The Dispersion of Power: Thinking Democratically in the 21st Century

by

Samuel Ely Bagg

Department of Political Science
Duke University

Date:_____

Approved:

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Jack Knight, Supervisor

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Ruth Grant

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Michael Gillespie

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Geoffrey Brennan

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Susan Bickford

Dissertation submitted in partial fulfillment of
the requirements for the degree of Doctor
of Philosophy in the Department of
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ABSTRACT

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Abstract

This dissertation identifies a logic of "equal agency" at the heart of a great deal of contemporary thinking about politics. Scholars and citizens alike, I claim, often use some version of this logic in trying to understand what is valuable about liberal and democratic institutions. As a way of thinking democratically at the highest level, however—as a comprehensive principle for organizing our various practical and theoretical commitments, understanding the nature and value of democracy, and orienting ourselves towards a democratic future—I believe that it is deeply flawed. This dissertation demonstrates why such an alternative is needed, and proceeds to articulate one: the dispersion of power.

The introduction lays out the scope and methods before giving a chapter outline and a summary of the dissertation's contributions. Chapter one gives an account of the logic of equal agency, demonstrating its pervasiveness in political theory and its reliance on an ideal of individual subjectivity. Chapter two employs contemporary biology and cognitive science to support Foucault's critique of subjectivity, and chapter three demonstrates that this should lead us to abandon the logic of equal agency more generally. Chapter four articulates conceptions of agency and power that are compatible with Foucault's critique, and chapter five demonstrates how we might "think democratically" using these concepts within a logic of dispersing power. Chapter six links a crisis in contemporary democratic theory to the logic of equal agency and suggests that the dispersion of power can help to resolve it; a promise that is followed up in chapter seven. Chapter eight concludes by employing the logic of dispersing power to advocate for a universal basic income.

~ for EB, who sees ~

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Introduction

0.1 ~ Thinking democratically

This dissertation identifies a logic of "equal agency" at the heart of a great deal of contemporary thinking about politics. Scholars and citizens alike, I claim, often use some version of this logic in trying to understand what is valuable about their cherished liberal and democratic institutions. The point of democracy, we say, is that it demonstrates equal respect for each person's autonomy—or, perhaps, for their preferences; or their religious identity; or their capacity for reason. In seeking to make our democracies better, therefore, we strive to make them *more* equal; to give each citizen truly equal treatment under the law, and truly equal influence over the decisions that affect their lives, and truly equal opportunities for economic success. All of these are forms of agency, as I understand it, and all of these goals therefore reflect the logic of equal agency.

Clearly, this logic is powerfully attractive. Clearly, it has done a great deal of good in our world. As a way of thinking democratically at the highest level, however—as a comprehensive principle for organizing our various practical and theoretical commitments, understanding the nature and value of democracy, and orienting ourselves towards a democratic future—I believe that it is deeply flawed, and that we would be better served by an alternative. In the course of the dissertation, therefore, I explain why such an alternative is needed, and I proceed to articulate one: *the dispersion of power*.

Equal agency and the dispersion of power as organizing principles

At the most basic level, equal agency is a way of thinking. It is a sense of what is important in social and political life, which anchors a great deal of conscious normative thought, as well as many of our unconscious habits and affects in our dealings with others. Some version of it is manifest, for instance, in our instinctive revulsion at things like non-consensual sex, biased university admissions, arbitrary voting exclusions, and stereotyping of minority groups. A commitment to equal agency is not the *only* way of explaining or justifying that revulsion, but in one form or another, it is most often what we turn to when we are asked to do so. We say, for instance, that sex is to be celebrated so long as it takes place between equally consenting adults; that meritocracy is valuable so long as it offers an equal opportunity of success to all groups; that everyone deserves an equal voice in shaping the laws of their society; and that even if insulting stereotypes or inequalities in status do not cause direct *physical* harm, they nonetheless cause harm by denying their targets equal respect or "recognition" as full members of society.

When we generalize these explanations and justifications, we end up with the kinds of things we think of as moral and political theories. Rights, for example, are supposed to guarantee each person the minimally necessary components for equal participation in our common life. We think of justice as the procedurally fair and/or substantively equal treatment of all. Majority rule is understood as the only legitimate way of coming to decisions when people with different beliefs and values disagree about what is to be done. Ideals of pluralism and multiculturalism typically embody a commitment to respect the diverse ways that people of all cultural and religious backgrounds have chosen to live their

lives. Equal agency, in other words, is the logic we turn to when we explain to ourselves what is valuable about the norms and institutions of liberal democracy, and it is the ideal we strive for when we contemplate how to improve them. For those of us who value liberal democracy in some very general sense, and are committed to many (if not all) of its ideals and institutions, it is a way of organizing those values and commitments. It is a way of thinking *democratically*.

Ideals of rights, justice, democracy, and pluralism that are oriented towards and organized by the logic of equal agency—if only implicitly—have served us well in many ways. They were essential rhetorical tools in the fight for the abolition of slavery, extensions of suffrage, women's equality, and civil rights, among many other valuable achievements in the centuries since the logic of equal agency began to set down its deep roots in Western culture. And it is not hard to understand why: it is simple and rhetorically effective. It is flexible enough to appeal to a wide variety of people—nearly everyone can read their own values into some version of equal agency—yet it is not simply a blank canvass. Rather, it seems to have its own internal logic, which has often been a motor for progress. It is applicable, in a wide variety of situations, from personal ethical dilemmas to the political choices facing entire societies. It thrives both as an individual heuristic for judgment and as a principle for public discourse. In both respects, indeed, it provides an explanation of the value of many institutions and norms to which we are independently committed, giving each a plausible justification of its own, while also linking them to one another in a coherent value system with a single principle at its core.

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And yet, despite all of these advantages, I shall argue, we ought to wean ourselves from our reliance on this ideal. Let me be clear, then, from the start: I certainly do *not* mean to abandon our revulsion at non-consensual sex, biased university admissions, arbitrary voting exclusions, or stereotyping of minority groups. Nor do I seek to reverse progressive achievements such as universal suffrage and civil rights; on the contrary, I aim to retain most of the concrete norms and institutions whose value has long been explained and justified in terms of equal agency, including liberal rights, democratic procedures, the rule of law, and recognition of social equality. I even aim to maintain the rhetorical use of values such as freedom, equality, and popular sovereignty, within certain limited contexts. We may think of all of these concrete practical judgments, institutional commitments, moral intuitions, and rhetorical usages, then, as elements in a web of normativity, most of which deserves to be preserved. My claim, rather, is that we ought to replace the logic at the center of this web, which serves as its anchor and organizational principle; rejecting "equal agency" in favor of "the dispersion of power."

Equal agency and the dispersion of power as principles of distribution

Equal agency and the dispersion of power, of course, have quite a bit in common, which is precisely what makes it plausible that the latter could serve as a capable replacement for the former. Both, more specifically, are logics of *distribution* among *agents*, and the key difference between them concerns the proper specification of that logic. For the former, the object of distribution is agency, and the principle of distribution is equality; for the latter, of course, the object is power, and the principle is dispersion.

There are many ways of understanding each of the key terms in this opposition, but in the way that I am using them (to be elaborated at greater length in chapter four), "agency" is a subset of "power." Power refers (very roughly) to any means an agent possesses which facilitate the achievement of her/his ends. Agency, then, is meant to encompass a variety of concepts including "freedom," "liberty," "autonomy," "authenticity," "recognition," "rights," "capabilities," and so on, which outline the specific forms of power that ought to be targeted for equalization in political life. If the goal is equal rights, then the forms of power targeted for equalization include whichever rights are said to be essential. If the goal is equal autonomy, then the forms of power targeted for equalization are those which ensure or constitute the proper conception of autonomy. If the goal is equal voice in authoring the laws which govern our common life, then the forms of power targeted for equalization are those which enable this kind of authorship.

Power, of course, is not an *inherently* more expansive concept than agency. Many interpret the two as opposites, with (external, objective) power figured as a constraint upon (internal, subjective) agency, and the many forms taken by this common conceptual opposition will feature prominently in the coming chapters. Plenty of others, however, understand the terms as synonymous. Let me be clear about this as well, then: *the terms are not important*. All I claim is that in choosing between rival distributive principles, we ought to keep our conception of the object of distribution as expansive as possible.

Given the way I understand the terms, of course, this entails taking "power" rather than "agency" as my preferred object of distribution; and this, in turn, implies a preference for dispersion over equality, as a less precise principle of distribution. As I demonstrate at

greater length in chapter one, it is the demand for "equality" that drives the search for a limited subset of means which can be designated as constituting "agency" in the first place. If we seek only to *disperse* power, by contrast, we are given a less precise principle of distribution, and can therefore make do with a less precise understanding of the object of distribution as well. Where "equal agency" recommends a very specific way of distributing capacities among agents, that is, the dispersion of power's advantage is precisely that it is *less specific*. Though it may seem strangely unphilosophical to valorize imprecision in this way, I argue in what follows that such imprecision is in fact the only appropriate response to the vast uncertainty we face in political life. And in this, at least, I am in good company: theorists of political judgment from Aristotle to Hannah Arendt and Isaiah Berlin have, for the most part, cleaved to some version of Ruth Grant's observation that "Judgment is peculiarly married to uncertainty. If we knew, we would not need to judge."[1]

To recommend an imprecise principle of distribution, of course, is still to recommend a principle, and my understanding of the role that such principles play within the broader activity of political judgment is crucial to the argument that follows. Throughout, I treat equal agency and the dispersion of power as rival *heuristics*, at the highest useful level of generality, and evaluate them in terms of their value to people in need of such heuristics: i.e., people who seek to articulate and compare political ideals, norms, and institutions. In order to clarify the nature, scope, and stakes of the claims I make, then, the rest of this introduction proceeds in three parts. First, I outline my general conception of heuristics,

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[1] Grant, "Political Theory, Political Science, and Politics." See the exhaustive summary in Thiele, *The Heart of Judgment*. See also Berlin, "On Political Judgment."

discuss the implications of evaluating theories *as* heuristics, and briefly state the similarities and differences between equal agency and the dispersion of power. I then turn to an outline of the argument of the dissertation, which aims to show that of the two, the latter ought to be preferred. Finally, I spell out some of the broader contributions this argument makes to the discipline of political theory.

0.2 ~ When theories are called for: The agent-relative approach

> *As so often in political philosophy, the question needs to be asked: Who is supposed to be hearing this? Is there anyone who both needs to be told this and is in a position to make use of it?*
> — *Bernard Williams*[2]

Heuristics and persons

Heuristics are tools for achieving consistency within and between persons. If I want to get better at a musical instrument, it may be easier to commit to practicing *every* day, rather than facing the decision about whether to practice each day anew. This will not only free up my capacities of judgment and willpower for other tasks, it will also make it more likely that I will achieve my broader goal. As Alfred North Whitehead famously quipped:

> It is a profoundly erroneous truism… that we should cultivate the habit of thinking of what we are doing. The precise opposite is the case. Civilization advances by extending the number of important operations which we can perform without thinking about them. Operations of thought are like cavalry charges in a battle—they are strictly limited in number, they require fresh horses, and must only be made at decisive moments.[3]

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[2] Williams, *Truth and Truthfulness*, 208.
[3] Whitehead, *An Introduction to Mathematics*, 61. Cited from Thiele, *The Heart of Judgment*, 116.

Given that we have a limited capacity for thinking and judgment, in other words, one of the best uses of that capacity is devising reliable heuristics for solving recurring problems; solutions to which we can gradually become habituated. Moral and political ideals, then, are heuristics addressed to a particular set of recurring judgments: those we must make when we are unsure about how to treat other people.

Sometimes, moral and political ideals aiming to help us make judgments are formulated with the aim of applying universally, to all people at all times. In what follows, however, I adopt a different approach. I acknowledge, to begin with, that I am addressing a *particular* rather than a universal audience, and I assume two things, more specifically, about the people who will find themselves in need of the heuristics I discuss. I assume, first, that they seek to respect the interests of *all* other people in some very general way; and second, as I have already indicated, that this desire to respect the interests of others leads them to endorse some significant portion of the ideals, norms, and institutions typically associated with liberal democracy. I accept, in other words, that my arguments will simply be lost on anyone who does not endorse a significant part of the normative "web" most commonly organized and anchored by an implicit logic of equal agency, and I make no pretense of "coercing" their judgment through an appeal to unassailable foundations.

To those accustomed to a foundationalist approach, this mode of theorizing will appear "backwards." By assuming the aim of respecting the interests of all people, it might be objected, I have neglected the most important questions of all: what are human interests, and why should we respect them? In order to count as properly moral or normative, such an argument might hold, a theory must provide reasons which are "external" or "objective"

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or "transcendental" in some way—reasons, in other words, which apply universally and categorically to all persons, insofar as they are rational agents or human beings.[4] A theory which applies only to *some* agents, or which applies to them only *contingently,* on the basis of "internal" or "subjective" or "strategic" reasons, is regarded as a theory of "practical" rather than properly "moral" reasoning. If it does not explain *why* we ought to respect the interests of others, that is, it is not really a normative theory at all.

I am, however, unmoved by this objection. I am skeptical, for one, that a satisfactory account of external reasons or categorical imperatives—"things that go 'ought' in the night," to use Allen Buchanan's apt term of ridicule[5]—can be found. I shall expand upon and defend this skepticism in later chapters, but this is certainly not my main project here. The more important point is that whether or not one can be articulated, an account of external reasons is simply *unnecessary* for the purposes of political theory as I understand it. The fact is that many people *do* want to respect the interests of all other people, and I shall simply take this for granted, moving on to what appear to me to be far more pressing questions about *how* this task is best accomplished. This choice does exclude certain ethnocentric extremists from my audience, but this does not worry me. The point of political theory is not to prove to committed Nazis that they are logically compelled to support liberal democracy; "driving [them] up against an argumentative wall," in Richard

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[4] Within the extensive literature on normative reasons, T. M. Scanlon's work stands out as a particularly comprehensive and influential defense of "external" reasons, while Bernard Williams presents a position much more similar to my own. See especially Scanlon, *What We Owe to Each Other*; Williams, *Ethics and the Limits of Philosophy*.

[5] Buchanan, "An Ethical Framework for Biological Samples Policy," B4.

Rorty's evocative phrasing.[6] Nazis must be fought, of course, but political theory is simply not the appropriate weapon for doing so.

Nevertheless, the assumption of some motivation on the part of my audience to respect the interests of all is still far weaker than it might be. First, it does not require a precisely *equal* valuation of the interests of all human beings. In practice, everyone grants the interests of certain human beings priority over those of others, but the extent of this priority comes in degrees, and I insist only that we not exclude certain classes of human beings from consideration entirely, or weight their interests so lightly as to render them largely irrelevant.[7] Second, I refrain from specifying any particular account of what human interests are—enabling me to speak to a wider audience and, as we shall see in chapter two, demonstrating a proper respect for the inherent plasticity of human nature. Subjective experiences of happiness, contentment, and a sense of effective control over one's own affairs are nearly universally acknowledged as desirable, but within this very broad scope of general agreement, there is great diversity in how these goods ought to be interpreted, and the term "interests" is intended to capture a wide variety of these interpretations, rather than to take a particular position in such debates.[8]

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[6] Rorty, *Contingency, Irony, and Solidarity*, 53.

