-making procedures is itself relevant for autonomy. Put differently, our personal autonomy requires that how such outcomes are supplied be sensitive to a substantive measure of control on our part; it is insufficient that such outcomes are provided by others, even if these outcomes happen to track our interests. My solution in the subsequent section may help to complete this “tracking” argument and thus provide republicans with a more comprehensive way of answering the PNI.

In his later work, *On the People's Terms* (2012), Pettit argues that a state's legitimacy depends on citizens being able to influence their government's decisions and actions, and that three conditions must be fulfilled for this influence to constitute freedom in the republican sense: it must be individualized, unconditioned, and efficacious (2012, 166-179). Individualization here refers to citizens having equal access to systems of control, for example through a universal franchise and equality of the vote; unconditioned means that citizens' ability to exert influence is not dependent on the will of others; and efficaciousness refers to citizens' influence being effective in terms of imposing direction on a government's policies and actions (Martí and Selemé 2015, 34). It is this third condition, efficaciousness, which is of greatest relevance when considering the PNI. Pettit argues that the fulfilment of this condition means that when citizens are faced with decisions that they disagree with or have explicitly voted against, they can be secure in the knowledge that the result is due to the correct functioning of the democratic process rather than due to an arbitrary use of power by government officials or the undue influence of special interests. When citizen influence is efficacious, Pettit argues, we might well feel resentment towards fellow citizens who have used their own power of influence contrary to the way we have used our own, but we would be

wrong to feel resentment towards the state, government or the processes of democracy themselves (Pettit 2012, 177-178).

With this idea of the efficaciousness of citizen influence, Pettit comes close to addressing the issues raised by the PNI, but efficacy still falls short of satisfying the conditions required for citizens to be autonomous in the way described above. Even if a citizen can be sure that her vote is given equal weight and consideration to the votes of others, it still remains the case that this individual vote has a negligible chance of having a decisive impact on the outcome of any particular ballot. Moreover, even if Pettit's condition of efficacy is fulfilled – and indeed his other conditions alongside it – the outcome of any particular decision would still be the same as had any individual citizen refrained from voting at all. So, given this complete powerlessness to actually exert any meaningful control over democratic outcomes, we can't consider citizens in Pettit's ideal democracy to be autonomous and the PNI still stands.

#### *4.3.2 The deflationary view*

A final response to the PNI differs from the above responses, insofar as it is developed from an explicit acknowledgement of the PNI, and thus seeks to address it head on. I term this the *deflationary* response. This response is made by Daniel Jacob, who outlines a similar problem to the PNI (2015, 62). Jacob's response rests on a particular view of what it means to be autonomous, one that he claims renders it compatible with the forms of decision-making found in modern mass democracies.

What Jacob terms "basic autonomy" retreats from the more demanding form of personal autonomy outlined above. For instance, while he agrees that autonomy requires the ability to act in accordance with our desires, he argues that it does not presuppose full control over one's life. This interpretation of autonomy renders it compatible with democratic decision-making.

For example, when an agent is asked to make a political decision, in order to be autonomous it is sufficient that he reflects on his preferences in light of his higher-order desires and then transforms these autonomously formed preferences into action via voting. This process of reflection and then action that is afforded by democratic decision-making gives democracy a moral character as it allows all citizens to be treated equally with respect to their capacities as autonomous individuals (Jacob 2015, 70).

While the goal of this view is to take a more pragmatic approach to autonomy by situating it in a social context that denies the existence of truly independent individuals – as Jacob says, it is unlikely that socially situated individuals can ever exercise the most encompassing form of personal autonomy (Jacob 2015, 70) – it in fact deflates autonomy in order to retreat from the objection posed by the PNI. Specifically, instead of responding directly to the objection, it formulates autonomy differently in order to render the objection less serious. Indeed, the importance of maintaining a more demanding conception of personal autonomy is illustrated by considering the fate of citizens having to live under political decisions over which they have no substantive control. Even in a liberal democracy citizens must comply with these decisions on pain of potentially serious punishment. Perhaps, when they live in a democracy, such citizens are sacrificing a degree of autonomy in order to receive other valuable goods, but it is implausible to suggest that the fate of such citizens is fully compatible with their autonomy simply by virtue of their having engaged in reflective decision-making and then translated this into action. The approach taken by Jacob thus fail to take the PNI as seriously as it might. It is the fact that personal autonomy is so demanding that leads to the PNI in the first place

#### 4.4 Democratic Compatibilism

I now introduce a reply to the PNI that I call *democratic compatibilism*. This reply will, first, show that, in order to fulfil the independence condition of autonomy outlined above, *causal control* over the constraints that one lives under is not necessary for personal autonomy. Second, I will show that what is required is that citizens *endorse* the processes by which the constraints under which they live are produced. Finally, I will show that democratic forms of decision-making are more likely to engender such citizen endorsement than other forms of political decision-making.

The problem of the compatibility of personal autonomy with the inability of individual citizens to regulate the laws they live under bears a very similar structure to the philosophical problem of the compatibility of free will and determinism. The free will problem is concerned with the possibility of reconciling human freedom to act within a world that seems to be the result of a great causal chain of events. If all events, including human actions, are indeed the result of prior events, then how can humans be said to be free in any meaningful sense when they act? Compatibilism encompasses a broad family of philosophical positions that hold that it is not logically inconsistent to believe in free will while accepting the basic premises of determinism. The core insight compatibilists share (and elaborate in different ways) is that it is sufficient for individual freedom that there exists a certain relationship between the mental state of an agent and that agent's actions. The causal determination, or otherwise, of the agent's mental state is not a relevant factor in assessing whether or not she is free as long as she possesses a minimum level of rationality and is not obviously being coerced. For instance Hume takes "liberty" to be "*a power of acting or not acting, according to the determinations of the will*" (Hume 1975, 95) rather than a freedom of the will from causal determination. Ronald Dworkin argues that an agent's control over her actions depends on the agent's capacities for decision-making rather than whether his decisions are determined by a causal

chain of events over which he has no control (something which he accepts is the case): “an agent is in control when he is conscious of facing and making a decision, when no one else is making that decision through and for him, and when he has the capacities to form true beliefs about the world and to match his decisions to his normative personality” (Dworkin, R. 2011, 228). Both Hume and Dworkin accept as sufficient for an agent’s freedom that a certain relationship exists between her mental state – or her psychology more broadly – and her actions, while denying the relevance of how the former is causally influenced by events beyond the agent’s control.

The compatibilist tradition in the free will debate suggests a distinction between two models of the kind of control over action that is necessary for freedom. The *causal model* of control says that an agent must have control over her actions in the sense that the antecedent causal chain of events and actions that resulted in the action in question originated with the agent herself. So, for instance, if an agent’s action is the direct result of an intervention by another agent or some other world event beyond the agent’s control, then causation lies somewhere other than with the agent in question and the agent cannot be said to control her actions. The *endorsement model* of control, on the other hand, suggests that an agent must have control over her actions in the sense that she must endorse them through the exercise of an adequate set of psychological capacities, normally conceived of in terms of a threshold level of rationality. If an agent endorses one action over another through the exercise of such capacities, then she has control over her actions in the sense necessary for her freedom.

We can now observe that it is the causal model of control that underlies the PNI. The fact that citizens lack influence over the democratically-imposed constraints that limit their freedom is only a problem for their personal autonomy if we assume that their autonomy depends on their being able to exercise control over their actions in the sense identified by the causal model of control. A proponent of the PNI looks at a democratically-imposed legal constraint that a

citizen is under and argues that the constraint denies that citizen personal autonomy as the citizen's personal choice was not decisive in deciding whether the constraint should have been implemented or not. This is the equivalent of arguing that the citizen lacks personal autonomy because the source of his compliance with that constraint did not ultimately lie in him. However, if, as the compatibilists argue, we should reject the causal model of control, then the PNI loses its force.

While compatibilism is the dominant position among philosophers concerned with the free will problem and incompatibilism is a more marginal position, the compatibilist school of thought is an extremely broad church encompassing a range of viewpoints. It is thus clearly beyond the scope of this chapter or dissertation to defend compatibilism in its entirety, or even to make a convincing case for one or another particular compatibilist approach. However, my argument does allow me to conclude that we should only worry about the PNI if we believe compatibilism to be wrong and for free will and determinism to indeed be incompatible. Put more directly, my argument implies that if we endorse the possibility of free will despite the fact of physical determinism, then we should endorse the possibility of personal autonomy despite the existence of political constraints on action that no individual has any measure of causal control over. We should be as troubled by the legal constraints that political decision-making place on our personal autonomy as we are about the constraints on our free will that are placed by physical laws such as those of classical mechanics or relativity. Of course, my argument is hostage to compatibilism being shown to be false,<sup>9</sup> but given that it is the dominant viewpoint among both philosophers and laypeople – the man or woman on the street are surely

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<sup>9</sup> Put differently, my argument will stand or fall with the plausibility of free will compatibilism. However, given the marginal position of incompatibilist positions within the free will debate, this does not strike me as too bold a leap in reasoning to make and, moreover, much of ethical and political philosophy would be on hold were it necessary to completely resolve the question of free will before moving on to more concrete questions.



untroubled by the possibility that physical determinism negates his or her ability to exercise free will – I am confident that my argument against the PNI is valid.