[7] The question of how to orient our action towards animals and other non-human entities is one I have had to set aside in this manuscript, It is my view that the dispersion of power approach could easily be adapted to account for the interests of animals in particular, but I must admit that I have not yet made this argument explicit. I leave it to the reader to decide whether this counts as a major or only a minor omission.

[8] In particular, human interests as I understand them encompass what others have called "welfare," "preference satisfaction," "primary goods," "capabilities," "flourishing," and "well-being"; as well as forms of agency known variously as "autonomy," "authenticity," "freedom," "liberty," "recognition," and "self-determination."

I also assume, of course, that this abstract commitment to respect the interests of all manifests in more concrete commitments to at least some of the ideals, norms, and institutions of liberal democracy. My goal, after all, is not to conjure an entirely novel political philosophy from thin air, but to replace the anchoring or organizing principle at the center of a web of normative commitments which are already broadly shared. My arguments appeal not to all persons, then, but only those of us who seek to "think democratically" in this two-fold sense. We who use these ideals, moreover, do so in the way that people use all heuristics: i.e., not as coercive rules, but as Whitehad's "cavalry charges" of thought.[9] We refer to them when our habits fail us and judgment becomes necessary; when we encounter problems that need to be solved or conflicts about how to proceed. In moments of calm reflection, we consider the principles we *want* to live by, enabling ourselves to act more confidently in the moments when judgment is truly required.

Heuristics as constructive political theory

Moral and political heuristics, of course, come in a wide variety of scales and specificities. Straightforward political views like "support state efforts to equalize power relations between men and women," for instance, can be seen as "lower-level" heuristics, which will be very useful within the circumstances for which they are designed, enabling people to act with certainty, and without much additional reflection. As a consequence, of

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[9] To some, my use of the first-person plural evinces a knowing in-crowd of elites, naturalizing a particular subject position: i.e., "we wealthy, educated white men." Though I can make no assurances that I have been successful in my attempts to avoid doing this, I have found the risk worth taking, because in my view, this usage can actually serve to remind us—myself and my audience—of our particularity.

course, they are not very *widely* relevant, and even when relevant will reliably conflict with other heuristics—such as, in the case above, "reject state efforts to impose the dominant culture on minority groups." Heuristics at a higher level of generality, then, are designed to be more widely useful, offering a more general way of thinking through dilemmas, even if they offer less determinate guidance in any particular case. A particularly explicit example of this kind of heuristic is that suggested by cost-benefit analysis: i.e. "translate the likely benefits and costs of each alternative action or policy into dollar values, and then choose the alternative which yields the greatest expected value."

Though theories of normatively salient concepts such as "freedom," "legitimacy" and "equality" do not come with such explicit decision procedures attached, they offer general resources in a similar way. On a classically "liberal" view of freedom as non-interference, for instance, all taxation restricts individual freedom and must be justified by enhancements of freedom elsewhere, but on a "republican" view of freedom as non-domination, at least some forms of taxation (non-arbitrary ones) are entirely consistent with individual freedom.[10] Similarly, a classically "liberal" view of legitimacy which prioritizes rights and the public justifiability of laws might endorse overturning rights-restricting legislation made on religious grounds by a democratically elected majority, while a "democratic" view of legitimacy which prioritizes rights of participation or the fairness of majoritarian procedures might reject this use of judicial review.[11] Finally, a conception of equality

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[10] Pettit, *Republicanism*, esp. 17-50.
[11] Waldron, "The Core of the Case against Judicial Review."

emphasizing capabilities or resources might advocate more aggressive affirmative action as compared to one which emphasizes formal legal equality or equality of "opportunity."[12]

This highlights a key function of the sort of heuristics which feature heavily in political theory. In addition to providing intra-personal consistency, helping to guide individual choices, political principles are typically intended to ground *inter*-personal commitments as well. Such commitments include, at the most formalized end, legal structures and constitutional principles. Any *implicitly* shared norms, values, principles, and assumptions, however, also count as "heuristics" in this sense. An academic discipline, for example, might have coherent, well-enforced norms about good scholarship even if they are not centrally or comprehensively articulated. We can even apply our conception of heuristics to the tacit understanding, among friends, of the cultural values and priorities they share. Such implicit "heuristics," indeed, are a prerequisite for a comprehensible social world, and cannot all be overturned at once. On its own, however, each is open for discussion, criticism, revision, and replacement; and is therefore potentially the subject of judgment for individuals choosing which heuristics to live by.

Moreover, it is the continuity between intra- and inter-personal heuristics which enables political theories to attain whatever limited grasp on the world they may have. Many political arguments, for one, take place at the level of *intra*-personal heuristics: in discussions and debates, we attempt to convince people to adopt certain heuristics for themselves, instead of the ones they currently use. And this, in itself, has some effect on

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[12] Dworkin, "What Is Equality? Part 2: Equality of Resources."

the world. Crucially, however, most political arguments are also directed in a broader sense at the *inter*-personal commitments we make to one another. We try to convince one another not only to adopt certain heuristics privately, but also to commit to those positions; to enshrine them in law or uphold them as publicly endorsed norms, so that we may later be held accountable to them. For example, many people use some conception of "legitimacy" as a heuristic for thinking through particular judgments such as whether to obey a state's laws. Such *intra*-personal heuristics are often connected, then—intellectually as well as causally—to the *inter*-personal norms of "legitimacy" that are used in decisions about membership in international organizations and the justifiability of economic sanctions or military intervention.

In its historical, analytical, and critical modes, then, political theory treats the heuristics—both implicit and explicit; both intra- and inter-personal—that people have used throughout history. In what I call "constructive" political theory, by contrast, the point is to defend, reform, or invent new heuristics. Even when inventing new heuristics, however, no one starts from scratch: successful arguments in constructive political theory always link the heuristics under consideration to others, whether implicit or explicit, held by their target audience. And given that people always have both concrete and abstract commitments, these arguments may not follow the familiar deductive form, leading from the general to the particular. A theorist may argue, for instance, that a burqa ban is required or prohibited by a particular conception of freedom; but she may also argue, conversely, that a particular conception of freedom is the best way of making sense of one's practical intuitions about such a ban. In practice, many arguments do both; painting a picture of a

general framework, including both general principles and specific intuitions, which is plausible on the whole. That is certainly the approach I adopt in this dissertation.

To summarize, then: political theories will be treated in what follows as *tools* to be used by people seeking to think democratically, whenever they find themselves in the kinds of circumstances "when theories are called for."[13] Rather than evaluating theories according to mysterious standards of external normative truth, I will examine how useful they are, in general, to that particular set of people. I call this method the "agent-relative approach," and it has important implications for the way in which the rest of the dissertation proceeds.

The implications of an "agent-relative" approach

The agent-relative approach cautions us, first, to be humble about the aspirations of theory. We cannot recreate the world anew, halting or reversing the social and material processes driving history forward. Arguments have real force in the world, but that force is limited: at best, they operate on the margins of a dynamic, evolutionary process with a great many causal inputs. Those who trade in arguments do well to attend to these limits, therefore, in order to make the best use of what little force they have.

Adopting an agent-relative approach also reverses the derivative logic typical of much normative theory. Rather than asking what freedom *is* in order to determine what one should *do*, we ask what one should *do* in order to determine what (the best conception of) freedom *is*. On an agent-relative approach, that is, there is no single "correct" conception

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[13] This phrase riffs on Baz, *When Words Are Called For*., which defends Wittgenstein's view that words do not have some intrinsic meaning or reference which can be analyzed, but must instead be understood as pragmatic tools. Others have of course had similar insights, notably pragmatists like John Dewey.

of freedom which ought to guide our action. Rather, the best conception of freedom to use in any particular situation will be determined by what your purposes are, and why you find yourself in need of a conception of freedom in the first place.

This thoroughly contextualist, contingent, and pragmatic conception of theory construction will undoubtedly lead some readers to envision a kind of relativist free-for-all, such that every person is entitled to her own individualized conception of freedom, which may itself fluctuate from moment to moment. Recall, however, that the entire purpose of theory as I have elaborated it here is to achieve *consistency*. Constructive political theory exists because we seem to need it—or in Philip Pettit's words, "if political philosophers did not exist, we would have to invent them"[14]—and on an agent-relative approach, it is to be evaluated based on how well it serves those needs. Whether or not heuristics track external truths—Buchanan's "things that go ought in the night"—is simply irrelevant. Though the only final test of a heuristic's usefulness lies with the judgment of the person to whom it purports to be useful, of course, we can certainly generalize about what those who seek to think democratically will want their theories to do, and we can highlight two desiderata in particular: "usability" and "comprehensiveness."

For a heuristic to be "usable," first, it must be easy to "apply" in the sorts of situations of judgment in which theories are called for—that is, it must "recommend" or "justify" certain actions, institutions, and ideals over others. On my approach, of course, application, recommendation, and justification are understood as relative to particular agents. All it

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[14] Pettit, *Republicanism*, 4.

means for an ideal to be usable, then, is that people using the heuristic will tend to come to similar conclusions about which action, institution, or ideal to endorse. In the absence of strict relations of logical "derivation," that is, we who seek to think democratically can still say meaningful things about what a heuristic "recommends."

John Rawls' "difference principle," for instance—i.e., maximize the primary goods of the least-well-off group—is unlikely to recommend a completely "unregulated" free market, because there are presumably *some* regulations that reduce the burden on the worst off without reducing the proverbial "size of the pie." Even on Rawls' account, of course, there is ambiguity about whether it recommends market socialism or property owning democracy, and if John Tomasi is right, this ambiguity may extend to *mostly* unregulated free markets.[15] Yet this hardly renders it unusable: no plausibly general theory can avoid such ambiguity of interpretation. We should not expect heuristics at this level of generality to issue clear and definitive recommendations, therefore, but rather to *guide our deliberations* in specific (or otherwise generative) ways. On this standard, the difference principle does quite well, focusing our attention on a particular kind of empirical question: i.e., which redistributive mechanisms in the context of an otherwise "free" market are a boon to the "least-advantaged" in society; and which have such a depressive effect on incentives for innovation, labor, and investment, that they make the lot of the least-advantaged even worse? While there are a range of answers to this question, that range is far smaller than the range of answers to the question with which Rawls started his inquiry—

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[15] Tomasi, *Free Market Fairness*.

i.e., "which social institutions are just?"—much less the question with which we began ours—i.e., "how should we respect the interests of others?"

Comprehensiveness or accuracy is also hard to measure, given that a "maximally" comprehensive heuristic would be utterly intractable.[16] We cannot deduce any precise ranking of heuristics in terms of comprehensiveness, that is, from our deliberately imprecise "premises" of respect for human interests and a general friendliness towards at least some of the ideals and institutions of liberal democracy. But this hardly means that we cannot assess the comprehensiveness of heuristics at all; it simply means that in doing so, we must rely on the normative webs we already use; judging for ourselves how often a heuristic seems to lead us astray. Arguments in constructive political theory, I have suggested, necessarily employ an array of reasons, illustrations, and narratives. If they are successful, this array of persuasive tools will lead those who share a certain loose set of commitments to endorse one set of heuristics over another. All it means for a heuristic to be comprehensive, then, is that by their own internal standards, it will lead those people astray less often.

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[16] Consider: in any particular situation of judgment, there are a great many actions one could take, and for each, a vast possibility space of potential future outcomes, as well as an equally vast number of human beings who deserve our consideration. In order to rank these possible outcomes in terms of desirability, moreover, we would need to assign weights to the interests of those actual and hypothetical people, and we may also want to assign different weights to outcomes with different probabilities. Finally, we must make innumerable judgments over the course of our lives; including judgments about which judgments to make in the future. As uncertainty piles upon uncertainty, we face a complexity explosion rather than any kind of concrete recommendations or narrowing of the field of inquiry, as in Rawls' difference principle. Compare this with a similar concern about intractability in the case of utilitarianism, as in, e.g., Herzog, *Without Foundations*; Singer, "Actual Consequence Utilitarianism"; Williams, *Ethics and the Limits of Philosophy*.

When "top-level" heuristics are called for

The terms usability and comprehensiveness refer to certain characteristics of heuristics which, I suppose, people seeking to think democratically will tend to care about when deciding which heuristics to adopt. As a result, they help us to understand what is required when those people need to balance the demands of lower-level heuristics they accept, such as "support state efforts to equalize power relations between men and women" and "reject state efforts to impose the dominant culture upon minority groups"; or conflicting democratic principles like majority decision and liberal rights. Even very abstract ideals, like the intuitive value we place on individual freedom and social equality, frequently conflict with one another. What is required in such situations, of course, is a more *comprehensive* principle, which captures most of the potentially relevant concerns—and many constructive political theories, predictably, respond to this demand. While few aim to capture absolutely *everything* of normative or political importance, most present themselves as comprehensive *enough* to offer direct critical purchase on the world in the vast majority of situations—or at least in response to a particularly important set of questions.

Often, theorists achieve this comprehensiveness by analyzing or constructing some "master concept." John Rawls, for instance, famously understands "justice" as the first virtue of social institutions, and his theory is explicitly constructed so as to *resolve* the conflicting demands of liberalism's two central values: freedom and equality.[17] For him

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[17] Rawls, *A Theory of Justice*.

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and many others who have followed his neo-Kantian lead, the demands of justice are not the *only* normative concerns, but they do have categorical *priority* over others.[18] Where justice describes a terrain of value known as "the right," in other words, other concerns belong to the realm of "the good," and can properly be pursued only after the demands of justice have been met.

Others, of course, adopt "democracy" or "rights" instead of "justice" as their master concept. Republicans tend to use "freedom as non-domination" instead, noting that this conception *includes* concerns normally associated with equality and can therefore speak directly to politics. Pettit, for instance, writes that "we should recognize non-domination as a value with a distinctive claim to the role of yardstick for our institutions," and which needs no "supplementation."[19] Whether or not they adopt a neo-Kantian "deontological" strategy of assuming the priority of the right over the good, therefore, a great many theories can be said to grant *some* kind of priority to concerns about the political concept they have chosen to discuss, which is what allows them to speak directly to practical dilemmas. Even if they do not lay explicit claim to near-comprehensiveness in the way that Pettit does, therefore, they are also not typically conceived as incomplete or partial "mid-level" ideals, whose demands must often be weighed against countervailing concerns.

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[18] As will be discussed at greater length in subsequent chapters, for instance, Robert Nozick famously defines political philosophy as "concerned only with certain ways that persons may not use others; primarily, physically aggressing against them." Nozick, *Anarchy, State, and Utopia*, 32.

[19] Pettit, *Republicanism*, 80, 81. He goes on to endorse an even stronger claim—that "freedom as non-domination is the only goal with which our political institutions need to be concerned"—while admitting he offers no arguments for it.

In chapter one, I will demonstrate that the logic of equal agency "anchors" or "organizes" these and many other prominent top-level heuristics in contemporary political philosophy. This is no accident: given the goals of thinking democratically, it achieves an impressive balance between the demands of comprehensiveness and usability. The rest of the dissertation, however, argues that the balance achieved by the dispersion of power is even better. Because "power" is less precise than "agency," and "dispersion" less precise than "equality," the dispersion of power achieves greater comprehensiveness, while the usability it sacrifices often turns out to have been specious—leading us astray—in the first place. Reorganizing our existing commitments around a logic of dispersing power, I claim, will better serve the ends of most who seek to think democratically.

As I have said, of course, these arguments will not be uni-directional or derivative, building upon a particular normative foundation. Rather, I will make my case by painting a more general picture of a normative framework anchored by the dispersion of power, which I hope will appeal to others seeking to think democratically. As a preliminary demonstration of this method, then, and to explain why we should take the choice between equal agency and the dispersion of power to be the relevant one in the first place, I briefly consider why those of us seeking to think democratically ought to regard principles of distribution—a category which includes both—as achieving a particularly good balance between comprehensiveness and usability; how they manage to guide our judgment in concrete, useful ways, that is, without leading us astray too often.

The wisdom of "anti-vanguardism"

We may begin by foregrounding our epistemic situation, as agents who seek to respect the interests of others amid uncertainty about the content of those interests as well as the effects of possible actions on the near and distant future. Given the vast number of concerns we could possibly take into account, it seems to me, the only honest response to such circumstances is to adopt a posture of humility. At the same time, we cannot help interacting with and thereby exerting power on others. As a result, any *pretension* to withdrawal simply represents a refusal to think through the impact we will *inevitably* have upon them, and is likely to harm their interests on balance. Rather than throwing up our hands in an affectation of relativism, therefore, we must find a way to *use* our humility.

Herein lies the genius of distributive logic: it employs our humility against itself in order to achieve gains in usability without excessive losses of comprehensiveness. What we can be relatively certain about, after all, is precisely our uncertainty. It is true that we should not be particularly confident about what the interests of others are, nor about the effects of our actions upon them—but neither, of course, should anyone else. As a result, the political recommendation of a *responsible* humility is not to withdraw from political action—thereby ceding power to others who are equally unlikely to possess certainty—but to ensure, as far as we can, that no one has too much power over anyone else. Ian Shapiro has given this generalized distrust of hierarchies and power asymmetries the label of "anti-vanguardism"[20]—a term which, in my view, adroitly conveys the pragmatic wisdom of

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[20] Shapiro, *Democratic Justice*, 51–59.

distribution among agents without relying on any questionable ontological assumptions about individual agency. The point of ensuring that each individual has power, it implies, is not to protect the intrinsic value of subjective choice, but to prevent power from concentrating elsewhere. We need not assume that individuals are particularly *good* at recognizing their own interests, therefore; only that in most situations, is even riskier to entrust care of their interests to others.

One reason to think that this logic does not lead us astray, then, is the intuitive plausibility of its most basic assumption: i.e., suspicion of concentrated power. The idea that "power corrupts," of course, is at least as old as the story of the ring of Gyges famously recounted by Plato, and is among the most pervasive observations throughout many traditions of political thought. We can supplement the ancient, intuitive version of this proposition, then, with more recent evidence from the experimental psychology of power— which has shown, in Ian Robertson's summary, that "power increases egocentricity and weakens empathy for others; it boosts self-confidence and can slacken your conscience by inclining you to feel that the rules that apply to others do not extend to you."[21]

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[21] Robertson, *The Winner Effect*. More specifically: relative to those in neutral or low-power conditions, studies have shown, people who are experimentally induced to feel powerful have been demonstrated to become less aware of the relevant constraints on their action, overconfident in their own abilities, and more susceptible to the so-called "gambler's fallacy." They are also less likely to take on others' points of view or compare themselves with others, yet more likely to take common resources for themselves, cheat on tasks, and view people as objects or means. While it decreases participants' willingness to make exceptions to moral principles to accommodate others, inducing feelings of power increases their willingness to make exceptions in their own case. Power doubly fosters hypocrisy, in other words, increasing our tendency to moralize to others about the importance of following the rules at the same time that it increases our willingness to break the rules ourselves. See, e.g., Whitson et al., "The Blind Leading"; Fast et al., "Illusory Control A Generative Force Behind Power's Far-Reaching Effects"; Lammers, Stapel, and Galinsky, "Power Increases Hypocrisy"; Lammers and Stapel, "How Power Influences Moral Thinking."

The most compelling reasons for anti-vanguardism, however, are distinctively modern, and Loubna El-Amine offers some particularly acute reflections on this point.[22] As a joint result of globalization, capitalism, bureaucratization, technological sophistication, and the international state system, she notes, modern states have gained the capacity to exert an incredible amount of control over the daily lives of individuals. The bureaucratic and technological capacity available to states in the age of biopower and information technology enables them to impose a degree of "legibility" on their populations which would previously have been unthinkable.[23] Even more broadly, it seems, the devil's bargain of modernity has been to enable massive increases in human capabilities at the cost of creating vast, complex systems of control such as bureaucracies, corporations, and scientific disciplines. If we believe Steven Pinker's argument in *The Better Angels of Our Nature*, for instance, modern states made the 20th century safer, on average, than any other in human history[24]—yet as his critics have pointed out, it is no coincidence that modernity also gave us the Holocaust and the nuclear bomb. For similar reasons, El Amine points out, it is unsurprising that demands for liberal and democratic reforms have developed in lockstep with growing state power over the lives of individuals.

On the one hand, more specifically, anti-vanguardist ideals such as freedom, equality, rights, justice, legitimacy, and democracy can all be readily understood to perform some *negative* anti-vanguardist function: barring the state as well as other powerful actors from

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[22] El Amine, "Beyond East and West."
[23] Scott, *Seeing like a State*.
[24] Pinker, *Better Angels of Our Nature*.

accessing certain kinds of concentrated power. It is only with the most brazen indifference to its meaning, for instance, that a vanguard can claim to imprison dissidents, coercively reorganize communities, or shut down printing presses in the name of individual freedom. Similarly, it is difficult to exclude certain classes of people from participation in a particular sphere of life, or devalue their contributions to it, for the express purpose of achieving greater equality. Rights to universal suffrage or free speech, then, represent the legal and cultural institutionalization of these protections, while ideals of justice and legitimacy impose substantive and/or procedural constraints on the means by which would-be vanguards may implement their programs. All of these strategies prevent the accumulation of too much control over rapidly-expanding capabilities "at the top" of the social distribution of power.

On the other hand, many liberal and democratic ideals can also be understood to perform *positive* anti-vanguardist functions, ensuring that individual agents "at the bottom" have sufficient capacities as well. Positive readings of freedom, for instance, highlight the importance of participation in the construction of the socio-legal frameworks which govern common life. More generally, the core ideal of *democratization* favors popular or collective sovereignty over the rapidly expanding capabilities enabled by modernity. Where liberal democrats typically favor collective control only over the state, leaving other capacities to the "private" sphere, socialists and other radicals seek to "politicize" and therefore exert collective control in other domains as well. Many socialists have, of course, adopted means of collective control which violate anti-vanguardism's core suspicion of concentrated power, but *some* kind of collective control is necessary to any anti-vanguardist project in

the modern world of increasing capabilities. Limitations on the power of agents "at the top" are unsustainable without corresponding empowerment of those at the bottom.

In combination with an agent-relative approach, finally, El Amine's observations also suggest a response to a potentially worrying criticism of distributive logic: i.e., that distributing capacities more widely among agents means reversing the scientific progress and economic development which has made possible our modern standard of living, and therefore seems to recommend great harms to human interests. On an agent-relative approach highlighting our place within vast evolutionary social systems, however, we need not worry about this outcome: whatever our evaluation of growing capabilities might be, there is little we could do to stop this growth. Given the many other powerful forces driving the evolution of society, the limited force of normative interventions in the twenty-first century need not be wasted on ensuring that capabilities will continue to grow. The key question instead, in Foucault's words, is how such growth may be "disconnected from the intensification of power relations."[25] Indeed, I do not expect this to be controversial: a commitment to antivanguardist distributive logic is what equal agency shares with the dispersion of power. The real question, of course, is which of these two interpretations we ought to prefer, and I now turn to an outline of my arguments in favor of the latter.

0.3 ~ Chapter Outline

The **first chapter** is devoted to an exploration of the equal agency ideal. Drawing on the work of Jeremy Waldron and Charles Taylor, I begin by situating it historically in the

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[25] Foucault, "What Is Enlightenment?," 48.

modern turn to subjectivity. Modern, liberal freedom is constitutively universalizable, I argue, and this in turn is possible only if freedom is conceived in subjective rather than objective terms. "Classical" liberals or libertarians are perhaps the paradigm example, aiming directly for the equalization of autonomy or freedom of choice—defined as the absence of interference or coercion—in the world as it is. As critics have often pointed out, however, there is often a great deal of interference and coercion already embedded in the structure of choices we are given.

Accepting that we are already "in chains," therefore, "revisionist" liberals use the ideal of equal freedom or autonomy instead as a way of thinking about how those chains might be rendered "legitimate." Some, for instance, imagine what sort of chains people would choose in the absence of interference, while others attempt to grant each person an equal influence over their collective chains, in practice, through democratic institutions. They may suppose quite radical or egalitarian programs to follow from these thought experiments, but to the extent that choice and interference remain their central normative categories, all remain "liberals" in my terminology.

Even many "radicals" who reject this liberal formulation, however, retain an opposition between the subjective agency of individuals and the forms of power which constrain that agency. Marxists and feminists, for example, have used the term "false consciousness" to describe the imposition of ideological power upon subjects who then seem to choose their own oppression, implying that the goal is to liberate subjects from this power and reveal a more authentic form of agency. If only implicitly, therefore, they share liberals' underlying commitment to the logic of equal agency, seeking to respect others equally by deferring to

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their subjectivity. In order to resolve political dilemmas, therefore, all must settle on a method for interpreting the authentic subjectivity of others.

The most comprehensive and compelling critique of this "search for the subject" is to be found in the work of Michel Foucault, who argues that there is no truly authentic "subjectivity" to be uncovered underneath the "impositions" of power, and in **chapter two**, I turn to examine that critique. Foucault's arguments in this respect are of course well known, and what is sometimes called the "death of the subject" is even taken for granted by certain scholarly audiences. Among many contemporary liberal and democratic theorists, however, Foucault's critique of subjectivity is understood to imply a pernicious relativism with regard to both scientific accuracy and political normativity—unfairly, in my view, on both counts—and therefore dismissed as either wrong-headed or simply irrelevant to the tasks of what I earlier described as "constructive political theory."

The second chapter thus corrects these misconceptions; showing, in fact, that a proper understanding of Foucault's critique of subjectivity is essential to the formulation of democratic ideals. Without endorsing all of Foucault's claims, I clarify what I see as his core insight, and demonstrate that it is opposed neither to scientific forms of knowledge nor to "constructive" political theory. On the contrary, I argue, research in contemporary biology and cognitive science *extends* Foucault's critique, highlighting the ways in which human subjectivity is both constitutively social and inescapably multiple. Given that it is the nature of human beings to be influenced by cultural power, the idea of a human subject who is fully liberated from the impositions of power is incoherent. Given that our minds are adapted for a variety of different and sometimes contradictory ends, moreover, it is

equally incoherent to speak of any particular choice, desire, or feeling, as a singularly authoritative or authentic reflection of a subject's will.

Contrary to the claims of critics and even certain admirers of Foucault, however, this does not render all discussion of subjective agency illegitimate—much less all constructive political theory. If this were so, it would be a grave problem indeed. After all, we very often need conceptions of subjective agency, and the political ideals which traditionally draw upon them, in order to get around in the world. We need some definition of voluntary consent, for instance, in making judgments about end-of-life treatment at hospitals, and research with human subjects, and prosecution of sexual assault. We need a definition of political legitimacy, similarly, in making judgments about admission to international organizations, and the justifiability of humanitarian intervention, and the permissibility of violent versus nonviolent forms of civil resistance. Foucault's critique of subjectivity, however, does not preclude the articulation of pragmatic, context-sensitive definitions and concepts. All it implies is that when articulating such definitions and concepts, we ought not appeal to any singular, truly authentic subjectivity.

As I demonstrate in **chapter three**, however, theories relying on the logic of equal agency cannot escape the search for the subject unless they abandon their claim to serve as organizing principles. In order to use some form of equal freedom or agency as a top-level heuristic, more specifically, such theories must ignore certain inequalities as irrelevant (or at least of secondary importance) to politics. In other words, they must grant *categorical priority* to certain concerns over others. As I demonstrate, however, there is simply no plausible justification for doing so. One strategy remains within the logic of equal agency

by deferring to the true subjective interests of agents: if each subject can be truly or autonomously or authentically reflected in the world, then perhaps they can be considered to have been treated equally, even if other inequalities remain. Yet this requires precisely the kind of "search for the subject" which the second chapter shows to be hopeless.

The other strategy, however, which relies on normative resources external to the logic of equal agency, cannot provide a convincing justification for granting categorical priority to concerns about equalizing a particular form of agency. The precision of theories employing equal agency logic makes them useful in answering particular practical questions, such as "who should have the right to vote?", but not in answering the most general questions that must be answered by "top-level" heuristics, such as "*why* should all people have the right to vote?" or "how should the right to vote be weighed against other democratic priorities?" I demonstrate this failure by examining several permutations of the tension between "justice" and "democracy," in which advocates of both concepts make equally unpersuasive claims for the categorical priority of one over the other.

In **chapter four**, I begin building the conceptual apparatus required to elaborate the dispersion of power as a viable alternative to equal agency, and I am concerned in particular to resolve two theoretical puzzles. First, the forms of "productive" power I seek to include are often said to precede, transcend, and create agents, yet that would seem to preclude a heuristic recommending its distribution *among* agents. Second, given that agency is usually defined in terms of subjectivity, we must give an alternative account of the nature of "agents," which nonetheless makes sense of why we might want to distribute power among them. In the first half of the chapter, then, I articulate conceptions of power and agency

which resolve these dilemmas, enabling us to accept both that power is "productive" *and* that it may be distributed among discrete entities possessing "agency."

These conceptions also have important rhetorical advantages, which I elaborate in the chapter's second half. If we theorize "freedom" or "agency" as the absence of a particular type of "power" or "domination," we can try to minimize power and (equivalently) maximize freedom. On the logic of equal agency, then, the work of politics appears as a positive-sum game; a matter of extending elite privileges to all. My account, by contrast, highlights the dependence of elite privileges upon the disempowerment of others, meaning that the universalization of such privileges is an incoherent dream, and that social conflict is inevitable. We can and indeed must fight for particular freedoms and equalities, as I argue throughout, but we should not be tempted to imagine that equalizing any particular form of agency will represent true equality; nor that power itself can be equalized. We must always be attuned, instead, to what others have called the "remainders" of political life.

In **chapter five**, then, I demonstrate how the logic of dispersing power might actually be used to think through political dilemmas. I begin by highlighting a key "paradox" of the demand to disperse power: namely, that fighting power requires using power, and that breaking up any concentration of power will thus require building forms of concentrated power which may themselves become dangerous. This "paradox," in my view, motivates many contemporary political dilemmas, and while the dispersion of power approach will not offer decisive answers to these dilemmas—which would indicate a much higher level of certainty than is justified by our epistemic circumstances—the promise it offers is that of addressing the paradox directly.