However, while it is clear that I cannot defend compatibilism or any particular variant thereof, I do wish to illustrate the intuitive force of the compatibilist position and, thus, of a possible form of democratic compatibilism. To do so I will draw on a defence of compatibilism outlined by Harry Frankfurt and then – in the remainder of this section and in the subsequent one – introduce a version of democratic compatibilism that is implied by Frankfurt’s argument. In this respect, democratic compatibilism can be viewed as a family of viewpoints, each of which corresponds to a parallel version of free will compatibilism; I use Frankfurt merely as an illustration of one possible version of this parallel, albeit one that is particularly persuasive.

The core insight that Frankfurt provides us with is that the ability to do otherwise is not required for one to be deemed to be in control of one’s actions. He develops this insight by constructing a scenario in which an individual could not have acted otherwise, yet is nevertheless morally responsible for his actions. The scenario involves two protagonists, A and B. A has resolved to undertake some morally censurable action. It is in B’s interests that A carries out this action, so B puts in place some measure to ensure that, should A waiver, then A will be manipulated in such a way that A will certainly carry the action out. However, in the end, B’s interference is not needed as A carries out the action anyway (Frankfurt 1969, 835-6). In this case, A is morally responsible for the censurable action yet could not have acted otherwise. Assuming that it is reasonable to hold people morally responsible for their actions only if they performed them freely, Frankfurt’s scenario implies that the causal model of control is mistaken (Frankfurt 1969, 836-7). Our reaction to the scenario is, by contrast, adequately explained by the endorsement model of control, according to which the fact that A endorses his censurable action is sufficient for his having freely undertaken that action.

Democratic compatibilism can draw on the same insight that Frankfurt develops. That is to say, it can rely on a similar sufficiency claim when explaining why citizens can be free despite lacking causal control over the laws they live under: it is sufficient that a citizen endorses the form of political decision-making that produced the law, and it is not necessary for the citizen to have explicitly voted for it. Of course, this endorsement must take a particular form or, rather, it must take place in the context of particular background conditions. For a citizen's endorsement of a particular form of political decision-making to be freely given then they must possess the ability to adequately reflect on their decision to grant endorsement. But aside from this requirement for what could be considered a minimum level of rationality, citizens must also have the ability to garner appropriate evidence regarding their political situation and the conditions to be able to adequately reflect on this evidence. These further conditions imply the need for certain basic civil and political rights; for example, a free press, freedom of association, and the general right to participation in civil society, among others, are all necessary for a citizen's endorsement of a political regime to be adequate.

The argument in this section has merely shown the possibility of personal autonomy being compatible with political authority *tout court*. I have not yet taken the further step of showing that the kind of control that Frankfurt-style compatibilism says *is* necessary (and sufficient) for freedom – namely, control as endorsement – is satisfied when citizens are constrained by democratic decision-making procedures. The following sub-section will develop Frankfurt-inspired democratic compatibilism in further detail by arguing that democracy is indeed the form of decision-making most likely to engender the endorsement of citizens. The case for the compatibility of personal autonomy and democracy will then be complete.

#### 4.4.1 *Vindicating democracy*

My response to the PNI shows that a requirement of compatibility is that, rather than endorsing every individual law, citizens endorse the system of decision-making that produces the laws they live under. However, this says nothing about democratic procedures in particular and it is conceivable that citizens might endorse some other non-democratic system, perhaps some form of aristocracy or oligarchy, and thus retain their autonomy by virtue of this endorsement. While this chapter has focused on rejecting the notion that democratic authority and personal autonomy are incompatible, there are many good reasons for believing that democracy is in fact the system that is most likely to be endorsed by citizens over time. Indeed, some of these reasons are those given by authors who provide unsatisfactory responses to the PNI (see above). For instance, there are *outcome-based* reasons: while we saw that the instrumentalist claim that democracy produces better or more just outcomes provides an unsatisfactory response to the PNI because it fails to take the issue of autonomy seriously, the fact that democracy produces better or more just outcomes might well give citizens reasons to endorse democratic procedures over alternative decision-making procedures. And there are other examples that offer similar good reasons to think that citizens would endorse democracy over other political systems, not all of which are instrumentalist in nature. For example, Thomas Christiano offers a *publicity* reason. Christiano argues that the authority of democracy is to be found in its unique ability to equally advance the interests of all citizens in a public way and this might also provide a similar basis for citizens' endorsement of democratic decision-making (Christiano 2008).

These reasons – outcomes and publicity (and it is likely that there are others) – do not themselves directly address the issue of autonomy even when, such as in the case of autonomy promoting outcomes, they seem to provide good grounds for enabling citizens to act autonomously. Instead, they provide reasons for why citizens would endorse democratic decision-making over other forms of political authority (as well as an absence of formal

political authority altogether – i.e. anarchy). The relationship between these reasons for endorsement and the autonomy of citizens living in a democracy is made clear via the free will compatibilist inspired idea of democratic compatibilism that I have developed in this chapter. Of course, there may be some citizens – perhaps unreconstructed Stalinists or those desiring a theocratic society – that do not endorse liberal-democratic rights and institutions at all, and are thus completely unpersuaded by my arguments. However, two things can be said about such groups. First, that if they believe that civil and political rights are unnecessary for sustainable endorsement, then I would simply argue that they are mistaken. Second, if they do not believe that the ongoing endorsement of citizens living under a political regime matters, then we have a fundamental and intractable disagreement; as discussed in the first section of this chapter, I am making the background assumption, which is central to the tradition of liberal political thought, that political authority must respect autonomy. So while it is regrettable that my arguments might not reach out to some of those that do not hold these same commitments, persuading those already convinced of the merits of thoroughly undemocratic systems – such as theocrats – is not what I am trying to do. Put differently, I am assuming a prior commitment among citizens to treating others with equal concern and respect, and the arguments laid out in this chapter are only designed to be persuasive to those that already share this commitment.

Two further things should be said about democracy and the sustainable endorsement of citizens. The first concerns the potential problem of permanent minorities within a democratic polity. If decisions are consistently made by a permanent majority from which some citizens are excluded, then surely this minority group is unlikely to maintain their endorsement of the system. Given the importance democratic compatibilism places on autonomy qua sustainable endorsement, members of this minority cannot thus be said to be acting autonomously when their behaviour is regulated by such a system of decision-making. This is certainly an issue that

any model of democratic decision-making will have to contend with, and one where the dangers of not doing so can be seen in the ongoing political difficulties in countries with significant national minorities such as, for example, Copts in Egypt or Catalans in Spain. However, there are at least two good reasons to be optimistic about the potential problem posed by permanent minorities.

First, although the problem is potentially serious in some societies, perhaps it is not, at least in many cases, quite as serious as it first appears; in most societies there exist multiple cross-cutting cleavages which mean it is unlikely that permanent minorities are in fact quite so permanent. In Spain, for instance, the range of issues where Catalans might vote as a minority bloc against the majority of other Spaniards is limited, and there are many other issues where other identifications – such as class or religiosity – will be more pertinent. Moreover, identities such as these tend to be fluid. Whether one identifies as Flemish or Belgian, Catalan or Spanish, is likely to wax and wane, and this will further mitigate against the permanence of any particular minorities or majorities.

Second, there are a range of potential democratic institutions geared towards resolving such problems or obviating them altogether. For instance, Arend Lijphart has advocated consociational democracy, the elements of which include government by coalitions in which all significant minorities are represented, concurrent majority decision making, and proportional representation for decision-making bodies (Lijphart 1977, 25). Other options for mitigating the existence of permanent minorities include remedial strategies such as requiring candidates for election to obtain minimum quotas of votes from certain group, or ensuring that party slates contain a mix of candidates from within majority and minority groups. Indeed, the remedial efficacy of such devices means that there are cases where they have been implemented and then abandoned due to their success (Christiano 2008, 299). This issue of the types of decision-making instruments which are appropriate – or, indeed, inappropriate – when faced

with the existence of a permanent minority within a polity is something I will return to in more detail in the following chapter's discussion of the referendum.