Using the dispersion of power heuristic to think through various dilemmas, then, I begin with small-scale questions of interpersonal interaction, and move quickly to consider the questions more typical of political theory, concerning the organization of states. After rejecting an anarchist interpretation of the "dispersion of power" ideal on the grounds that implementing anarchism in the short-term would reliably lead to greater concentrations of power in the long-term, I defend a broadly Madisonian model of democratic institutions as tools for dispersing power over the long term. I conclude by considering some persistent dilemmas of centralization versus decentralization, demonstrating that the dispersion of power offers more reliable guidance in negotiating these tensions.

In the final three chapters, I build upon this method for grappling with the "paradox of power" in responding to two questions which are absolutely central to the project of thinking democratically i.e., "why are democratic institutions valuable?"; and "how can we make them better?" In **chapter six**, first, I demonstrate that these questions are in need of better answers. I show that "commonsense ideals" motivated by the logic of equal agency have difficulty responding to recent "epistocratic" critiques of democracy, and often generate perverse guidance in response to practical challenges as well. I then critically evaluate the ways in which more sophisticated intrinsic, instrumental, and epistemic accounts of democracy's value improve and fail to improve upon this commonsense ideal. Finally, I outline the response to these questions suggested by the dispersion of power ideal, showing why it outperforms the alternatives.

In **chapter seven**, then, I offer a more detailed articulation of this response. Where commonsense ideals of democracy typically understand the value of democratic

institutions in terms of their ability to realize "popular sovereignty"—as do many more sophisticated accounts—the dispersion of power heuristic suggests that the real value of democratic institutions lies in their ability to enhance "resistance to state capture." State capture occurs when particular groups are able to make use of state power to further their own interests at the expense of others, and my defense of democratic institutions relies on the simple claim that, as compared to their competitors, they are better able to resist it. Taking this comparative claim seriously, I develop my account of democracy's value through a consideration of the most relevant contemporary alternatives: meritocracies which limit suffrage, and market-based orders which strictly limit the legislative reach of majorities. Drawing from Jeffrey Green's "ocular model" of democracy, finally, I demonstrate that this account is compatible—unlike most democratic theories—with a realistic picture of actually-existing democratic institutions.

My account thus yields a defense of democratic institutions that is more broadly persuasive than intrinsic accounts, and more robust to historical and cultural variation than many instrumental alternatives. That said, it stops short of the claim that democratic institutions are *universally* desirable; indeed, its ability to grapple with the *failure* of democracy counts as another of its key advantages. As I demonstrate in the second half of the chapter, the ideal of resisting state capture offers a better diagnosis of threats, a better prescription for their neutralization, and a better heuristic for negotiating between conflicting democratic priorities when dire circumstances require some to be temporarily abandoned in the interest of preserving others.

While resisting state capture is one way of keeping power relatively dispersed, finally—and an extremely important one in the modern era—the state is hardly the only worrisome concentration of power. In **chapter eight**, therefore, I raise the question of what our substantive priorities ought to be, aside from resisting state capture. Given the vast number of priorities we might adopt, of course, I cannot hope to elaborate and justify a comprehensive platform. Instead, I focus in depth on a single case study—the proposal to implement a universal basic income—which offers a model for how a more comprehensive platform might be built. I first demonstrate the merits of a basic income in terms of the dispersion of power, before comparing it to alternative policy proposals and theories of distributive justice. I close the chapter and the dissertation with brief reflections on why basic income—and the dispersion of power more generally—are such important goals for those of us who seek to think democratically in the 21st century.

0.4 ~ Contributions: Integrating critical and practical realism

Given this overview of my argument, I can now turn to a summary of its intended contributions to political theory, situating it in particular with respect to three prominent traditions: "analytic liberalism," "critical theory," and "practical theory."[26] The first group is most closely engaged with analytic moral and political philosophy, taking figures such

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[26] I have not included the history of political thought as its own category here: while projects in the history of political thought often draw upon and speak to one or more of these audiences in democratic theory, they need not do so, and they therefore fit neither into any of the existing categories nor into an entirely separate category of their own. As I have written elsewhere, echoing Jacob Levy, the history of political thought is so often a particularly rewarding source of insight for contemporary politics precisely because it eschews disciplinary boundaries and other blinders which normally guide our thinking. Bagg, "Between Critical and Normative Theory."

as Kant, Mill, Rawls, Nozick, Raz, Dworkin, Scanlon, and Parfit as touchstones. Though there are exceptions, such theorists tend to be comfortable with the liberal label; within this tradition, indeed, "liberalism"—often understood in narrow terms as a practice of justification—is typically assumed to be the only game in town.[27]

What I have called "critical theory," then, is more closely tied to contemporary scholarship in the humanities; building upon continental traditions in philosophy and treating theorists such as Marx, Nietzsche, Schmitt, Foucault, Arendt, and Habermas as foundational. Political theorists in this second tradition are more fully immersed in feminist theory, critical race theory, post-colonial theory, poststructuralism, and other bodies of scholarship taking a more adversarial stance towards "liberalism." As a result, they tend to be less comfortable with the liberal label; adopting it defensively if at all.

The term "practical theory," finally, refers to scholars most closely engaged with law, public policy, and empirical research in social and psychological science. Though political theorists in this tradition tend to assume that some form of liberal democracy is advisable in contemporary circumstances, they also tend to regard the highly abstract theories of "legitimacy" and "justice" central to analytic liberalism with some degree of skepticism.

Each of these descriptions is obviously stylized, and few scholars fit squarely into one category or another—indeed, the most innovative theorists tend to cross these already fuzzy, porous boundaries. Nonetheless, this tripartite division should be comprehensible to anyone familiar with the discipline, and can therefore be used to situate my view. On the

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[27] Given their commitments to analytic methods and political liberalism—again, very often of a justificatory variety—we may also include most who call themselves "republicans" rather than liberals.

one hand, my primary aim—constructing ideals at the highest level of abstraction—is most familiar to analytic liberalism. On the other hand, however, I share many of the doubts about its methods and commitments commonly raised by critical and practical theorists.

Of course, these latter two traditions are not usually assumed to have much in common, and indeed are often understood to occupy opposite ends of a "feasibility" spectrum. Where critical theorists fight for radical goals like socialism or prison abolition, criticizing analytic liberals for insufficient utopianism; practically oriented theorists urge caution and attention to the way the world actually works, criticizing analytic liberals for demanding *too much.* Conveniently for analytic liberals, this image of the theoretical landscape positions them as a happy medium between overly idealistic radicals and overly quiescent empiricists.

I aim to disrupt that commonsense picture, mobilizing insights from both critical and practical "realisms" in service of an integrated critique of "equal agency"; an ideal which has adherents in all three traditions but is most central to analytic liberalism. Where critical and practical traditions offer resources for criticizing the logic of equal agency—and I make use of both throughout—nearly all analytic liberals take some form of it for granted. Nevertheless, few critical or practical "realists" are focused on the task of articulating principles at the highest level of abstraction, and few therefore propose viable *alternatives* to that logic. Among those who do, moreover, some are tempted by precisely the excesses of which they are accused, with radical theorists advocating "perverse" utopianisms, and empiricists hawking a pessimistic, Schumpeterian defense of the status quo. In many cases, that is, the picture of critical and practical theorists as occupying two ends of a "feasibility" spectrum—the former overly idealistic and the latter overly quiescent—is not entirely

unfair. Yet we need not turn to the *theoretical* commitments of analytic liberalism in order to recover the *political* middle ground. Indeed, by integrating the "realist" insights common to both critical and practical traditions, we can even salvage a more capacious "liberalism" from its overly narrow interpretation in much contemporary political theory.

I focus in particular on two "realist" themes common to critical and practical approaches. First, I demonstrate, both critical and practical theorists have offered compelling reasons to abandon the ideal of *individual* sovereignty or self-rule as a grounding principle of morality and politics. Foundational theorists of the critical tradition, on the one hand—including Nietzsche, Heidegger, Merleau-Ponty, Foucault, Derrida, Deleuze, and Arendt—have argued in a variety of ways that the ideal of a sovereign, responsible, self-determining individual subject is an illusion. More recently, empirical psychology and biology have reached similar conclusions; understanding cognition and behavior as the result of multiple overlapping processes that are automatic, embodied, and unconscious, rather than as the reason or will of a coherent, unified, autonomous self.[28]

Second, theorists in both traditions have also offered compelling reasons to reject commonsense conceptions of democracy in terms of *collective* sovereignty or self-rule. At an abstract level, poststructuralist thinkers like Foucault, Derrida, and Deleuze have connected the ideal of state sovereignty with outmoded "juridical," "theological," or

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[28] It is clearly beyond the scope of a footnote to defend these claims in full. In the second chapter, I outline the emerging consensus in biology and cognitive science, linking it to the poststructuralism of Foucault in particular. It would take much more than a dissertation, however, to do more than offer suggestive remarks about the commonalities and differences between all of these theorists. A capable summary, however, which considers most of the names listed above—along with John Dewey, my own primary source of methodological inspiration—may be found in Gallagher, "Philosophical Antecedents of Situated Cognition." See also Thiele, *The Heart of Judgment*.

"territorial" forms of power; arguing that we must "cut off the head of the king" in order to understand and contest the "capillary," "rhizomatic," "deterritorializing" nature of modern "governmentality" and capitalist "assemblages." More concretely, radicals have exposed the ways that liberal democracy fails to institutionalize popular sovereignty—the will of the people—in any meaningful way. They show, for instance, that elites are able to achieve their will against the wishes and/or interests of any given "people,"[29] and that decisions about who counts among "the people" are necessarily exclusionary to begin with.[30] As a result, they argue, the ideals and institutions of liberal democracy fail to undermine patriarchy, white supremacy, colonialism, and capitalist exploitation, among other structural oppressions.[31]

Despite differences in tone and method, meanwhile, empirically-oriented practical theorists have exposed the ideal of popular sovereignty as an illusion in strikingly similar ways, highlighting variously that ordinary democratic citizens have little say in practice over state policy;[32] that most lack reliable knowledge and stable, coherent opinions to begin with;[33] that even those who can claim such virtues are no more rational than their peers;[34] and that given the structural features of collective choice procedures, the ideal of collective

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[29] Any attempt at providing citations in this and the next several footnotes must be entirely gestural, but a few signposts in each case will be useful nonetheless, to demonstrate what I have in mind. Here, for example, consider: Mills, *The Power Elite*; Gramsci, *Selections from the Prison Notebooks*; Althusser, "Ideology and Ideological State Apparatuses."

[30] See, e.g., Honig, *Political Theory and the Displacement of Politics*; Cocks, *On Sovereignty and Other Political Delusions*; Rana, *The Two Faces of American Freedom*.

[31] See, e.g., Glover, Davis, and Carmichel, *The Black Power Mixtape*; Fanon, *The Wretched of the Earth*; Lorde, *Sister Outsider*; Alinsky, *Rules for Radicals*.

[32] See, e.g., Winters, *Oligarchy*; Gilens and Page, "Testing Theories of American Politics."

[33] See, e.g., Lippmann, *Public Opinion*; Schumpeter, *Capitalism, Socialism, and Democracy*; Campbell et al., *The American Voter*; Zaller, *The Nature and Origins of Mass Opinion*.

[34] See, e.g., Lodge and Taber, *The Rationalizing Voter*; Achen and Bartels, *Democracy for Realists*.

self-determination is incoherent in the first place.[35] Clearly, there are tensions here—and I take them up in my discussions—but there are also remarkable convergences.

Indeed, I am hardly the first to recognize them. As the lessons of biology and cognitive science have become clearer in recent years, a growing number of theorists have highlighted their convergence with critical approaches to individual agency.[36] Meanwhile, as optimism about democracy recedes in the face of populist threats,[37] authoritarian backsliding,[38] and growing recognition of the deeply oligarchic tendencies of the neoliberal global order,[39] more and more theorists have begun to recognize the need for a "realist" understanding of its nature and value, drawing from both critical and empirical perspectives in their reformulations of democratic ideals.[40] Finally scholars in debates about "realism" more generally have contested its association with a pessimistic worldview: realists, they have rightly argued, need not be anti-utopians; and utopians need not be unrealistic.[41]

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[35] See, e.g., Riker, *Liberalism Against Populism*.

[36] Connolly, *Neuropolitics*; Thiele, *The Heart of Judgment*; Katsafanas, *The Nietzschean Self*; Krause, *Freedom Beyond Sovereignty*; Frost, *Biocultural Creatures*; Varela, Thompson, and Rosch, *The Embodied Mind*; Lakoff and Johnson, *Philosophy in the Flesh*.

[37] Müller, *What Is Populism?*

[38] Foa and Mounk, "The Democratic Disconnect"; Dresden and Howard, "Authoritarian Backsliding and the Concentration of Political Power"; Alemán and Yang, "A Duration Analysis of Democratic Transitions and Authoritarian Backslides."

[39] Winters, *Oligarchy*; Piketty, *Capital in the Twenty-First Century*; Gilens, *Affluence and Influence*; Bartels, *Unequal Democracy*; Mattli and Buthe, *The New Global Rulers*.

[40] Medearis, *Why Democracy Is Oppositional*; Shapiro, *Democratic Justice*; Shapiro, *Politics against Domination*; Hamilton, *Freedom Is Power*; Stears, *Demanding Democracy*; Breaugh, *The Plebeian Experience*; Green, *The Eyes of the People*; Green, *The Shadow of Unfairness*; Rosanvallon, *Counter-Democracy*; McCormick, *Machiavellian Democracy*; Stout, *Blessed Are the Organized*; Maloy, *Democratic Statecraft*; Hayward, *De-Facing Power*; Bretherton, *Resurrecting Democracy*; Levy, *The Multiculturalism of Fear*.

[41] Phulwani, "The Poor Man's Machiavelli"; Mantena, "Another Realism"; Mckean, "What Makes a Utopia Inconvenient?" See also Bagg, "Between Critical and Normative Theory."

Given the dominance of analytic liberalism in "constructive" debates about legitimacy, justice, and democracy, however, theorists pushing critiques of its foundational commitment to self-rule—at both the individual and collective levels—still fight uphill battles against deeply entrenched assumptions about human reason and autonomy. Meanwhile, few have integrated the individual- and collective-level challenges; even fewer have attempted to provide an alternative ideal that grapples with and responds to both at once.[42] This, then, is the fundamental contribution of the present work: i.e., to mobilize the insights of critical and practical theory in service of an alternative organizing principle for constructive thinking about the ideals and institutions of liberal democracy.

The concept of "equal agency," first of all, highlights the link between the strikingly resilient ideals of individual and collective self-rule, thereby enabling us to integrate critical and practical critiques of those ideals at both levels. Though few (if any) have used precisely this language to describe their targets, it plausibly captures what a great many critics of analytic liberalism—from both directions—have found problematic. Liberal ideals anchored in a logic of equal agency pin the value of democratic institutions on their equal respect for particular forms of individual subjective agency; failing, thereby, to account for the very real effects of subtler forms of power as well as the messy realities of democratic life. The dispersion of power, then, provides a viable alternative logic around which we can organize democratic thought; a language within which the legitimate

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[42] Where Ian Shapiro's emphasis on skepticism of "unavoidable" hierarchies is quite similar to my demand to disperse power, for instance, and his critique of collective self-rule has informed my own, he still relies on an understanding of freedom as "non-domination" as an organizing principle, which implicates his view in what I have called the "search for the subject."

concerns of both critical and practical theory can be captured and weighed against one another for purposes of practical judgment. As a distributive, anti-vanguardist principle, it is uniquely situated to serve as a replacement for equal agency; replicating its many advantages while avoiding the pitfalls of a reliance on the subjective agency of individuals.

Where theories which orient themselves around equal respect for the subjective agency of individuals emphasize the responsibility of autonomous individuals for all of their actions, critical and practical approaches show this to be both empirically mistaken and normatively suspect. As Elizabeth Povinelli writes, for instance, the will has often served as an "alibi" for structural violence; "a way of holding those who suffer accountable" for their own suffering, rather than turning our attention to more diffuse social, political, and economic forces. [43] It is precisely these broader power structures, by contrast, to which the dispersion of power heuristic directs our attention.

A dispersion of power ideal, of course, hardly implies that individual choices deserve no respect, or that we needn't hold people accountable for their actions. However, it reframes the justification of such practices of freedom and responsibility in more contingent, contextual terms. Emphasizing individual freedom of choice—a kind of methodological individualism for normative theory—is not important because it enables

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[43] Povinelli, *Economies of Abandonment*, 33. See also William Connolly's account of Nietzsche's relevance for political theory: "From a Nietzschean perspective, the self constituted as a unified, self-responsible agent contains resentment within its very formation. The basic idea behind this formation is that for every evil there must be a responsible agent who deserves to be punished and that for every quotient of evil in the world there must be a corollary quotient of assignable responsibility. No evil without responsibility. No responsibility without reward or punishment according to desert. No suffering without injustice, and no injustice unless there is a juridical recipe for redressing it in life or afterlife. Life is organized around the principles of individual responsibility governing a baseball game." Connolly, *Identity, Difference*, 78.

the realization of the authentic or autonomous wills of internal subjects in the external world; but because it prevents power from becoming concentrated anywhere else. Similarly, we need not imagine that individuals are responsible for their actions in some mysterious metaphysical sense—or even *blameworthy* in any unambiguous moral sense—in order to recognize that holding individuals accountable is a valuable *social* and *legal* practice. The flexibility enabled by these acts of reframing, however, is crucial in both cases, making it more difficult to use concepts of freedom and responsibility as "alibis" for concentrated power.

It enables us, for instance, to recognize the importance of "raising the floor"—empowering individuals at the bottom of the power distribution with greater capacities and freedom of choice—without thereby implying that we may safely ignore the extremely concentrated power of those at the top.[44] More broadly, it justifies a limited focus on protecting individual agents without blinding ourselves to group dynamics. As I will show in chapter four, collective agents as well as categories of people whose decisions are not centrally coordinated can possess concentrated power relative to other agents and groups, and the heuristic articulated here recommends that we target these categorical asymmetries in power for dispersion as well. Not being grounded in any kind of *ontological* individualism, that is, my *methodological* individualism is entirely opportunistic.

Similarly, the logic of dispersing power urges us to focus on deterrence and rehabilitation, rather than retribution, in the criminal law—and, more generally, on

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[44] Green, "Rawls and the Forgotten Figure of the Most Advantaged"; Robeyns, "Having Too Much."

undermining the broader structural forces driving people into criminal activity, rather than finding and imprisoning people once they have become criminals. Indeed, those who have reconceived legal responsibility in consequentialist terms may serve as a model for how to proceed in formulating concepts of agency for use in other practical contexts.[45] In devising the appropriate informal norms, institutional rules, and legal codes surrounding sexual consent, for instance, we ought to ask not whether someone has *genuinely* granted consent in some absolute sense—thereby treating "rape" as a binary category—but which norms, rules, and codes will best keep power dispersed; balancing the very real dangers of patriarchal rape culture against the equally real dangers of granting legal or institutional authorities too much discretion over the lives of the accused.

The logic of dispersing power also better insulates us from the sort of false equivalences endemic to discussions of race, gender, and multiculturalism. Opponents attempt to de-legitimize affirmative action, for instance, by calling it "reverse racism," and the strategy has a certain logic: if "racism" simply means "discrimination," after all—giving preferential treatment to members of certain groups—then the description is not inaccurate. Meanwhile, concerns about cultural appropriation are often met with skepticism, given that cultures *always* borrow from one another, and that this exchange is in fact central to innovation. At the extreme end, "men's rights" and "white nationalist" groups have

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[45] Vargas, *Building Better Beings*; Corrado, "Doing Without Desert"; Corrado, "Why Do We Resist Hard Incompatibilism? Thoughts on Freedom and Punishment"; Greene and Cohen, "For the Law, Neuroscience Changes Nothing and Everything."

adopted certain tropes of the black power, gay pride, and women's rights movements in a bid to re-brand patriarchy and white supremacy as another permutation of identity politics.

At the core of such false equivalences is the elision of categorical asymmetries in power. Racism, of course, is *not* just about discrimination; it is about any of the means by which white people perpetuate their categorically concentrated power over non-whites. Claims of cultural appropriation do *not* target all cultural exchange or even all one-sided "borrowing," they target one-sided borrowing within contexts characterized by massively asymmetrical power relations. Identity politics may be *proximately* about asserting one's identity, most generally, but it is *ultimately* about undermining the asymmetrical power of dominant identity groups, and assertions of identity can be evaluated according to whether they serve that end. A key advantage of adopting the dispersion of power as an organizing principle, then, is that it foregrounds the importance of power in precisely this way. Where the logic of equal agency leads us to prescribe equal treatment even in cases where it is unjustified, the logic of dispersing power enables us to respond more sensitively to the asymmetrical power relations which structure political life in any society.

At the same time, it does not simply justify the dispersion of concentrated categorical power by any means, and it therefore highlights the limits of certain tactics commonly associated with identity politics as well. Simply put, some affirmative action policies *do* go too far; some claims of cultural appropriation *are* overreactions; and sometimes—quite often, in fact—concerns about free expression *should* carry the day against attempts to sanction or prohibit speech that perpetuates concentrated power. Those fighting on behalf of disempowered groups, indeed, do themselves no favors by pretending otherwise; just as

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those seeking to undermine rape culture by sanctioning rapists can only harm their cause by punishing people who turn out to be innocent. More generally, my point is not simply a one-sided endorsement of the "critical" tradition against its "liberal" foes; it is, as I have claimed, a genuine triangulation. Against many critical theorists, in fact, I argue that integrating the insights of critical and practical realists yields an approach that is fairly described as a form of "liberalism."

Doing so, however, requires rejecting the narrow interpretations of this term common in all three traditions. In the wake of Rawls' recovery of the social contract tradition, first, analytic liberals today conceive of liberalism primarily as a practice of justification and public reason—associated most prominently with the "liberal principle of legitimacy."[46] The conception of liberalism that is employed as a term of abuse by theorists in the critical tradition, meanwhile, is no less constricted. In the practical tradition, finally, "liberalism" is often positioned as a minimalist alternative to more demanding visions of democracy.[47] Where certain radicals unwisely valorize democracy at the expense of liberalism, that is, certain empiricists return the favor, shunning democracy's "radical" or "populist" tendencies in favor of entrenching liberal rights. Conceiving of liberal values in terms of the dispersion of power rescues "liberalism" from all three of these straitjackets.

In this sense, then, the present work also complements recent scholarship in the history of political thought, which has recovered vibrant traditions within liberal and Enlightenment political theory that are entirely innocent of the logic of the social contract:

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[46] I explain this in much more detail in chapter one.
[47] Riker, *Liberalism Against Populism*; Schumpeter, *Capitalism, Socialism, and Democracy*.

traditions such as the liberalism of "honor" and the Enlightenment of "sympathy"; "pluralist" liberalism and the "pragmatic" Enlightenment.[48] Though historical excavation is not a primary concern of the present work, that is, the dispersion of power approach suggests how the concerns of these and other "alternative" liberal traditions might be carried forward into the future. In particular, the theoretical method I have outlined above resonates strongly with Jacob Levy's agenda for liberal theory as elaborating "normative social theories of power" and balancing the dangers represented by each.[49]

As I emphasize in the final three chapters, finally, democracy in the 21st century faces serious challenges. Yet given its reliance on discredited ideals of individual and collective self-rule—which are linked by a common logic of equal agency—much contemporary democratic theory offers precious little aid in thinking through realistic responses to these challenges. Integrating the insights of critical and practical approaches, the dispersion of power is better able to capture the full range of threats, yielding a comprehensive analysis of the dangers posed by a variety of forms of power. Yet it does not stop at analysis: it also offers a heuristic for negotiating between these dangers at the highest useful level of generality; enabling us to choose among democratic priorities and set an ambitious agenda for the future. So I shall argue, at least, in what follows.

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[48] See, respectively, Krause, *Liberalism with Honor*; Levy, *Rationalism, Pluralism, and Freedom*; Frazer, *The Enlightenment of Sympathy*; Rasmussen, *The Pragmatic Enlightenment*. See also Shklar, "The Liberalism of Fear"; Williams, "The Liberalism of Fear"; Levy, *The Multiculturalism of Fear*; Sabl, *Hume's Politics*; Garsten, "Representative Government and Popular Sovereignty"; Elster, *Securities Against Misrule*.
[49] Levy, *Rationalism, Pluralism, and Freedom*.

Chapter One: The Logic of Equal Agency and the Search for the Subject

1.1 ~ Introduction

In the introduction to the dissertation, I outlined two alternative logics that can be used to understand the "anti-vanguardist" ideals and institutions of liberal democracy: equal agency and the dispersion of power. Equal agency is the dominant way of organizing our attempts to think democratically in contemporary life, yet as I have suggested, it is incapable of offering an adequate response to the challenges faced by liberal democracy in the twenty-first century.

The dream of equal agency is to reconcile the demands of freedom and equality by making everyone *equal in freedom*—to reach a form of social organization in which each "man," in Rousseau's words, "while uniting himself with all, may still obey himself alone, and remain as free as before."[1] This dream is powerfully attractive, and this chapter explores some of the reasons why, demonstrating the pervasiveness of the logic of equal agency throughout contemporary political theory and philosophy. Ultimately, of course, I will conclude that the logic of equal agency must be transcended, but a sympathetic articulation in the present chapter is necessary to set the stage for my criticisms of it in the chapters to follow. We may begin, then, with a brief exploration of the origins of that logic in the modern turn to subjectivity.

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[1] Rousseau, "The Social Contract," chap. VI.

1.2 ~ Liberal modernity and the turn to subjectivity

> *There are many languages of legitimation present in the world of democratic politics today. One of the striking features of those languages, however, is that all of them share a common idiom of freedom or liberty. The language of economics directs us to the free market and to the freedom to make whatever contracts we will with one another; the language of rights focuses on rights of free thought, free expression, free movement, and the like; the language of welfare and fairness and equality, or of poverty and exploitation and subordination, claims to articulate the requirements necessary for enjoying freedom or for making freedom effective. And the language of democratic legitimation harps on the legitimacy of what a free people freely decide, and on the way in which individual persons share in that collective freedom.*
>
> — *Philip Pettit*[2]

> *The abstract idea of equality can be interpreted in various ways, without necessarily favoring equality in any particular area, be it income, wealth, opportunities, or liberties. It is a matter of debate between these theories which specific kind of equality is required by the more abstract idea of treating people as equals. Not every political theory ever invented is egalitarian in this broad sense. But if a theory claimed that some people were not entitled to equal consideration from the government, if it claimed that certain kinds of people just do not matter as much as others, then most people in the modern world would reject that theory immediately.*
>
> — *Will Kymlicka*[3]

If thinking democratically is concerned with respecting the interests of others, perhaps the most obvious place to start is with an account of what human interests are. This method regards the question of human interests as an objective one, whose answer can be discovered in the contours of human nature, extracted from texts containing revealed truth, or intuited by clear logical reasoning, and it is probably fair to say that it has been the most common way of approaching ethics and politics throughout the global history of

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[2] Pettit, *Republicanism*, 6.
[3] Kymlicka, *Contemporary Political Philosophy*, 5. Kymlicka is drawing here on work by Ronald Dworkin which makes a similar point.

philosophy. In the modern world, however, a different method has become dominant, grounded in the logic I have called "equal agency." Rather than presuming to know what is best for others, ideals of equal agency recommend respecting others by deferring to their *own* conception of what is good for them—i.e., by deferring to their *agency*.

Though it clearly has roots in Greek and Roman conceptions of political freedom, as well as Christian ideas about free will, this ideal truly came to fruition with the onset of what may anachronistically be called "liberal" modernity, sometime between the 16th and 18th centuries.[4] Modern, "liberal" visions of freedom, then—in contrast to many of their predecessors—are constitutively universalizable: defined such that in theory, at least, all people could be free equally and simultaneously. Equality, conversely, is understood to be attractive only when some form of freedom or agency is the equalisandum (i.e., that which is to be equalized). A certain sort of equality may be found in unified submission to a strong authority,[5] for instance, or the substantive material equality imagined by communists, but liberals tend to look upon unity or sameness (of the kind parodied in Kurt Vonnegut's "Harrison Bergeron," perhaps) with justifiable suspicion.[6] Instead of seeking to equalize some quantitative good, then, such as wealth or welfare, liberal equality is understood as the extension of certain qualitative rights and freedoms to an ever-wider group. For liberals,

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[4] This appellation is anachronistic because the term "liberal" was not regularly used to denote ideas bearing this general shape until the 19th century. Nevertheless, it is common to trace the origins of "liberal" ways of thinking to the Enlightenment and proto-Enlightenment thinkers of the centuries leading up to the 19th.

[5] See, e.g., Mussolini, "The Political And Social Doctrine Of Fascism."

[6] In Vonnegut's story, those with special talents are weighted down (often literally), such that everyone is forced to be equal—a clever dramatization of the "leveling-down" objection common in philosophical discussions of egalitarianism. Vonnegut, "Harrison Bergeron." On philosophical versions of the objection, see, e.g., Mason, "Egalitarianism and the Levelling Down Objection."

equal normative status may entitle people to equal dignity, respect, recognition, legal rights, or authority, but not to equal outcomes.

What enables this universalism, therefore, is a turn to the subjective rather than the objective interests of human beings. Modern liberal freedom is concerned primarily with realizing the autonomous choices and authentic desires of individuals rather than attaining objective goods. Liberal freedom is thought to be neutral, to some extent, between ends— it is the freedom, in Mill's words, of "pursuing our own good in our own way."[7] This, in turn, makes equal treatment both more attractive and more feasible as a normative goal. Given the many real differences between people, an objective view of human interests would seem to recommend *differential* treatment of people as the proper normative response to empirical reality—or, perhaps, the eradication of difference through politics. Turning to subjectivity allows us to posit some *empirical* respect in which all people can plausibly be considered to be equal—i.e., that all people have a capacity to make choices— and can be therefore be treated equally by being allowed to exercise that capacity. The task of modern "subjectivist" political theory, therefore, is to structure political institutions so that each person is able to make their own choices about what ends they will pursue; to treat each person as a "self-authenticating source of normative claims."[8]

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[7] Mill, *On Liberty*, 83. As will be discussed below, this is meant to apply to both "neutralist" and "perfectionist" accounts. It is also worth noting that Mill's freedom is constitutively universalizable: "The only freedom which deserves the name, is that of pursuing our own good in our own way, *so long as we do not attempt to deprive others of theirs*, or impede their efforts to obtain it" (emphasis mine).