The final thing to be said regarding democracy and sustainable endorsement is that someone might object to my argument that endorsement is sufficient by claiming that it implies that non-democratic forms of political authority are compatible with autonomy if most people endorse them. However, as we have seen, this is not correct due to the background conditions that are required for endorsement to be legitimate. We saw that Dworkin's capacity sense of control required that an agent has 'the capacities to form true beliefs about the world and match his decisions to his normative personality' (Dworkin, R. 2011, 228). The equivalent claim for democratic compatibilism is that citizens must be afforded the types of basic civil and political rights outlined in the previous section in order for them to make informed choices when confronted with political decisions and thus for their endorsement to be adequate.<sup>10</sup> These include freedom of speech, freedom of association, and so on. Of course, it might be argued that a non-democratic form of government could, in theory, protect these rights but not otherwise give citizens any say in decision-making. However, while my argument does not preclude this possibility, it is clearly highly unlikely that such a regime could exist and, moreover, that citizens would be willing to grant it their endorsement over time.

Furthermore, these deliberation-facilitating rights are not the only ones that need to be protected under a system of democratic decision-making. Rights that pertain directly to citizens' autonomy – i.e. rights that, if infringed, would limit core aspects of their autonomy –

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<sup>10</sup> The need for citizens to make informed choices, and thus freely and properly grant their endorsement to a system of political decision-making, highlights the importance of individuals acting for what might be termed "their own" reasons. Encouraging citizens to also act for "good reasons" – say, with proper respect and consideration for all – should also, of course, be a goal for a system of democratic decision-making. However, from the perspective of personal autonomy and endorsement, while both of these reasons for acting should be goals, citizens acting for their own reasons takes priority over whether or not they are acting for good reasons. This is an issue I will return to in the following chapter.

should also be protected. It is not necessary, and perhaps impossible, to collate an exhaustive list of the rights and freedoms that need to be guaranteed under a democratic regime that respects core aspects of autonomy, but it is enough to give a flavour of these type of rights: for instance, some degree of a right to privacy, rights to sexual freedom between consenting adult and, indeed, many other areas such as this where citizens' activities are highly unlikely to cause harm to or impinge on the rights of others.

While it has now been shown that democracy is indeed the system of political decision-making most likely to engender citizens' sustainable endorsement and thus ensure their autonomy, little has so far been said about the tricky problem of justifying the equal vote that was raised in Chapter 2. However, there are several reasons why a system of political decision-making that is geared towards engendering the sustainable endorsement of citizens should allocate votes equally rather than, for instance, adopting a system of plural voting. First, individual citizens would likely be concerned, if not outraged, that a system that allocated more votes to others than themselves was in some way biased against them or, at least, that equal consideration was not being shown to their views and interests. Furthermore, there would be the danger that those with a greater number of votes would share some or other characteristic – perhaps being educated to a higher level – that would then encourage representatives and legislators to gear policy making towards this group in the hope to receive their relatively more powerful backing in elections. Finally, those with fewer votes might well feel disrespected by a system that allocated more to others. These reasons strongly suggest that citizens would be more likely to offer their endorsement to a system that allocated votes equally.

Several objections can be made to this line of argument. First, given that the whole point of the PNI is that individual votes are essentially worthless, then it seems that those with extra votes are not actually exercising any additional substantive influence and thus the equal vote cannot be justified on the lines that a system that deviates from this equality is biased against

those with fewer votes. Second, arguing against plural voting due to the claim that some voters might be outraged, or at least feel disrespected, by having fewer votes seems like a strange claim to make given my rejection of the respect-based view in Chapter 3.

In response to these objections we should first recall that the constitutive view of democracy and democratic compatibilism suggests that we should assess the equal vote, and any departure from it, according to what would be sustainably endorsed by most citizens. There are several reasons that speak against the first objection just made and show convincingly why it is unlikely that most citizens would endorse a system that offered more votes to some and fewer to others. First, the problem with plural votes and endorsement is one of perceived bias, rather than bias that is necessarily real. Even if the additional individual votes given to some citizens are in fact near-worthless, this does not mean that those citizens with fewer votes will not still have the perception that the system is treating them unequally and in an inferior way to those citizens with a greater number of votes. The man-on-the-street is unlikely to care about abstract political-theoretic arguments such as those that underpin the PNI and will, instead, just interpret plural voting as meaning that some are potentially being afforded a greater influence over political decision-making than he is. However, this argument is not conclusive; one might say that there is a possibility that this man-on-the-street could, over time if the results were positive, indeed be convinced that some people with greater decision-making capacities than he should be given more votes. Yet the issue here is not just with the superior decision-making capacities of some compared to others, but with the man-on-the-street's reasonable worry that the motivation of giving those with a higher level of education more votes is not just bringing their greater decision-making capacities to bear, but due to bias in favour of their interests. This is an anti-elitism not based on the idea that the less educated know as much as the more educated, but rather that their interests should not count for any less. This latter type of anti-elitism would



very likely move many citizens to withhold their endorsement of a system of decision-making that offered some more votes than others.

Regarding the second objection, it is true that a view of democracy based on equally respecting the decision-making capacities of all was rejected in Chapter 3. However, the constitutive view put forward in this chapter is a second-order type view that argues that endorsement matters because autonomy matters, and then offers other reasons why it is only democracy, as opposed to other forms of political authority, that is likely to be endorsed by citizens over time and hence be compatible with their autonomy. These other reasons, as we saw earlier in this section, can include instrumental reasons and respect reasons, as well as others. So there is no contradiction in making an appeal to encouraging citizens' endorsement based on the idea that certain forms of institutional design will make them feel more or less respected.

#### **4.5 Conclusion**

After Chapters 2 and 3 rejected the views that, in response to the concerns of populism, democracy should be viewed as either equal political power or equal respect for all citizens, this chapter set out to examine the alternative view that democracy should be viewed as an exercise in ensuring the equal autonomy of all citizens. In this chapter I thus first outlined a problem for the view that democracy is superior to other forms of political authority insofar as it better respects the autonomy of citizens, which I called the *problem of negligible influence*. The problem is that citizens do not enjoy any significant measure of control over the legal constraints they lived under in a democracy. After discussing several unsatisfactory approaches to the problem of negligible influence, I introduced an alternative response which I have called *democratic compatibilism*. The core insight in this response is that the problem of negligible

influence exhibits an analogous structure to the problem of free will. This insight enabled me to develop a two-step response to the problem.

First, the PNI was rejected by invoking the sufficiency claim of free will compatibilism and thus showing that control over outcomes is not necessary for autonomy. It was thus shown that control over individual laws is not required, but rather it is the endorsement of the system of decision-making itself that is necessary. Second, it was shown that there are persuasive reasons for believing that democracy is indeed the system of decision-making that citizens are most likely to endorse. Finally, it was argued that the principle of the equal vote can be best justified by appealing to the sustainable endorsement of citizens; deviating from the equal vote would likely undermine this endorsement over time. This completed the case for vindicating democracy as the form of political decision-making that best respects the autonomy of those subject to it. In summary, my response to the problem of negligible influence takes the following structure:

1. The endorsement of a political system by citizens renders it compatible with their personal autonomy.
2. Of all kinds of political authority, democratic authority is the system most likely to instantiate citizens' endorsement.
3. Democratic authority is therefore the system most likely to respect citizens' personal autonomy.

Two further observations can be made about democratic compatibilism. First, as I alluded to earlier when discussing problems with the republican response to the PNI, democratic compatibilism provides a potential basis on which republicans can complete the argument that

the freedom of citizens is upheld so long as the decision-making procedures they live under ‘track’ their interests. The problem with this solution was that the tracking of interests still left open the possibility that individuals would be subject to constraints on their behaviour that are completely dependent on the will of others, thus violating the independence condition of autonomy outlined in Section 1. Democratic compatibilism shows that the independence requirement of autonomy does not require causal control over these constraints, but rather endorsement of the decision-making process that produces these constraints.

The second observation concerns the question of whether the constitutive view and democratic compatibilism amounts to a justification of democracy that is intrinsic or instrumental in character. The intrinsic view normally suggests that democratic procedures and institutions are a uniquely fair way of reaching political decisions. The instrumental view, on the other hand, values democracy for the superior outcomes that result from it compared to alternative systems, or for other positive effects it produces (Arneson 2004, 41). Given the possible reliance on the efficacy of democratic outcomes in engendering citizens’ endorsement, it might seem that democratic compatibilism amounts to an instrumental justification of democracy. However, this is not the case as good outcomes are relevant for democratic compatibility only insofar as they do the work of engendering citizens’ endorsement; it is this endorsement itself – and the fact that democratic decision-making thus respects personal autonomy – that forms the fundamental basis of democratic compatibilism as a justification of democracy. Put differently, democratic compatibilism claims that democracy is *constitutive* of the autonomy of citizens. This point is worth explicating in further detail. Consider a case where it can be shown that an alternative form of authority to democracy will produce better outcomes, and assume that citizens know this, yet these citizens nevertheless prefer a democratic system and would only endorse a democratic system. In this case, democratic

compatibilism still points to democracy as the most justified form of authority, even if it is not the form of authority that is best from a purely instrumental point of view.