[8] Rawls, *Political Liberalism*, 72.

Jeremy Waldron provides a classic version of this historical-cum-normative account of liberal modernity in his 2009 Tanner lectures, published as *Dignity, Rank, and Rights*. According to Waldron, "the modern notion of human dignity involves an upward equalization of rank, so that we now try to accord to every human being something of the dignity, rank, and expectation of respect that was formerly accorded to nobility."[9] Waldron follows James Griffin in the conclusion "that the key to dignity is the human capacity to 'be that which he wills.'"[10] Since all humans at least potentially have this capacity, it is "foundationish," Waldron says, for human rights, which serve to guarantee the dignity of all—"to secure for each person a certain fundamental moral status: that of having rational autonomy and dignity in the sense of being a self-controlling, self-developing agent who can relate to other persons on a basis of mutual respect and cooperation, in contrast to being a dependent, passive recipient of the agency of others."[11] According to Waldron, in other words, democracy and human rights are justified by their capacity to protect the dignity of all, equally, as free, self-determining agents.

Some have understood the distinction between ancient and modern liberty as replicating or at least tightly related to the distinction between what Isaiah Berlin famously labeled "positive" and "negative" liberty;[12] which in turn is sometimes associated with the difference between "perfectionist" and "anti-perfectionist" accounts of freedom, or "teleological" and "deontological" of politics. The sort of modern liberal freedom I am

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[9] Waldron, *Dignity, Rank, and Rights*, 33.
[10] Ibid., 20. Citing Griffin, *On Human Rights*, 31.
[11] Waldron, *Dignity, Rank, and Rights*, 50. Citing Gewirth, "Rights and Virtues," 743.
[12] Berlin, *Four Essays on Liberty*.

describing, however, which becomes constitutively universalizable through an appeal to the subjectivity of individuals, transcends these dichotomies.

For theorists of positive liberty, some form of autonomy or self-determination—the manifestation of one's authentic internal subjectivity in the external world—is intrinsically valuable, and therefore, those seeking to respect the interests of others ought to do what we can to encourage it. According to the "perfectionist" Joseph Raz, for instance, a person's life is autonomous if it is to a considerable extent his own creation," and therefore, "positive freedom is intrinsically valuable because it is an essential ingredient and a necessary condition of the autonomous life."[13] In addition, social and political institutions seen as necessary to the full development of individual autonomy—such as economic redistribution[14] or the protection of minority cultures[15]—are justified by the goal of autonomy, which remains the prior value. Though Raz's view is "perfectionist" rather than "neutralist" or "anti-perfectionist," therefore, and may even be considered "teleological" in the sense of orienting politics to a particular end, this end is very capacious, requiring neutrality between a wide range of more specific ends. Moreover, subjective endorsement of those ends is a necessary and significant component of their value.

Berlin's objection to positive liberty, meanwhile, was not that it gives too *much* weight to individual subjectivity, but that it gives the agency of each individual too *little* consideration—or rather, that it misconceives the agency of individuals. Rather than letting

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[13] Raz, *The Morality of Freedom*, 419–20.
[14] Ibid., 244.
[15] This is recommended by Kymlicka, as an explicit extension of Raz's argument. See Kymlicka, *Multicultural Citizenship*.

people decide for themselves what agency means, Berlin contends, demands for "positive liberty" force individuals to fit a particular mold. If we truly seek to defer to the authentic subjectivity of others, we must accept a "negative" form of freedom—"the degree to which no man or body of men interferes with my activity"[16]—which in turn entails an even *wider* neutrality towards ends.

Despite their variety, of course, all of the views discussed so far are self-consciously "liberal." Yet a concern for subjective agency motivates many *critics* of liberalism as well. On Charles Taylor's sympathetic reading, for example, theorists of "recognition" highlight the fact that when members of minority groups express their agency in ways that hegemonic groups do not recognize; this lack of recognition itself may restrict their agency.[17] *Pace* many advocates of positive freedom, for instance, adhering to highly "restrictive" traditional norms may actually express the subjective agency of those actors. *Pace* many theorists of negative freedom, meanwhile, people who adopt such norms may be unable to feel like social equals if their behavior is constantly questioned or frowned upon, restricting their agency even if they are not technically "interfered" with. Rather than equal autonomy, then—in the sense of either positive or negative freedom—a proper respect for the agency of all people might look instead like equal *recognition*. Following Hegel, Taylor understands recognition as a status that was once reserved for the elite, just like dignity on Waldron's account.[18] In the modern era, then, it too came to be demanded

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[16] Berlin, *Four Essays on Liberty.*, 122.
[17] Taylor, *Multiculturalism And "the Politics of Recognition."*
[18] Inexplicably, Waldron cites neither Taylor nor Hegel in his argument.

by all, and pluralistic, multicultural democracy represents the institutionalization of equal recognition: the validation of the authentic agency of each person.[19]

The difference between Taylor's and Waldron's narratives, of course, is that Waldron's reading of "dignity" is closely tied to the explicitly liberal ideal of rational autonomy which Taylor's theorists of "recognition" reject. As Taylor argues at much greater length in *Sources of the Self*, however, both "autonomy" and "authenticity" are ideals which demand equal respect for the subjective interests of people as the foundational goal of politics, reflecting a distinctively modern trust in the inner life of a "unitary self."[20] On Taylor's view, autonomy is the central product of the rationalist Enlightenment: the idea that each individual is, at least in the ideal, a rational being capable of making free choices. This ideal faced criticism from the beginning, of course, especially concerning its disavowal of the non-rational and unchosen aspects of human subjectivity. As Taylor notes, however, "romantic" critics do not give up on an idea of agency as the external manifestation of some internal self. For some, this essential self is individualized: each human is unique, and has his own way of being; his own calling; his own authentic subjectivity. For others, meanwhile, the proper level of analysis is the racial, the national, the ethnic, the religious, or the cultural. While many theorists of difference and recognition would reject the

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[19] On recognition as a form of agency, see Markell, *Bound by Recognition*, 12.: "[E]ven as the ideal of recognition brings agents back from the solitude of ownership or the thin air of choice and into the thick of social life, it also preserves, in transfigured form, the basic aspiration behind those images of agency: the aspiration to be able to act independently, without experiencing life among others as a source of vulnerability, or as a site of possible alienation or self-loss."

[20] Taylor, *Sources of the Self*, 462–63.

"liberal" label, therefore, they are nonetheless working within a framework defined by the demand to respect the subjectivity of others.[21]

Where "freedom" is often understood to refer to something like rational autonomy, Taylor uses "agency" as a more expansive term which indicates both autonomy *and* authenticity. Building on Taylor's work, then, Sharon Krause defines agency even more broadly, as the "affirmation of one's subjective existence, or identity, through concrete action in the world. To be an agent is to affect the world in ways that concretely manifest who you are, to see yourself and be seen by others in the effects you have, to recognize your deeds as being in some sense your own."[22] Agency can therefore refer to any means by which an internal self is authentically expressed in the external world, including recognition, dignity, willpower, or action in concert, as well as traditionally liberal versions of rational "autonomy." In what follows, I understand subjective agency in Krause's expansive sense, and will typically refer to equal agency instead of equal freedom in discussing the political ideal which is central to my analysis.

Even a treatise as monumental as Taylor's *Sources of the Self*, of course, can only scratch the surface of the historical transformation which I have glossed here in just a few pages. Needless to say, history is far more complicated than is suggested by my highly schematic opposition between a pre-modern focus on "objective" interests and the modern turn to "subjective" interests, and I will point to two major caveats in particular. First, very

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[21] For explicitly liberal versions of this logic, see Kymlicka, *Multicultural Citizenship* and Patten, *Equal Recognition*.

[22] Krause, "Plural Freedom," 240. See generally Krause, *Freedom Beyond Sovereignty*.

few historical thinkers either before or after this supposed break draw exclusively on either objective or subjective conceptions of human interests. As Taylor and many others have demonstrated far better than I could hope to do, the centuries-long process of transition was gradual, halting, and far from inevitable. Nor is it necessarily complete, even today. Second, as I alluded above, subject-centered conceptions of freedom and equality have clear roots in pre-modern sources, including certain versions of classical stoicism, epicureanism, and republicanism, as well as Christian universalism and its emphasis on the freedom of the will. Regardless of its intellectual origins or its material causes, however, there is a clear discontinuity here. Sometime during the transition to the historical period known as "modernity," the logic of equal subjective agency became the dominant organizing principle for a great deal of political thought, and it remains so today.

Two dilemmas for equal agency

All the same, we may also abstract the claims we have made from any potentially contentious historical narratives. First, freedom and equality are the two signature values of what I have called "liberal" modernity. Second, these ideals are inextricably bound together: freedom is attractive for liberals only when it can be shared equally by all, while equality is attractive only when some form of freedom is the equalisandum. Third, this constitutively universalizable liberal package is plausible only because of its emphasis on the subjective rather than the objective interests of human beings. Modern, liiberal freedom implies at least some level of neutrality between substantive ends, and this neutrality is part of what it means to treat people as self-determining equals. Fourth, even those who reject

the "liberal" label often implicitly understand equal or universal achievement of some alternative form of agency as the primary goal of politics.

There are, however, two key indeterminacies in the demand to respect the subjective interests of others, and together, they drive much of the philosophical debate about concepts such as freedom, power, justice, equality, legitimacy, and democracy. The first of these dilemmas concerns how to interpret the subjective interests of any individual subject—that is, how to know what a subject *really* wants. The second concerns how to balance the ends and goals of different individuals when they inevitably come into conflict. Exploring these dilemmas shall concern us for the remainder of the chapter.

1.3 ~ First dilemma: What do subjects really want?

In exploring the first dilemma, we can begin with two standard test cases for theories of liberalism, pluralism, and multiculturalism: the US Supreme Court case *Wisconsin vs. Yoder*, which ruled that Amish children could not be placed in compulsory education after the 8th grade;[23] and the proposal for a "burqa ban" that has recently arisen in European countries. Both cases engage a similar conflict between what is thought of as the "rational autonomy" of individuals—their status as civically engaged citizens of a liberal democracy, whose informed choices deserve equal respect—and their "authenticity"— their status as fully recognized members of a multicultural society, whose cultural attachments deserve equal respect. And for better or worse, both are still live issues in

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[23] Wisconsin v. Yoder, 406 US. See, e.g., Galston, *Liberal Pluralism*.

contemporary politics which must be addressed. Both present precisely the sort of situation, that is, when political theories are called for.

Those who accept something like a traditionally liberal view of "negative freedom," on the one hand, might argue that there is no reason to "interfere" with the Amish or Muslim way of life, and that respecting the subjectivity of Amish or Muslim individuals requires leaving them alone to order their affairs as they wish. We can discover what they truly want simply by refraining from interfering with them. Those who accept a perfectionist view of "positive freedom," on the other hand, may be tempted to argue that autonomy requires more than non-interference: that respecting an agent's subjectivity requires ensuring she has an opportunity to learn about other ways of life, to question the doctrines held by her community without fear of repercussions, and to make choices for herself about her modes of dress and lifestyle.

These alternative procedures for determining the true subjective interests of others cannot be reconciled. To the extent that the state interferes in a child's life such that she is more likely to abandon her own culture, this infringes on her agency as authenticity. If she is not allowed to learn about other ways of life, on the other hand, or if she cannot leave her own community, then she may not be fully autonomous, at least in a certain liberal sense of the word. In order to make a decision about this practical matter without making reference to objective goods, it seems, we must state more precisely what is valuable about subjective agency; or rather, how to decide what a subject *really* wants.

That, in short, is the first dilemma raised by the logic of equal agency. In the rest of this section, then, I shall endeavor to outline the theoretical landscape more systematically,

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tracing parallel debates about the nature of freedom and power as a window into four more general ways of responding to the dilemma at hand: a "classical" liberal view, a "revisionist" liberal view, a "radical" view, and a "postmodern" view.[24]

"Classical" liberalism

Berlin's 1957 essay "Two Concepts of Liberty," as discussed above, outlines and rejects the ideal of "positive liberty," or the "wish on the part of the individual to be his own master."[25] Though he acknowledges the attractiveness of this ideal, he argues—as did many others in the early years of the Cold War—that something like it had inspired the totalitarianisms of both the left and the right.[26] Instead, Berlin suggests that we moderns should opt for a "negative" freedom, which is simply "the degree to which no man or body of men interferes with my activity."[27] As long as I do not interfere with the free actions of others, the argument goes, I ought to be left alone to pursue my own ends. I take Berlin's account as representative of what we might call the "classical liberal" view of freedom.

It corresponds, then, albeit imperfectly, to the definition of power developed by Robert Dahl in his 1957 essay "The Concept of Power": that A exercises power over B when A gets B to do something that B would not otherwise have done.[28] Though Berlin's focus is freedom and Dahl's is power, their definitions are roughly complementary: Dahl's power

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[24] For others who have pointed out the parallels between these two well-known discussions, see Hayward, *De-Facing Power*; MacGilvray, "Liberal Freedom."

[25] Berlin, *Four Essays on Liberty.*, 131.

[26] See, for instance, Talmon, *The Origins of Totalitarian Democracy*; Popper, *The Open Society and Its Enemies*.

[27] Berlin, *Four Essays on Liberty.*, 122. Following Constant, "The Liberty of the Ancients as Compared to that of the Moderns."

[28] Dahl, "The Concept of Power." See also Dahl, "A Critique of the Ruling Elite Model."

consists in getting an agent to make a choice that he would not have made if he were free, and Berlin's freedom consists in the absence of interfering power. Both assume, in other words, the image of a subject whose internal will may be constrained to greater or lesser degrees by the interfering action of external others. Though neither imagines that there could be a world without this constraint, both understand its minimization to be a key normative goal.

"Revisionist" liberalism

As is well known, of course, both essays sparked a great deal of debate, focusing especially on the boundary between what could be considered an authentic expression of subjectivity, and what was an illegitimate intrusion. Common to many critiques of Berlin's view, for instance, was the claim that the concept of "interference" fails to capture the kinds of social influence which ought to be resisted—either underdiagnosing illegitimate influences as legitimate, overdiagnosing legitimate influences as illegitimate, or both. Philip Pettit's argument for a "republican" conception of freedom as "non-domination," for instance—where domination is defined as the *capacity* for *arbitrary* interference rather than interference simpliciter—is representative insofar as it makes both claims.[29]

First, Pettit argues, liberals who understand all interference as wrong tend to wrongly diagnose state action as illegitimate—libertarians most obviously. Left-liberals may justify significant state action by referring to its necessity in the prevention of even greater interferences, he acknowledges—or by bringing in equality as a countervailing concern—

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[29] Pettit, *Republicanism*, 22–24.

but they must always view it with *prima facie* suspicion. Republicans, by contrast, welcome law and state interference as legitimate whenever it is non-arbitrary. There is simply nothing wrong or suspicious, *prima facie* or otherwise, about non-arbitrary interference. At the same time, he claims, liberals are liable to under-diagnose problematic power relations—such as those between men and women or managers and workers—when those relations fail to result in *actual* interference. This ignores the harm done to the subordinate parties by the dominating party's *capacity* to interfere arbitrarily.