In the subsequent and final chapter of this dissertation, I will turn to the institutional implications of democratic compatibilism and the constitutive view by examining the use of the referendum as a tool of democratic decision-making. Chapter 5 will seek to answer questions regarding to what extent, if at all, the referendum should be considered an ideal form of decision-making and how and why, from the perspective of citizens' sustainable endorsement, its use should be encouraged or curtailed.

# Chapter 5 – Referendums and democratic compatibilism

## 5.1 Introduction

My first chapter set out and discussed the problem to be addressed in this dissertation: briefly, that of how to take seriously the idea that democracy should be construed as popular rule, without lapsing into populism. Chapters 2 and 3 then examined two possible approaches to this problem – construing democracy as equality of political power and democracy as equal respect for the decision-making capacities of all citizens, what I have termed respectively the *distribution* and *equal respect* views. I found both of these views wanting. Chapter 4 then set out my proposed solution, where I argue that democracy should be viewed as the only system of political decision-making that can adequately ensure the personal autonomy of all citizens. This solution drew on compatibilist currents in the free will debate to claim that engendering the sustainable endorsement of all its citizens is akin to ensuring they are able to act autonomously.

While this approach provides a justification for democratic decision-making that is able to respond to some of the criticisms of those supporting populist political movements, nothing concrete has yet been said about the implications of this approach for democratic institutional design. This is the issue I thus turn to in this chapter. I will consider what “democratic compatibilism” and my theory of sustainable endorsement implies for a key decision-making mechanism within contemporary democratic societies: the referendum. Of course, democratic institutional design is an extremely broad area, but by examining the referendum I hope to be

able to demonstrate that democratic compatibilism has practical relevance for resolving questions surrounding institutional controversies in democratic theory.

What follows is split into several sections. First, following this introduction, I will consider what I have called the “referendum question”; that is, whether democrats should consider the referendum as an ideal, and thus default, form of decision-making that should only be compromised on due to practical considerations. Here I will discuss the implications for the referendum question of the two views of the foundation of democracy that I previously rejected in this dissertation – the distribution and equal respect views. As I will show, both of these views suggest that we should answer the referendum question in the affirmative; that is, that the referendum should indeed be considered a default option for political decision-making. It follows from this dissertation’s rejection of these two views that we have no obvious reason to answer the referendum question in the affirmative. At this stage of the discussion, the referendum question is thus an “open” question that could be answered in the affirmative or the negative.

The rest of the chapter is then devoted to explaining how democratic compatibilism helps us to answer the referendum question. To do this, I introduce two broad sets of controversies about referendums: controversies about the content of the kinds of questions they should settle and about the kinds of procedure they should follow. More specifically, controversies around *content* address the kind of issues that are apt, or not, for being resolved by referendum, while those around *procedure* look at how referendum campaigns and voting should be structured (for example, how they should be initiated, what amount of time should elapse between the initiation of a referendum and the final vote that settled it, and so on). After introducing these two areas of controversy, the subsequent section will address both in turn from the perspective of my theory of democratic compatibilism set out in Chapter 4 and thereby deliver a nuanced

answer to the question of when, and why, referendums might or might not be a suitable instrument for decision-making in a democratic polity. The chapter will then conclude.

## **5.2 The referendum question**

A referendum is a form of political decision-making whereby all members of a demos have the ability to vote on a particular question or proposal (LeDuc 2003, 37). It is thus a form of direct democracy, where this is often considered to stand in contrast to representative democracy in which officials elected by the demos take on the task of deliberating and voting on particular questions or proposals. In reality, most polities employ some mix of representative and direct democracy, where regular elections for legislators are interspersed with some degree of direct consultation of the entire demos for certain issues (Tierney 2012, 2).

I want to begin this section by considering a question regarding the suitable or proper use of the referendum instrument within a broader system of democratic political decision-making: should we consider the referendum an ideal form of decision-making in the sense that democrats should always, in principle, prefer this mechanism to other more mediated, or representative, forms? While an affirmative answer to the question seems intuitively plausible given that democracy is often depicted as citizens self-ruling – and referendums seem to offer the most direct and immediate realization of this – such an affirmative answer would not necessarily rule out the use of referendums being limited due to other factors or values, perhaps due to not overburdening ordinary citizens with onerous costs in terms of time (Walzer 1968) or due to a willingness to defer to views of experts on particularly complicated matters. In contrast, a negative answer to this “referendum question” means that we shouldn’t view a departure from the referendum as something that is in principle objectionable and thus requiring some sort of justification. So how we answer this question is clearly important to how we view ideal democratic institutional design. An affirmative answer will mean that

referendums should, in all likelihood, be a more prevalent feature of democratic life in many polities, while a negative answer will mean that justifications for the use of the referendum will require greater consideration.

Before I defended, in Chapter 4, my theory that democracy's value lies in its ability to provide the conditions for citizens' personal autonomy by way of their sustainable endorsement of the system of governance under which they live – what I have termed *democratic compatibilism* – Chapters 2 and 3 discussed two other possible approaches to democracy's value that were potential responses to the populist call for greater popular sovereignty. These were, respectively, viewing democracy as an exercise in equally distributing political power and viewing democracy as a system of decision-making best able to equally respect the decision-making capacities of all citizens. While I found good grounds to reject both of these approaches, it is worth briefly exploring what each of these two views might say about the appropriate place for the referendum within a democratic system of decision-making. More specifically, I wish to explore what these views tell us about the answer to the referendum question detailed in the preceding paragraphs. Briefly exploring this question with respect to these views will show how an approach based on autonomy as sustainable endorsement – the approach I advocate in Chapter 4 – has practical implications for democratic institutional design that differ from those of other theoretical approaches to democracy's value, and is thus of more than purely abstract significance.

In Chapter 2 I considered a view of democracy's intrinsic value that found this inhering in its ability to equally distribute political power among citizens. This distribution view argues that the value of democracy is found in its ability to equally distribute political power between all eligible members of a demos (Dworkin 2000, 189). The view was rejected; political power can be distributed equally in a number of ways – on horizontal and vertical dimensions, for example, and according to whether we view power in terms of impact, influence, or both



(Dworkin 2000, 190-4) – yet all of these formulations were found to be either undesirable or impractical. Still, it is helpful to ask what the distribution view says about the referendum question. Given that the distribution view is mistaken, this casts doubt on an answer to the referendum question that follows from it (though, of course, that answer may then follow from other views, apart from the distribution view, but proponents of that answer would then have to explain and defend those alternative views, if possible.)

To work out the implications of the distribution view for the referendum question, we need to recall the distinction between “vertical” and “horizontal” equality – the former referring to equality between citizens and their representatives and the latter between citizens themselves (Dworkin 2000, 190-1). From the perspective of vertical equality of political impact – and I will only consider impact here as referendums are necessarily about citizens casting a vote for or against a given proposal<sup>11</sup> – referendums should clearly be the default choice for all political decision-making as vertical equality of political impact implies that all citizens should have an equal say, with no greater say for political representatives or officials. And from the perspective of horizontal equality of impact, the answer seems to be that this formulation permits referendums alongside any other mechanism of decision-making that ensures all ordinary citizens share an equal level of impact. So, while there certainly might be other good reasons that an advocate of democracy as equality of political power could give for restricting the use of the referendum, it is clear that the starting point for such an advocate, especially one wedded to a view of equality along a vertical dimension, is likely to be that referendums represent an ideal form of democratic decision-making.

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<sup>11</sup> As discussed in detail in Chapter 2, political power can be disaggregated into impact and influence. Impact refers to the ability of a citizen to make a difference via formal means of decision-making, normally through the casting of a vote. Influence, on the other hand, refers to the difference a citizen can make to the preferences and judgements of others, perhaps through their powers of persuasion or through access to the media (Dworkin 2000, 191-4).

With regards to the equal respect view explored in Chapter 3 – namely, that the value of democracy lies in its unique ability to accord equal respect to all citizens by virtue of equally respecting their capacities for decision-making – the picture is a similar one. If we view departures from an equal vote to all citizens as disrespectful of the decision-making capacities of some, then the referendum offers the perfect device for allowing all to have an equal say on any given issue, and thus equally respecting all citizens by according equal respect to their capacities for judgement and decision-making (at least assuming, as I do throughout, that a referendum accords all citizens a single vote each). Again, this is not to say that there might not still be good practical reasons for an advocate of this view to wish to restrict the use of the referendum, but it does imply that such an advocate would take the referendum as an ideal form of decision-making that should only be stepped back *only* when there are good practical reasons to do so.

So it is clear that both of the views rejected in Chapters 2 and 3 are likely to answer the referendum question in the affirmative, and in a way that sees the use of this device, at least in theory, favourably and as representing an ideal form of democratic decision-making. Furthermore, as we saw in Chapter 1, populist politicians from both the left and right of the political spectrum are generally strong backers of greater direct democracy and the use of referendums (de la Torre 2018, 161-2), whether this stems from a principled “anti-elitist” view of politics and political decision-making or is merely a strategic position adopted in the belief that a greater use of referendums is likely to result in their favoured outcomes.

However, as well as seeking to find an alternative to the current strain of populist political parties and movements, the arguments made in this thesis have rejected both the distribution and the equal respect approaches to democracy. If these prior critical arguments are correct, then the referendum question remains open: it is by no means clear that the use of referendums represents an ideal or default form of decision-making and one that is inherently superior to

other, possibly more representative, ways of formulating policy and reaching political decisions. Given the openness of the referendum question, the rest of this chapter will explore what democratic compatibilism implies for the use of referendums. It will do so by breaking down questions surrounding their use into two principal areas of controversy and considering the implications of each for the sustainable endorsement of citizens in a democratic polity. This approach will help to formulate a broader view regarding the referendum's proper place in democratic decision-making

### **5.3 Two controversies regarding the use of referendums**

There are two areas of controversy that we should distinguish when thinking about the use of referendums in a democracy: content and procedure. As we will see in what follows, these areas are both necessarily broad in scope and I believe that most, if not all, controversies regarding the use of referendums can be subsumed under one or another of these two headings. While, as we will see below, it may be difficult in some cases to decide whether a controversy should be classified as relating to content or procedure, what ultimately matters is the position we should take on the controversy, not how it is classified.

#### *5.3.1 Content*

The controversy around content refers to the kinds of questions that are suitable or unsuitable for resolution via referendum. The literature on this controversy has often focused on the split between constitutional issues and more quotidian law-making (Tierney 2012, 11). By “constitutional”, I refer to those issues which relate to the basic set or principles or laws that govern the operation of a democratic polity. By “quotidian law-making”, on the other hand, I refer to the formulation of policy on issues that do not relate to such basic principles or laws. Put differently, quotidian law-making refers to those issues which govern the ordinary lives of

citizens and do not have a direct impact on the rules or procedures which govern how a democracy operates.

However, the question of content goes further than this split between constitutional and non-constitutional law-making. For instance, one further split is between the suitability of explicitly “moral” issues versus issues that do not have this character (Butler and Ranney 1994, 2-3). By explicitly moral issues I refer to those where one’s decision on a matter will come down to a matter of belief rather than preference or interest.<sup>12</sup> This distinction follows what, in the context of the UK Parliament, are often termed “matter of conscience”; a firm dividing line between these issues and others can be difficult to find, but it is enough to say that moral issues or matters of conscience are those that have a particular religious, moral or ethical character rather than merely administrative or financial. For instance, the acceptability of abortion or the death penalty are clear examples of issues of this type. Despite the possibility of imputing a moral character to virtually any subject of legislation, issues such as the rate at which a certain tax is set or rules governing the use of motor vehicles can be considered administrative and thus not matter of conscience.

The question of repeat referendums on the same – or a very similar question – is also a something which could fall under the umbrella of content.<sup>13</sup> Moreover, the question of repetition is a pertinent one given recent political developments in the Ireland and the UK. Ireland saw two referendums, in 2008 and 2009, on whether the country’s constitution should be amended in order to ratify the Treaty of Lisbon; while some of the relationship between Ireland and the EU was renegotiated between these two referendums, the question asked was

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<sup>12</sup> These two types of issues broadly correspond to the distinction, mentioned in Chapter 2, made by Dworkin between “choice sensitive” and “choice insensitive” issues.

<sup>13</sup> The repetition issue is an example of the difficulties of classification here. It could conceivably be viewed as either a substantive content issue, or one of procedure. However, as mentioned above, the problem of classification is less important than the position we go on to take on the controversy itself.

essentially the same and part of the shift in opinion may have resulted from the intervening onset of the Irish financial crisis of late-2008 onwards that made it apparent that Ireland would require greater financial support from the EU (Waterfield and Barrett 2009). In the UK, the question of repeat referendums has been raised several times over recent years. First, after Scottish voters rejected independence by 55% to 45% in the 2014 referendum, the SNP was quick to propose holding a second referendum on the issue (Kinder 2014). Second, in the aftermath of the UK vote to leave the EU in March 2016, there have been calls for a second referendum on the issue. These calls have been driven by, among other factors, the claim that the campaign around the first referendum was poorly conducted and voters were not afforded an accurate picture of the issues at stake, demographic changes in the UK since the first vote, potential issues regarding outside interference in, and funding of, the campaign, as well as the claim that the British people should have a say on the final deal (if any) that is struck between the UK and the EU. This final factor motivating calls for a further referendum would mean that such a vote was not strictly a second referendum on the same issue; however, the issues would likely be very similar and the notion that a second vote would be on the terms of the deal – rather than the issue of leaving itself – is a fig leaf used by many “Remainers” who wish to halt the UK’s exit from the EU.

These issues in the Ireland, Scotland, and the broader UK, demonstrate that the question of repeat referendums on a particular policy or question is a pertinent one for democratic theorists to consider. There are several issues at stake here. For instance, does repeating referendums undermine the very purpose of holding referendums in the first place? And are voters – particularly those who find themselves on the losing side – less likely to be satisfied with the result of a referendum if rerunning the vote is a real possibility? Furthermore, are repeat referendums more or less acceptable when certain types of questions are being posed rather than others (Jerzak 2014)? For instance, there seems to be an intuitive difference between

asking voters for a second opinion when the decision has been to change the status quo (as in the case of Brexit) compared to when the result is to maintain it (as in the case of Scottish independence). Asking for a second opinion when the decision has been to change the status quo appears more problematic as it seems to mean delaying the people's will. The same cannot be said about decisions where the maintaining the status quo has been chosen.

### *5.3.2 Procedure*

Procedural questions regarding referendums can relate to both the initiation and conduct of the campaign, as well as the vote itself. With regards to the campaign, the issue is mainly one of how to best encourage an ideal form of deliberation among citizens, as well as the related issue of how to manage the impact of differing levels of resources among opposing campaigns. Second, there is the question of referendum initiation, something which refers to the constitutional procedures available to trigger a referendum on any given issue. Different democratic societies differ widely on this score (Tierney 2012, 111-114). For instance, the constitution of the UK is largely silent on the use of referendums; while the weight of convention suggests that their use is required for major constitutional changes, this remains completely at the discretion of Parliament where enabling legislation is required for any such vote to take place. In contrast, Article 46 of the Constitution of Ireland specifies that any changes to the constitution can only be made by way of referendum and, similarly, the Constitution of Denmark specifies that referendums must be held for both amendments to the constitution as well as any passing of sovereignty over to intergovernmental or supranational organizations (unless a supermajority of 5/6ths of the Folketing approves the measure, a requirement that is in practice virtually impossible to achieve) (Svensson 1996, 34-5). One further model of referendum initiation involves votes being triggered by the actions of ordinary citizens. For instance, in Switzerland citizens can force changes to federal legislation by

collecting 100,000 signatures over an 18 month period, something which then triggers a referendum on the issue. Referendum initiation can occur in a similar way in several other countries at both the national and sub-national levels. These different possibilities for initiation have implications in terms of elite v. citizen control of referendum questions and process (Tierney 2012, 103).

Finally, we could consider the question of procedure in terms of volume; for instance, are there good reasons for limiting the number of referendums in an otherwise representative system of democracy, possibly due to the time burden that such votes place on citizens? Indeed, the answer to this question may depend on whether our default position *vis-à-vis* the referendum question is affirmative or negative. If we think that elected representatives should in principle decide and thus the people should only be consulted if certain criteria are met, then we are likely to have a less forgiving view of the costs and burdens that referendums place on ordinary citizens than if we take the opposite view: that it is primarily the people's role to decide and deferring to elected representatives should be viewed as a time- and labour-saving device for less important issues.

#### **5.4 Referendums and sustainable endorsement**

To address these questions, or areas of controversy, from the perspective of my theory of democratic compatibilism, it is worth recalling the outline of this theory. As we saw in the previous chapter, I argued that democracy's value inheres in its ability to provide citizens with the ability to act autonomously by virtue of the fact that it is the only system of political decision-making that citizens are likely to offer their sustained endorsement to. An account of the suitability of different types of referendum questions and procedures must thus be developed in line with ensuring citizens' sustainable endorsement. Before looking at these

issues in more detail, I will first make a preliminary point about some fundamental constraints that rule out certain types of referendums.

I made the case in the previous chapter that, for citizens to offer their sustained endorsement of a system of decision-making, certain civil and political rights – such as, for instance, freedom of speech, association and the press – must be guaranteed under such a system. If these rights are not guaranteed, then citizens will be unable, by way of reflective thought and proper deliberation, to make the kind of informed choices necessary in order for the endorsement that they grant to be adequate. This is because, as I understand it, exercising autonomy requires such reflective thought and deliberation. Furthermore, there are perhaps further rights that should be guaranteed by a democratic polity; or, at least, perhaps areas of civil and political life that should remain out-of-bounds in terms of democratic law-making. While my discussion in the previous chapter of the types of rights that are non-negotiable in a democratic context was necessarily brief, this issue has direct implications for some of the subjects under discussion in this chapter, especially regarding the types of decisions that may or may not be suitable for resolution via referendum. Referendums thus may not have the potential to violate these civil and political rights, and may not touch on these other areas that should remain out-of-bounds for law-making.