A roughly parallel argument was made, then, by Peter Bachrach and Morton Baratz in "The Two Faces of Power," challenging Dahl's definition of power on the grounds that its focus on "decision-making" ignores and therefore conceals the question of which decision points arise in the first place.[30] The power to set the agenda, or the power of "non-decision-making"—which they labeled the "second face" of power—was in their view of equal if not greater importance. Unlike Pettit, Bachrach and Baratz do not offer a complete normative argument, but in pointing to which sorts of power are at least potentially suspicious, however, they offer very similar points. Where Berlin and Dahl focus on choices or decisions which are actually made, both Pettit and Bacharach and Baratz focus on the choices *behind* the choices; on interference not only as it is exercised in the moment of choice, but as it is embedded in the architecture of choices which are available. At the

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[30] Bachrach and Baratz, "Two Faces of Power." On a similar point, see also Offe, "Structural Problems of the Capitalist State."

same time, both retain choice and interference as their fundamental categories, which is why I have labeled their views "revisionist" forms of liberalism.[31]

"Radical" concerns

The "radical" view, by contrast, rejects the assumption that the relevant freedom/power binary can be understood in terms of the choices made by subjects on the one hand, and external interference with choices on the other. Just as Pettit claimed that Berlin and other classical liberals underdiagnose the sorts of power which are politically relevant, in other words, many have turned a similar argument against him and other "revisionist" liberals. Nancy Hirschmann, for instance, claims that Pettit's understanding of freedom "fails to provide a framework for understanding how it is that social forces like patriarchy are able to restrict women's freedom."[32] Patriarchy is not limited to relationships of domination where an external force restricts an internal subject; it also "create[s] an entire cultural context that makes women seem to choose what they are in fact restricted to."[33] Some "restrictions," that is, appear to be "internal" to the subject—at least in the moment when the "choice" is made—rather than imposed upon it by an external source.

In a similar vein, Sharon Krause observes that while Pettit's conception of domination captures many important threats to freedom, "there are other threats as well, some of which

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[31] Pettit, of course, offers his theory as an *alternative* to liberalism. As Pettit himself admits, however, the theory he offers is quite similar to left-liberalism, and as I shall discuss in more detail below, it draws on the logic of equal agency in a very similar way. Therefore, I have found it useful to categorize Pettit's neo-republicanism as a form of revisionist liberalism rather than as a separate category unto itself.
[32] Hirschmann, *The Subject of Liberty*, 29.
[33] Ibid., 11. See also Markell, "The Insufficiency of Non-Domination."

are more pressing in contemporary liberal-democratic contexts than domination."[34] Where domination requires that the influence be intentional, Krause builds on the work of Iris Marion Young to develop a concept of "oppression," which captures "impersonal social and political conditions that systematically and unjustly impede agency on the part of certain people," even in the absence of intent.[35]

The canonical expression of this view in the discourse on power, of course, is Steven Lukes' *Power: A Radical View*, which proposed a "third face" of power to supplement Dahl's first face, and the second face proposed by Bachrach and Baratz. Using Dahl's terminology of actors A and B, the third face of power consists in A's ability to influence B's preferences.[36] Is it not "the supreme exercise of power," Lukes asks, "to avert conflict and grievance by influencing, shaping, and determining the perceptions and preferences of others?"[37] Under the influence of Marx and his followers, this kind of power is often referred to as "ideological"[38] or "systemic,"[39] and it is said to function by imposing a "false consciousness" on otherwise free agents, concealing the preferences they would form in the absence of this imposition. Given the adoption of this latter concept by feminists, then,

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[34] Krause, *Freedom Beyond Sovereignty*, 142.
[35] Ibid., 149. See also Young, *Justice and the Politics of Difference*.
[36] Lukes, *Power: A Radical View*.
[37] Lukes, "Power and Authority," 669.
[38] Antonio Gramsci and Louis Althusser are perhaps the two central figures in the development of the Marxist conception of ideology. See Althusser, "Ideology and Ideological State Apparatuses"; Gramsci, *Selections from the Prison Notebooks*.
[39] Alford and Friedland, *Powers of Theory*. See generally the discussion in Wright, "Political Power, Democracy, and Coupon Socialism." Following Alford and Friedland, Wright discusses "situational," "institutional," and "systemic" power, but acknowledges that these readily track the three "faces" of power identified by others, and points out the connection to Lukes.

it is no surprise that it is feminists such as Hirschmann, Krause, and Young, who have led the development of "radical" theories of freedom.[40]

It is not just Marxists and feminists, however, who have launched criticisms of liberal views along similar lines. In the 1980s and 1990s, for instance, many communitarians and multiculturalists argued that the liberal focus on individual choice did not take serious enough account of the individual's "embeddedness" in social and cultural assumptions, and therefore valorized a particular (culturally-produced) form of "authenticity" over others.[41] More recently, theorists motivated by issues of race, colonialism, disability, the non-human, and a wide variety of other concerns, all seek to move beyond the assumption that choice is the central vehicle for the expression of subjectivity, and that coercion or interference of some kind are the only harms worth addressing through politics. In failing to notice certain of the power relationships which structure individual choice, such "radicals" claim, liberals fail to properly respect and protect the subjectivity of all people.

One reason for this is that liberal theories of power, freedom, and politics more generally, are predicated on a particular kind of subjectivity—both as a historical matter, in the development of liberal theory, and as a conceptual matter, in its contemporary expressions.[42] As Jennifer Pitts observes, for instance, "the key concepts and languages of European political thought—ideas of freedom and despotism, self-government, and the

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[40] See also Chambers, *Sex, Culture, and Justice*.

[41] Classic accounts include Taylor, *Sources of the Self*; Sandel, *Liberalism and the Limits of Justice*; MacIntyre, *After Virtue*; Kymlicka, *Liberalism, Community, and Culture*. For a summary of these debates, see Mulhall and Swift, *Liberals and Communitarians*.

[42] On the historical connection, see, e.g., Arneil, *John Locke and America*; Zastoupil, *John Stuart Mill And India*; Pitts, *A Turn to Empire*.

autonomous individual—were imagined and articulated in light of, in response to, and sometimes in justification of, imperial and commercial expansion beyond Europe."[43] Social contract theory is notoriously bound up with ideas of a "state of nature," for example, featuring uncivilized humans and inexhaustible resources owned by no one, which Locke and others explicitly identified with the so-called "New World."

Whether or not there is a causal connection between theory and practice here, scholars have rightly observed that liberal developmentalism proved conveniently hospitable to projects of colonial expansion and domination—implying, for instance, that in order to fully exercise their powers of choice, indigenous peoples must first become fully civilized. Imperialism was therefore justified, however implausible it seems in hindsight, in the name of *deference* to subjects. Moreover, many contemporary critics maintain, the core conceptual resources of liberalism still bear the mark of their imperialist origins. In particular, Pitts summarizes, "postcolonial criticism has stressed its abstract rationalism, which, though based on a culturally particular set of values, purports to articulate universal moral truths…" as well as its "narrowly rights-based idiom of justice," its "'liability model' of injustice," and its "moral individualism."[44]

In both its historical and its conceptual registers, this critique mimics those made by others with a range of different perspectives and concerns, emphasizing that the subject assumed by liberal theory to be universal—either in practice or as an ideal—is in fact particular. Feminists like Carole Pateman, for instance, point out the ways in which the

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[43] Pitts, "Political Theory of Empire and Imperialism," 215.
[44] Ibid., 216.

implicit subject of liberal freedom is male,[45] while others point out the ways in which he is white,[46] or able-bodied,[47] or heterosexual.[48] In other words, they make precisely the same claim against liberalism that liberals make against an objective view of human interests: that it is arrogant and imperialistic, failing to properly defer to subjects' own conception of their interests. Liberals maintain that their understanding of autonomy is the best way of respecting the subjective interests of others, but in reality, radical theorists claim, they are still imposing their own view of what is good for people upon them, rather than truly deferring to the subject. The implication, if often unstated, is that there is a truer or more authentic subjectivity which would emerge under the right conditions; in the absence of the presumptions of imperialism, patriarchy, racism, heteronormativity, and capitalism.

To the extent that they encourage this implication, therefore, radical accounts also employ a logic of equal agency. Despite their departures from liberal frameworks, that is, many radicals stop short declaring that all influences on subjects ought to be counted as suspicious forms of "power," thereby holding fast to the ideal of an authentic subjectivity which is free from illegitimate influence. In her treatment of the "faces of power" debate, for instance, Clarissa Hayward points out that all three views perpetuate the notion of a boundary between free action, on the one hand, which is "independently chosen and/or authentic,"[49] and action, on the other hand, that has been "shaped by the action of others,"

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[45] Pateman, *The Sexual Contract*. Nancy Hirschmann explains that "freedom could be defined as abstract choice for men only because women were bound to the aspects of life that are not necessarily chosen." *The Subject of Liberty*, 32.
[46] Mills, *The Racial Contract*.
[47] Hirschmann, "Disability and the Will."
[48] Warner, *The Trouble with Normal*.
[49] Hayward, *De-Facing Power*, 4.

disputing only "where and how to draw this distinction."[50] Participants have proliferated what counts as power—i.e., the ways that freedom may be limited—while embracing Dahl's more fundamental assumption that power is "an instrument powerful agents use or direct in order to alter the free action of the powerless."[51] They define power, in other words—or domination, or oppression—as the opposite of freedom.

The "postmodern" alternative

Hayward, by contrast, argues that we ought to drop this dichotomy, allowing that power is everywhere, that everything is political, and that there is no authentic subject to be found underneath the impositions of power. Since we have earlier identified the turn to subjectivity with modernity in both liberal and radical forms, we shall call this fourth view "postmodern" for consistency's sake, despite the frustrating diversity of connotations associated with the latter term. Among radical critics of liberalism, then, there is ongoing debate between those who accept these postmodern conclusions, and those who resist them, fearing that if we do not put limits on what counts as power, the subject will disappear entirely, and there will be no recourse but relativism, undermining the theorist's supposedly radical normative stance. Foucault is perhaps the foremost advocate of what I have dubbed the "postmodern" view, while Habermas most thoroughly articulates the "modernist" response to radical concerns—and the so-called "Foucault-Habermas debate," which was largely carried on by Foucault's disciples after his death, followed out the theoretical

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[50] Ibid., 15.
[51] Ibid., 14.

repercussions of this divide.[52] We will discuss this in greater detail in the chapters to follow, but for the time being, we still have another dilemma to explore.

1.4 ~ Second dilemma: How can we reconcile conflicting agencies?

> *She'll only be bound (be bound) by the things she chooses.*
> — *Lucius, "Wildewoman"*

Though "man is born free," Rousseau famously declared, "everywhere he is in chains" of mutual dependency. In civilized society, his goals require the cooperation of others—whether through active assistance or benign neglect, legal consent or social affirmation—and his own cooperation, in turn, will be required in order to achieve the goals of others. Given that we cannot rid ourselves of our chains and return to the natural freedom of pre-civilized man, Rousseau opines, the only way to recover freedom in civilized society is to "make those chains legitimate" by rendering them consistent with our freedom in some way. Yet it is impossible simply to realize the wills of each individual simultaneously—that was possible only under pre-social conditions. Must some men dominate others, then, in order to achieve their own freedom, leaving the others as mere slaves? Or is it possible for all men to become free *simultaneously*; to become *equal* in their freedom? This, in essence, is the second dilemma raised by the logic of equal agency: how can we reconcile the conflicting ends of subjects in a way that respects both as equals?

Again, we can clarify the stakes of this dilemma through two examples. First consider the conflict between a black man who wishes to be able to order at any lunch counter in

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[52] See, e.g., Kelly, *Critique and Power*; Benhabib et al., *Feminist Contentions*; Fraser, *Unruly Practices*.

town, and a white racist who wishes not to be compelled to serve him. Second, consider the conflict between a woman who wants to wear whatever she likes to the office, and her boss, who wants to establish a dress code. In both cases, clearly, the two subjects in question have ends which are at odds with one another, and both cannot be authentically manifested in the world. How, then, are we to respect both of them at once?

In answering this question, constructive political theorists tend to follow Rousseau in focusing on the "regime" or "basic structure" within which laws are made: not the resolution of any particular conflict, that is, but the procedure for resolving conflicts in general. They attempt to elaborate a legal and institutional framework which, despite favoring one subject over another in particular circumstances, allows both subjects to retain their status as equal agents in some more general sense—and thereby legitimize the inevitable "chains" of social and political life. The achievement of such a framework would not exhaust our normative goals, but because it defines a set of "legitimate" or "just" conditions within which other goals could fairly be pursued, it is often taken to have some kind of priority over those other ends. As a result, it can serve as a "top-level" heuristic in the way that we have described in the introduction (and shall discuss at length in chapter three). We can sort theories which have this character, then, into four stylized categories that are roughly parallel to the sequence of theories of freedom and power discussed above—"classical" and "revisionist" liberal views, "radical" views, and "postmodern" views—each entailing more and more expansive views of what ought to count as power.

"Classical" liberalism

Perhaps the best-known theory of the "basic structure" based on a "classical" liberal view of the dichotomy between freedom and power is Robert Nozick's *Anarchy State, and Utopia*.[53] On Nozick's view, "individuals are inviolable," and there are therefore certain "side constraints" on our action towards them; namely, we may not coerce them without their consent.[54] We of course have many kinds of influence on one another: we cannot avoid this while living in a society. Thus, the actions of others will inevitably limit our options, and may even "harm" us. Others may insult us, refuse their consent to common projects, and so on, but according to Nozick, these are not *political* harms worthy of political resolution: "political philosophy is concerned only with certain ways that persons may not use others; primarily, physically aggressing against them."[55]

According to Nozick, treating physical coercion as a side constraint on action is the only way of resolving conflicts which respects the autonomy of all involved. If we want to treat subjects with conflicting desires as equals, respecting their subjective ends rather than imposing some objective conception of the good upon them, we must allow them to determine the course of their own lives. Given the inevitability of intersubjective conflict,

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[53] Nozick, *Anarchy, State, and Utopia*.Though Nozick's definition of autonomy as non-coercion is stronger than either Berlin's or Dahl's view of this dichotomy—both of which admit non-coercive forms of "interference"—we may nonetheless take it as representative of the "classical liberal" perspective on the basic structure. For similar views, see Rothbard, *For a New Liberty*; Buchanan and Tullock, *The Calculus of Consent*. Buchanan in particular later made the connection with negative liberty explicit, writing that "an individual is at liberty or free to carry on an activity if he or she is not coerced from so doing by someone else, be this an individual or a group." Buchanan, *The Limits of Liberty*, 9–10.
[54] Nozick, *Anarchy, State, and Utopia*, 31.
[55] Ibid., 32. Compare Rothbard, *For a New Liberty*, 23.: "The libertarian creed rests upon one central axiom: that no man or group of men may aggress against the person or property of anyone else."

libertarians hold that one can best respect the interests of others by refraining from coercing them, except where they have explicitly consented to be coerced or have chosen to coerce others. Consensual agreements and contracts, then, are the only structures which legitimately constrain the autonomy of individuals.