In the remainder of this section, before I address the two questions, or areas of controversy, detailed above and discuss what the implications of each are with respect to citizens' sustainable endorsement of a broader system of democratic decision-making (and thus what my theory of democratic compatibilism and sustainable endorsement says about how the content of referendums should be regulated), I will first discuss two intermediate criteria that will provide a bridge between the more abstract work of the previous chapter and the concrete conclusions about the suitability of various types of referendum content. These intermediate criteria are those of competence and good faith with respect to decision-making. One further



thing should be said about the approach to referendums taken in this chapter: as it is the system of decision-making that is under consideration here, the outcomes that referendums of different types are likely to produce is an incidental consideration. These outcomes are only relevant to the extent that citizens are more or less likely to endorse the outcome, or the system that produced it, whatever it may be.

#### *5.4.1 Competence and good faith*

The first intermediate criterion I will address is the problem of competence or, put differently, the issue of decision-makers – this being, in the case of a referendum, all members of a demos – having reasonable confidence in the competence of their fellow decision-makers. Competence here refers to the ability of these decision-makers to effectively deliberate and reach a considered conclusion on the matter at hand. It is fair to assume, I take it, that citizens would not offer their sustainable endorsement to a system that put important decisions into the hands of those they did not feel were competent in this respect. One clear implication of this issue of competence is that referendums should not be held on matters that show particular complexity or require specialist knowledge in order to come to a reasoned and considered conclusion. For instance, we can think of some economic issues, perhaps the regulation of certain aspects of monetary or fiscal policy, where specialist knowledge is required to have an informed opinion. On such issues, and on others where similar knowledge or training is required, lay individuals are unlikely to have confidence in their fellow citizens as decision-makers. They would thus be unlikely to endorse a system of decision-making that put such issues to a popular vote and so, from the perspective of democratic compatibilism, there seems to be good reasons to not allow referendums on matters of this type.

The second intermediate criterion I will discuss is the issue of good faith. This criterion consists of the following: it must be apparent to citizens that their fellow citizens are acting

with an equal concern and respect for all when casting a vote in a referendum. Put differently, citizens, particularly those on the losing side of a referendum vote, should be able to perceive that their fellow citizens, particularly those on the winning side, have made a good faith attempt to act with equal concern and respect for all when voting. This is because citizens will be better able to see that the system shows them equal concern and respect if they see that others are making judgments in good faith, and this is because good faith judgements are more likely to track what this requires than judgements made in bad faith. Of course, seeing others acting in good faith does not guarantee that these judgements will actually show equal concern and respect, but it will certainly make them more likely to. This commitment thus points to the constraint that the winning side in a referendum must be able, using good reasons, to convince the losing side that they have acted in good faith. If a system of political decision-making permits referendums where this criterion is not met, then citizens will be far less likely to lend their sustainable endorsement to this system.

I will come back to the good faith criterion again later in more detail when discussing examples of specific referendums. As we will see, decisions on referendum suitability based on this criterion will require contextual judgement regarding, for instance, the nature of the question, the electorate, the initiator of the referendum, and the historical context. For example, as I will illustrate later, the good faith criterion is violated when one can reasonably predict that voters on either side of a referendum outcome map onto pre-existing sectarian religious or ethnic divides within a society.

These outlines of the good faith constraint and the issue of decision-making competence have shown how democratic compatibilism, and the idea of autonomy by way of sustainable endorsement for a system of decision-making, might regulate the issue of referendums within a democracy. I will now turn to a closer examination of, in turn, the issues of content and procedure, showing what good faith and competence – as well as other considerations – can

tell us about how referendums have been used in the past as well as what democratic compatibilism can tell us about what, according to this foundational view of democracy, the general place is for referendums within a system of democratic decision-making.

#### *5.4.2 Democratic compatibilism and referendum content*

The first content-related issue I will address is that of constitutional versus quotidian law-making. As mentioned above, conventional wisdom often states that referendums should be required on matters that pertain to changing the basic laws or constitutions of a polity. From the perspective of citizens' sustainable endorsement of a system of decision-making, this conventional wisdom seems plausible: given that it is the system of decision-making itself, and not individual laws, that is subject to endorsement or otherwise, then it is unlikely that citizens would offer their sustainable endorsement to a system where the basic rules governing it could be changed without their explicit consent. However, this is not to say that, while this should be the default position, there may not be limits or constraints – perhaps due to the good faith constraint – on the use of referendums even when constitutional issues are at stake. This is an issue I will return to below where I discuss several practical examples of recent referendums.

A second content-related issue is that of referendums on what I termed above moral issues or “matters of conscience”. In some countries where religion continues to play a significant role in public life, such as in Italy, Portugal, and Ireland, referendums on issues such as these are relatively common.<sup>14</sup> In other countries, such as the UK, there is little precedent for moral issues or matters of conscience being put directly to the public. According to my theory of sustainable endorsement, there seems to be no principled reason why explicitly moral issues should or should not be subjected to decision via referendum. And while constraints in terms

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<sup>14</sup> In the case of Ireland, at least, there has on several occasions been an overlap between moral issues and the constitutional where, in the case of gay marriage and abortion, these were prohibited by virtue of amendments to the Constitution of Ireland.

of good faith or competence could apply, neither does there seem to be obvious reasons why either of these would necessarily rule out these types of referendums; indeed, the issue of good faith with respect to an explicitly moral issue is something I return to below in my discussion of the recent Irish referendum on abortion.

So it seems that taking a sustainable endorsement approach to referendum content leaves the question of what specific type of content is or isn't suitable for decision by referendum open. However, from this perspective, other constraints – such as the good faith requirement discussed above – will still apply here.

#### *5.4.3 Democratic compatibilism and referendum procedure*

As we saw above, with respect to procedure the main issue at stake is the question of encouraging a high standard of debate and deliberation before and during a referendum campaign via procedural means (Tierney 2012, 187). Questions regarding the standard of deliberation and debate could apply to the length of the referendum campaign – a decent period is obviously required for citizens to adequately inform themselves of the issues and formulate a considered opinion – but can also apply to the time before this when the issue is framed and the question itself is formulated. Furthermore, there are different ways questions can be chosen that involve a greater or lesser element of elite control. For instance, in the UK, referendum questions are set by Act of Parliament with the involvement of independent non-partisan bodies such as the Electoral Commission. However, notwithstanding the possibility that ordinary citizens can make representations to officials during this time, question setting remains, in the UK at least, a matter that is almost exclusively elite controlled. In contrast, recent referendums held in both Canadian British Columbia (BC) and Australia on the issues of, respectively, electoral reform and the possible abolition of the role of the British Monarch, have seen greater popular involvement throughout the process of issue framing and question setting (Tierney

2012, 223). In Canada, the British Columbia Citizens' Assembly on Electoral Reform (the BCCA), formed in 2003-2004, consisted of 161 members: 158 ordinary citizens randomly chosen from BC's 79 electoral districts (one man and one woman from each), two members representing BC's indigenous communities, and a chairperson. This body first attended presentations by experts on electoral systems and reform and participated in group discussions. This was followed by a period of public consultation where hearings were held and written submissions considered. They then deliberated over which electoral system to recommend before this recommendation was put to a province-wide referendum where the choice was between retaining first-past-the-post and adopting a system of single transferable vote (Tierney 2012, 200).

In the case of the 1998 Australian Constitutional Convention, the issue under discussion was whether or not Australia should become a republic. The convention consisted of 152 delegates from the states and territories of Australia, half of whom were elected by ordinary citizens and half of whom were appointed by the federal government. The convention deliberated over the various options available and decided that a referendum should be held on abolishing the monarchy in favour of an elected head of state appointed by parliament (Cross 2007). While the Australian example had a notably less populist character to the BCCA, both of these examples show the high standards of debate and deliberation in the run up to a referendum – including in terms of framing the debate and setting the question – that are possible.

This high standard of deliberation can be contrasted to that which took place during the 2016 UK referendum on leaving the UK. Here, the referendum campaign was marked by an almost complete absence of reasoned debate and deliberation between the opposing sides, with accusations of bad faith, predictions of catastrophe, and outright false claims being the main themes offered by either side (ERS 2016). Indeed, the lowest point of the referendum campaign involved the murder of a remain-supporting sitting Member of Parliament by a far-right

extremist. These contrasting examples – the BCCA and ACA on the one hand and, on the other, the referendum campaign leading up to the Brexit vote – show what is at stake in terms of soliciting a high level of debate and deliberation via procedural means. If citizens are to lend their sustainable endorsement to a system of decision-making that includes the use of the referendum, then they must have the confidence that measures will be taken to ensure that reasoned deliberation can flourish. Indeed, in the aftermath of each of these referendums, public opinion has been shown to be highly satisfied with the conduct of the campaigns in the British Columbia and Australian cases, and highly dissatisfied in the case of the UK Brexit referendum (Tierney 2012, 209; ERS 2016).

#### *5.4.4 Good faith: constraints on content and procedure in practice*

In order to show some more practical implications of the issues discussed in the previous two sections, I will draw on three relatively recent examples in the political history of the referendum: the 1973 “border poll” and the 1998 Good Friday Agreement referendums in Northern Ireland, and the 2018 referendum on abortion in the Republic of Ireland. I use these three examples as they all involve potentially highly divisive and contested issues, yet differ markedly in both how we can understand the motivations of the victors in each case, how those on the losing side could reasonably interpret these motivations, and how, in procedural terms, how the referendums were initiated and conducted.

The 1973 referendum in Northern Ireland was called by the British government on the issue of whether Northern Ireland should remain in the United Kingdom and/or whether it should join with the Republic of Ireland. In the end the vote was boycotted by virtually all Nationalists and the option of remaining in the United Kingdom drew 98.9% of votes cast (Lawrence and Elliott 1975). However, even had the boycott not taken place, it is highly likely that the demographic split in the province would have led to the Unionist side winning comfortably;

indeed, the inevitability of this result was one of the main driving factors behind the Nationalist boycott.

The boycott aside, this referendum is, I argue, an example of one where one cannot reasonably expect those on the losing side to attribute good faith to those on the winning side – that is, to attribute to the winning side a desire to treat all citizens with equal concern and respect. Consider the following factors that characterise the context of this referendum: the historical dominance of the Unionist community over the Nationalist and the injustices, perceived or actual, which accompanied this dominance; the fact that the referendum was instigated by an actor – the British government – who clearly backed one side in the debate; and, perhaps most importantly from the perspective of good faith as I have conceived it, the fact that votes either way in the poll were highly likely to map directly on to whether citizens held a Unionist or Nationalist identity. All of these factors constitute very strong reasons for members on the losing side to refrain from attributing good faith to members on the winning side. Nor would it be reasonable for the victors to try and persuade the losers that this was the case. According to the good faith constraint, this is thus an issue that should not have been put to a referendum vote.

Note that the problems here relate to both procedure and content. In terms of procedure, the initiation of the referendum was problematic and cannot be said to have been done in good faith by the British government, a far from impartial actor with regards to sectarian and political divisions in Northern Ireland. Moreover, the content of the referendum – i.e. the question being asked – was problematic in terms of the historical context in the region. This is not to say that referendum questions relating to independence and succession are out-of-bounds *per se*, but that the historical dominance of the majority community over the minority in Northern Ireland, and the associated violations of that minority's civil rights, mean that it is unlikely that such a

question would or could be seen to have been approached and answered in good faith by all citizens.

The 1998 Northern Ireland Good Friday Agreement (GFA) referendum provides a good counterpoint to the 1973 example, as the referendum presented the same electorate with a choice on a similar subject matter: whether or not to support the two agreements made between the British and Irish governments, and Northern Ireland's major political parties. The GFA referendum was also initiated by the UK government (in coordination with the government of Ireland), but offered citizens the chance to approve an agreement that had been made after a long period of debate, deliberation and conciliation between previously intractably opposed parties, namely the political representatives of the Nationalist and Unionist communities in the region (Aughey 2005, 148). And aside from some fringe dissenting voices on both sides, the GFA also enjoyed the support of the main political parties on both sides. It therefore shared none of the characteristics associated with the 1973 referendum; while the context of historical domination and injustice still existed, this was mitigated by the both fact that the GFA was agreed to by political actors from across the divide, and that the political climate in Northern Ireland had calmed due to ceasefires from the main armed groups on both sides (Aughey 2005, 148).

The 2018 referendum in the Republic of Ireland on repealing the Thirty-Sixth Amendment to that country's constitution was effectively a vote on greatly relaxing the laws on the availability of abortion in the Republic. While the issues of abortion is not one that would generally be thought of as constitutional, the Amendment, passed by referendum in 1983, affirmed the "equal right to life" of pregnant women and the unborn and thus restricted abortion to cases where the life of a pregnant woman is at risk. The Amendment was repealed with 66.4% voting in favour of this in the 2018 poll (DHPLG 2018). While abortion remains a highly controversial and divisive matter, this referendum provides an example of one where, despite



the nature of the issue, a referendum does not seem to be a particularly objectionable way of resolving it. This is because it is plausible for each side to make the case to the other that they are arguing and voting on the issue in good faith. Disagreement between the two sides in this debate comes down to a matter of belief in whether a foetus enjoys the full status and protections associated with personhood, and neither side in the debate is acting in an attempt to dominate the other, negate their political or social identity, nor deprive them of any fundamental political or civil rights. It thus shares none of those characteristics discussed with respect to the 1973 Northern Ireland poll, and there is no good reason to think that either side was acting without equal concern and respect for all citizens.

These three examples have given some idea of the practical implications of democratic compatibilism for democratic institutional design. Democratic compatibilities implies what I have called a “good faith” constraint with respect to referendums and it is fair to say that this constraint was violated by the 1973 Northern Ireland Poll and therefore that this referendum ran contrary to the fundamental value of a democratic society. The discussion of the two other referendums in Northern Ireland show us, by contrast, that the good faith constraint can be fulfilled by a referendum and indicate the kinds of practical considerations that need to be attended to for this constraint to be fulfilled.

## **5.5 Conclusion**

Following the discussion in this chapter, several conclusions can now be drawn regarding the use of the referendum in democracies from the perspective of encouraging citizens’ sustainable endorsement. The first substantive conclusion is that the “referendum question” that I posed at the outset of this chapter – that is, whether or not we should view referendums as a default decision-making tool in democracies or whether they should be viewed as exceptional and only used in certain circumstances – is an open one with respect to democratic compatibilism. Put

differently, it means that while there are no good reasons for viewing the referendum as the default that should only be backed away from when certain circumstances obtain, there do not seem to be good reasons for ruling out the referendum either.

I then went on to consider several types of controversies regarding both the content of referendum questions and the procedures surrounding how referendums are implemented. In order to bridge the gap between the more abstract work of my previous chapter and making more concrete recommendations regarding the use of referendums in light of these controversies, I first considered two intermediate criteria: competence and good faith. Competence refers to citizens' ability to be confident that their peers are adequately able to deliberate over the issues at hand and reach considered conclusions, while good faith pertains to the requirement that the winning side in a referendum should be able to plausibly show to the losers that they acted out of equal concern and respect for all citizens, including those on the losing side of a particular vote.

Using these two intermediate criteria as a guide, as well as the concept of sustainable endorsement more generally, several points regarding the practical use of referendums were made. First, the conventional wisdom regarding the necessity of referendums for significant constitutional changes is correct; citizens are unlikely to endorse a system that allows such changes without them being explicitly put to a public vote. Second, there seems to be no principled reasons why referendums should not be used for "matters of conscience", i.e. matters of an explicitly moral nature. Third, with respect to procedure, the contrasting examples of recent referendums in Australia and Canada, on the one hand, and the UK, on the other, were used to show the importance of managing referendum timing and campaigns in a way that fosters deliberation and thoughtfulness rather than tribalism and partisanship; in the former two examples public opinion was highly satisfied with the conduct of the campaigns and votes, while the opposite was true in the UK.

Finally, the examples of relatively recent referendums in the Republic of Ireland and Northern Ireland were used to show the implications of the good faith constraint in practice. The 1973 “border poll” in Northern Ireland was shown to be a case where this constraint was violated, and thus the referendum was inadvisable – and, indeed, it resulted in aggravating the already delicate political situation in the region – while the latter vote on the Good Friday agreement (in both Northern Ireland and the Republic), as well as the Republic of Ireland’s recent vote on decriminalizing abortion in certain cases were shown to be examples where the good faith constraint held. In both of these latter cases it is plausible to say that those on the winning sides of the vote were indeed acting with an equal concern and respect for all of their fellow citizens.

From these more specific examples of what the principle of sustainable endorsement tells us about the use of the referendum in democracies, a more general conclusion can be drawn. While my answer to the referendum question posed at the outset of this chapter was equivocal, it seems that there are no good reasons for the referendum to not be used more widely than it currently is in many representative democracies. Indeed, doing so is likely to temper some of the kinds of anti-elitist impulses that have led some citizens to lend their support to the types of populist movements discussed in Chapter 1. However, as the issues of competence and good faith demonstrated, there are likely to be many issues where referendums are wholly inappropriate – particularly complex or divisive issues, for instance.

# Conclusion

This thesis has sought to ask what truth there might be to the anxieties of those that support contemporary populist movements, and whether there might be a better way of expressing what these citizens want than the illiberal and potentially undemocratic forms of politics that these movements often offer. Alongside these questions, and integral to answering them adequately, I have also considered several ways of understanding democracy's value that correspond to these anxieties. As we saw in Chapter 1, populism is a notoriously difficult concept to articulate coherently, but few would disagree with the statement that it involves, at least at some level, an appeal to anti-elitism, where this anti-elitism is understood as positing a divide in society between the people, on the one hand, and, on the other, an elite that are either corrupt or are pursuing an agenda in opposition to the interests of the people. I have therefore considered three ways that such anti-elitism could be understood that correspond to three ways of understanding democracy's fundamental value: an anti-elitism that emphasises the need for equal decision-making power, an anti-elitism that emphasises equal respect for everyone's decision-making capacities, and, finally, an anti-elitism that emphasises the idea that everyone must have equal control over their own lives.

Chapters 2 and 3 addressed, respectively, the anti-elitism of equal power and the anti-elitism of equal respect. Chapter 2 did this by way of examining the merits of an approach to democracy that sees its fundamental value in its ability to equally distribute political power among all citizens. This view was rejected as its implications were found to be either undesirable or unworkable in practice. However, this chapter raised two important issues. First, it drew attention to the various types of political influence that citizens can wield, and how we should be concerned with equalizing some forms and not others. This idea was then taken up again in Chapter 4 where it was shown that certain forms of political influence are inimical to

personal autonomy, while others can reinforce it. Second, the arguments in Chapter 2 drew attention to a potentially serious problem with any discussion of democracy's value: how can there be any value in the equal vote when such individual votes are essentially worthless in the conditions of a mass democracy? Again, this is an issue that was taken up in Chapter 4, and the solution to it forms a key part of the theoretical work done in this dissertation. Chapter 3 then examined, as an implication of anti-elitism as equal respect, the case for democracy's value lying in its ability to treat the decision-making capacities of all citizens equally. This view was rejected due to the difficulty in making an adequate case for the equal vote based on equal respect alone.

In Chapter 4 I argued that the desire for control over political outcomes in order to preserve personal autonomy is wrongheaded. Instead, as I showed, citizens' personal autonomy hinges on whether or not they can sustainably endorse the political system they live under; endorsement or approval of every particular decision made by the system is not required. This "constitutive view", as I have labelled it – so called, because, as I have argued, it presents democracy as constitutive of citizens' personal autonomy – also pointed to liberal democracy, and its concomitant civil and political rights, as the only system likely to deliver such endorsement sustainably over time. My final chapter then examined some of the institutional implications of this view with respect to the use of the referendum in democracies.

In the remainder of this conclusion I will briefly address two issues. First, I will return to the idea I have been pursuing in this dissertation of a social criticism of populism to ask what my constitutive view of democracy can tell us about the supporters of contemporary populists, their anxieties, and what sort of response to them by others in their political community might be appropriate. And, second, I will address the question of where the arguments in this thesis are located within more traditional political theory, and, in particular, a tradition of thinking that runs from Jean-Jacques Rousseau to John Rawls.

## *Populism*

The task of social criticism that I set myself at the beginning of this dissertation is one of seeking to better understand the concerns and anxieties of the supporters of populist movements, as well as rearticulating these concerns and anxieties in a way that avoids the pitfalls and undesirable forms of politics that I discussed in Chapter 1. Let me now outline how the constitutive view of democracy and theory of “democratic compatibilism” help to rearticulate those populist concerns and anxieties. They suggest that one fruitful way of characterizing and understanding the concerns and anxieties of those turning to contemporary populist movements is to view them as representing an underlying fear of a loss of control over the material conditions that affect one’s life – or more specifically, a fear of a loss of one’s ability to pursue one’s plan of life. This fear drives the antipathy towards political elites who are seen as displacing “ordinary” people from political decision-making. The appropriate response by other members of the political community that is implied by this analysis is to establish or promote forms of democratic decision-making that citizens will sustainably lend their endorsement to.

Of course, this does not mean that I have necessarily articulated the views of contemporary populists in a way that they themselves would recognize as valid, nor that populist politicians or the citizens supporting them are themselves calling for anything along the lines of what I have argued for in Chapters 4 and 5 of this dissertation. Social criticism need not set itself the goal of articulating an ideal that is recognised by those at whom it is directed. The different goal of articulating an ideal that would free those at whom it is directed of their concerns and anxieties, as well as the perverse ideologies those concerns and anxieties have led them to produce, is also worthy of pursuit. What my theory offers is perhaps a way of looking at democratic institutional design that might encourage more citizens to sustainably endorse the

systems of decision-making that they live under, and thus be less likely to turn to forms of political expression that offer a thoroughly illiberal and potentially undemocratic vision.

My rejection of the distribution- and respect-based views of democracy in Chapters 2 and 3, does not necessarily mean that equally distributing political power and affording all citizens an equal level of respect are not valuable. My arguments in Chapter 2 and Chapter 3 were meant to show that the equal distribution of political power cannot plausibly be construed as intrinsically valuable, and, furthermore, that democratic institutions cannot be justified on the ground that they show equal respect for the decision-making capacities of all citizens. It is compatible with these conclusions to argue that equalising political power is instrumentally valuable to the extent, for example, that it encourages people to sustainably endorse their political institutions, and furthermore, that institutions are bound to pursue policies required by a principle of equal respect for citizens (albeit not bound to the policy of according equal decision-making power to citizens). Both of these ideas – that distribution of power matters and that equal respect matters – may have a lot to be said for them, but only insofar as they are incorporated into the kind of view that I am defending, i.e. it must be shown that they will lend themselves towards citizens being more likely to sustainably endorse a system of political decision-making.

### *Political theory*

Finally I would like to turn to the question of where my theory sits with respect to the history of liberal democratic political thought and what modest contribution I may have made to debates within this tradition. In this respect, I will mention two philosophers whose work only appears in these pages briefly, and in passing, but who have both informed my thinking over the course of writing this work and beyond: Jean-Jacques Rousseau and John Rawls. Both of these thinkers, in different ways, were concerned with how individuals can maintain their

freedom and autonomy while, at the same time, sharing it with others under the auspices of political authority.

In his *Social Contract* Rousseau famously set himself the task of finding “a form of association ... in which each, while uniting himself with all, may still obey himself alone, and remain as free as before” (Rousseau 2002, 163). Rawls, on the other hand, was also concerned with designing institutions in a way that respected human freedom and fundamental equality. He tells us that “a society satisfying the principles of justice and fairness comes as close as a society can to being a voluntary scheme, for it meets the principles which free and equal persons would assent to under circumstances that are fair. In this sense its members are autonomous and the obligations they recognize self-imposed” (Rawls 1999, 12). Here Rawls shows his desire to render political authority compatible with personal autonomy.

However, while Rousseau and Rawls were both clearly preoccupied with ideas of freedom and autonomy, neither explain with full clarity how these ideals can be satisfactorily combined with living under a political authority which produces day-to-day rules over which nobody has any substantive control, and that necessarily involves compliance with these rules on pain of sanction of some kind. Indeed, Rousseau’s notorious and seemingly paradoxical claim that citizens would be “forced to be free” (Rousseau 2002, 166) when they are obligated to follow the general will illustrates the difficulty in combining political authority with freedom and autonomy. More specifically, it shows the difficulty in conceiving how citizens can be subject to obligations that are coercively imposed on them by political institutions over which they have negligible control, while still remaining free. Both Rousseau and Rawls seem to draw a seemingly illegitimate parallel between the self as an imposer of decisions on him- or herself, and the self as one of a large group of citizens collectively imposing obligations on themselves. This parallel is illegitimate because, in the former case, the self enjoys direct control, while this



control is lost, because wholly diluted, in the latter case. Therefore it is not fully clear how these authors have achieved their goal of reconciling autonomy and authority.

In this respect, then, I hope that by showing how control is not necessary, and endorsement sufficient, for autonomy, and thus that citizens' sustainable endorsement of a system of political decision-making, enables them to retain their autonomy, my theory of democratic compatibilism has made some small contribution to the tradition of Rousseau and Rawls by reconciling what appears, at least at first, to be the contradictory ideals of autonomy and authority. Furthermore, my tentative exploration of the implication of this theory for democratic institutional design in Chapter 5 showed that what greater endorsement perhaps requires is a greater use of referendums and similar instruments in the democratic decision-making process, though a great deal of caution must be shown regarding which issues they are suited to and how referendum campaigns are timed and conducted. Finally, let me point out, in parting, that it is in a sense not surprising that a social criticism of the concerns and anxieties that motivate populism should have helped to produce insights relevant for the tradition of Rousseau and Rawls. If indeed those concerns and anxieties revolve around the loss of control over one's ability to pursue one's plan of life, the challenge of finding the best democratic response to those concerns and anxieties is the very challenge that Rousseau and Rawls set themselves in seeking to reconcile autonomy and political authority.

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