The objection most commonly raised to this view, of course, is that past coercions are necessarily embedded in present institutions, and in particular, that the contemporary legal and institutional structure is a direct result of centuries of brutal conquest and exploitation. Under these conditions, the claim that those disadvantaged by the legacies of this coercion have "chosen" or "endorsed" the conditions which determine whose ends will prevail in intersubjective conflicts is a cruel joke; highly implausible as a conception of equal respect. Given that there are insurmountable barriers to erasing these legacies—how far back would we go? who would inherit property which was stolen dozens of generations in the past?— prohibiting all further acts of coercion simply reifies contingent power structures, privileging the perpetrators and beneficiaries of coercion at the expense of its victims.

In the case of the white manager and his black customer, for instance, the choice to value the wishes of the manager to run his lunch counter how he pleases over the wishes of the customer to eat where he likes might be quite a bit less obscene in a world where white people did not own all of the lunch counters—or, to be more precise, in a world without overwhelming and pervasive power disparities in every measurable respect between whites and blacks, which are a direct result of centuries of expropriation and exploitation of the latter by the former. Since these injustices would not exist in a Lockean state of nature, they would not be taken into account by Nozick's equally situated

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autonomous individuals. Yet we are not making rules for the state of nature: we are making rules for the world as it is. We must, therefore account for these injustices somehow.

"Revisionist" liberalism

This objection mirrors the one raised by "revisionist liberals" in the debates about freedom and power canvassed above, who pointed out the "interference" which was already embedded in choices as they are given to us. And once we abandon the libertarian's perfect symmetry between autonomous choice, on the one hand, and interference or coercion, on the other, this leaves open the possibility that some interference or coercion will be justified even when it is not directly chosen. Indeed, articulating what justifies interference is Pettit's main project in *Republicanism*.[56] In short, he argues, a capacity for interference is bad only if it is arbitrary; non-arbitrary interference, by contrast, is fully compatible with freedom. What distinguishes "arbitrary" interference from non-arbitrary interference, then, is that it "is chosen or rejected without reference to the interests, or the opinions, of those affected. The choice is not forced to track what the interests of those others require *according to their own judgments*."[57] Non-arbitrary power is said to be accountable to procedures "in which *we can see* our interests furthered and our ideas respected…" and which "*bear the marks* of our ways of caring and… thinking."[58]

This does not mean, clearly, that agents must *consent* to all power which is exercised over them. This is precisely the classical liberal view which Pettit rejects. Pettit considers

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[56] Pettit, *Republicanism*.
[57] Ibid., 55.emphasis added throughout.
[58] Ibid., 184.

citizens to "own" public decisions not when they have consented to them, then, but when they can *contest* them; that is, when they have a right of appeal that *would* force an amendment, counterfactually, *if* the decision in question can be shown to have been arbitrary.[59] Contestability implies not that we author or support every decision, that is, but that we have recourse to an appeals procedure whose basic justification, at least, we can accept as reasonable.[60] As a result, he recommends a "republic of reasons" or "deliberative democracy" in which the only acceptable considerations are "reasons that all have to countenance as pertinent, under accepted canons of reasoning."[61] In this way, the line between arbitrary and non-arbitrary power is drawn by the presence or absence of a form of indirect or "second-order" subjective endorsement.[62]

Pettit emphasizes the differences between his republican view, which places "contestability" at the center of political life, and the liberal view, which places "consent" at the center.[63] For our purposes, however, Pettit's view is not so dissimilar from a wide variety of "revisionist" liberal views which also make use of some form of counterfactual reasoning in the form of *hypothetical* consent. Influenced by Rawls' neo-Kantian recovery of the social contract tradition, this strategy for reconciling the conflicting ends of subjects attempts to demonstrate how, even if each citizen or person does not actually endorse the rules, there is some sense in which they *could* accept them, or *would* accept them under the

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[59] Ibid., 184–87.
[60] Ibid., 199, 292.
[61] Ibid., 188–89.
[62] In this respect, see also Pettit's view in *A Theory of Freedom*. Freedom, he argues in that book, is associated with counterfactual abilities to engage in "discursive" reasoning about one's actions and preferences.
[63] Pettit, *Republicanism*, 1.

right conditions, or *could not reasonably reject* them. Most prominently, some version of the "liberal principle of legitimacy"—the conviction that political institutions must be "justified *to*" the people who live under them, rather than simply being justified in some abstract or agent-independent manner[64]—is widely taken for granted within the tradition of contemporary political philosophy that I have labeled "analytic liberalism," reaching far beyond views that are clearly "Kantian," or "Rawlsian."

As articulated by Amy Gutmann and Dennis Thompson, for example, "deliberative democracy asks citizens and officials to justify public policy by giving reasons that can be accepted by those who are bound by it."[65] In the liberal egalitarian Ronald Dworkin's words, "we must be prepared to explain, to those who suffer... why they have nevertheless been treated with the equal concern that is their right."[66] Epistemic democrat David Estlund maintains that all political decisions, however epistemically virtuous, must nonetheless be "justifiable in terms acceptable to all qualified points of view."[67] Lea Ypi locates the fundamental wrong of colonialism not in any specific abuses but in its failure to "respect[s] the claims of all those involved in the exchange."[68] Tim Scanlon's influential ethical "contractualism" advances the proposal that moral acts are those that "could be justified to others on grounds that they could not reasonably reject."[69] Legal theorist Paul Gowder understands the rule of law as an achievement whereby no laws rely on distinctions which

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[64] I owe this useful phrasing of the distinction to Peter, "The Public Reason Conception of Political Legitimacy: An Epistemological Defense."
[65] Gutmann and Thompson, *Why Deliberative Democracy?*, 52.
[66] Dworkin, *Sovereign Virtue*.
[67] Estlund, *Democratic Authority: A Philosophical Framework*, 41.
[68] Ypi, "What's Wrong with Colonialism," 175, 179.
[69] Scanlon, *What We Owe to Each Other*, 5.

are "not justifiable by public reasons to all concerned."[70] Examples are easily proliferated.[71]

The category of revisionist liberalism, however, is not limited to views which use counterfactual reasoning of contestability or hypothetical consent to legitimize the basic structure. It also includes democratic ideals which emphasize ongoing, active consent or at least consultation with subjects. Though there are many versions of the ideal of "popular sovereignty," for instance, some of which may not count as "revisionist liberalisms" in my sense, one prominent interpretation holds that democratic authority is conferred by majoritarian procedures, which are said to give each person a fair say over the outcome. Even if subjects do not get their way, the argument goes, they can still be considered to have been treated equally because they had an equal *chance* to influence the result.[72] Because their views were heard and respected as equally important to those of everyone else, their wills can still be said to be present in the outcome in some way.

In the most minimal models, all that is required for popular sovereignty and democratic legitimacy is universal suffrage and majoritarian procedures, which can be said to grant each individual an equal chance at influencing outcomes.[73] Others emphasize that other rights are just as essential, and that universal suffrage does not represent true equality of influence unless such rights are also guaranteed in equal measure.[74] Still others would

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[70] Gowder, *The Rule of Law in the Real World*, 7.
[71] See, for instance, Kirshner, *A Theory of Militant Democracy*, 34.
[72] I will explore the ideal of popular sovereignty in much greater detail in chapter six.
[73] Something like this view can fairly be attributed to Jeremy Waldron, especially in *Law and Disagreement*.
[74] See, for example, Brettschneider, *Democratic Rights*.

require an even more robust conception of social and civic equality to be respected in order for majoritarian procedures to confer legitimacy on the state's laws.[75] Nevertheless, all maintain that the right kind of democratic procedures demonstrate respect for all citizens as equal agents, conferring legitimacy on the actions of democratically elected governments.

In this sense, procedural conceptions of democracy clearly belong to the category of revisionist liberalism we have been examining. In various ways, each version tries to show how the outcomes of conflicts between subjects can be made to "bear the marks" of the subjectivity of all people, thereby conveying an equal respect to each. They achieve this feat by abstracting from the immediate outcomes and focusing instead on the *conditions* which produce the outcomes: the rules which determine whose ends are realized in any given situation. Even if a subject's "first order" ends are thwarted in any given situation of conflict, such theories maintain, she can still be said to have been treated as an equal if the rules which govern such situations are consistent with her "second-order" ends—if she is able to identify with or affirm collective decisions as, in some sense, her own.

Returning to the case of the white shop-owner and his black would-be customer, then, most revisionist liberals would conclude that the conflicting ends of these two individuals in this particular case ought to be resolved in favor of the black customer—most likely by a law which forbids discrimination in public spaces such as lunch counters. Such a law is coercive, in that it uses the threat of state power to force the white shop-owner to do

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[75] See, for example, Dworkin, *Sovereign Virtue*.

something against his will. On the schematic view sketched above as representative of "classical" liberalism, the only legitimate reason to coerce someone in this fashion is if he has coerced someone else or has agreed to be coerced. Assuming that the white shop-owner has not agreed to this law, it is illegitimate. Revisionist liberals on this schematic depiction, however, allow an expanded range of mechanisms by which such laws may be rendered legitimate: namely, if it remains consistent with the subjectivity of both individuals in some second-order sense. Adherents of the liberal principle of legitimacy, for instance, will respond that the law is legitimate because the white shop-owner could not reasonably reject the reasons for which it is made, even if he has never, in fact, endorsed it. The form of agency to be equalized, therefore, is no longer any form of actual consent—whether explicit or tacit—but some form of second-order, counterfactual, or hypothetical subjective endorsement.

Nevertheless, revisionist liberals retain a great deal from the classical liberal approach. Most notably, they take some form of interference or coercion as the key threat to subjectivity which must be legitimized, and conversely treat subjects as free to the extent that they are exposed only to interference or coercion that has been deemed legitimate or non-arbitrary. On the views we have explored, for instance, interference or coercion jeopardizes the agency of individual subjects only if it fails to "track" their interests; or if it cannot be justified in terms they could reasonably accept; or if it has not been enacted by a fairly elected majority.

As a result, revisionist liberals also retain the classical liberal's focus on the state and its laws. While the state is not the only source of interference or coercion, of course, its

laws structure the environment within which other forms of interference and coercion exist, and so both classical and revisionist liberals understand the problem of the state's legitimate authority as central to political theory. The fundamental questions asked and answered by theories in both "liberal" categories is quite similar: i.e., how can the political authority of the state be reconciled with a commitment to individual freedom? How can (state) coercion be justified?

It is impossible, of course, to guarantee that *all* coercion is legitimate, or *all* interference non-arbitrary. Many interpret this impossibility in contingent, practical terms—in which case the ultimate ideal remains the elimination of all illegitimate coercion—while others understand it to be impossible even at a conceptual level. In practice, however, these differences are unimportant. For all who use the logic of equal agency in a way consistent with what I have termed classical or revisionist liberalism, the goal in practice is to maximize freedom by minimizing the constraints upon it presented by illegitimate coercion or arbitrary interference.

"Radical" concerns

The clear normative opposition between freedom and choice, on the one hand, and coercion or interference, on the other, is precisely what is rejected by those I have called "radicals." Instead, they claim, interfering with choices (i.e. coercion) is *not* the only way that people can thwart the authentic expression of the subjective will of others. Where "liberals" see natural, spontaneous choices, therefore, "radicals" often see power relations.

Many liberals treat "the family," for instance, as apolitical; as the spontaneous result of the "natural" tendencies of men and women, acting freely, to adopt particular roles.[76] Radical critics of patriarchy, however, expose the origins of gender roles in suspicious power relations, and seek to "politicize" private life, bringing it under more conscious social control. Similarly, while many liberals treat the "free market" as an apolitical, spontaneous result of the "natural" tendencies and "free choices" of human beings, radical critics of capitalism expose its origins in suspicious power relations and attempt to "politicize" questions of economic organization. As we saw in our discussion above, many other radical claims take a similar form, politicizing forms of power other than coercion and interference by showing how they, too, thwart the authentic expression of individuals' subjective agency. The question for radical critics, then, is whether we can reach an understanding of agency which is *truly* authentic; a conception which does not obscure *any* politically relevant inequalities in power. The question, in other words, is whether we can maintain the goal of equal agency while rejecting its stereotypically "liberal" formulations relying on rational autonomy or freedom of choice.

Perhaps the most prominent attempt to answer in the affirmative is that provided by state socialism. In the 19th century, socialists began to understand capital, or the means of production, as a source of power with political significance on par with that of political violence and coercion. In the latter case, of course, the liberal solution has been familiar at least since Hobbes: rather than fighting a constant civil war, it is best for a single legal

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[76] Okin, *Justice, Gender and the Family*.

framework to be adopted by all and enforced using the state's monopoly on violence. Given that the details of this legal framework could never reflect the "first-order" wishes of everyone subject to its coercive enforcement, therefore, the ultimate ideal of those committed to equal agency is that this coercively-enforced legal framework could nevertheless come to reflect, in equal measure, the subjective agency of all—albeit in some "second-order" sense.

The socialist dream of "social" or "collective" or "democratized" ownership of the means of production, then, is simply an extension of this liberal ideal. In seeking to resolve the problems associated with vast asymmetries in the ownership of capital, therefore, they proposed a solution which mimicked the liberal state's response to the constant insecurity and conflict enabled by parallel asymmetries in access to the means of violence: i.e., monopolizing those means and subjecting them to some form of social control. At base, the socialist claim is that it is not only the basic legal framework that must be subjected to social control—and thereby made consistent with the agency of all—but the means of production as well. The difference between liberals and socialists, on this picture, is simply the kind of power which is understood as politically relevant, and as a corollary, the kind of subjective agency which must be equalized.

For two reasons, however, we shall not consider the collective ownership of the means of production any further. First, of course, is the series of spectacular failures this scheme has encountered in practice, which in my view reflects not an unfortunate sequence of contingent mistakes but a set of much deeper problems with the very idea of "collective ownership," to which I shall return in chapter six. Second, then, is its singular focus on one

form of power—i.e. capital—and its corresponding neglect of the many other forms of power that have since been politicized by radical thinkers.

What I shall examine instead, as the most promising and comprehensive attempt to reconcile "radical" concerns about power with a fundamentally "modern" orientation to constructive political theory, is the "deliberative democracy" inspired by Jürgen Habermas. Steeped in the critical theory of the "Frankfurt school," Habermas could hardly ignore the ways in which the liberal focus on coercion, interference, and state power neglects a whole swath of highly suspicious forms of ideological power; nor the ways in which liberal-capitalist "rationality" permits, naturalizes, and even encourages a host of pathological outcomes. In his work, therefore, he assumes that subjects are not only constrained from the outside; that their expressed beliefs and preferences under the influence of such invasive forms of power ought not be taken as definitive of their true subjective interests. In Iris Marion Young's account, "a theory of communicative action conceives individual identity not as an origin but as a product of linguistic and practical interaction."[77] Rather than attempting to interpret and reconcile the desires of subjects taken as they are, then, he advocates a focus on the discursive processes by which their beliefs and preferences are created.[78]

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[77] Young, *Justice and the Politics of Difference*, 45. Young cites Habermas, *Theory of Communicative Action, Vol 2*, 3–40.

[78] Habermas developed his arguments in a series of important books throughout the second half of the 20th century, but in this regard, see especially *The Structural Transformation of the Public Sphere*; *Theory of Communicative Action, Vol. 1*; *Theory of Communicative Action, Vol 2*.

In this way, we can understand the basic claim of the philosophical program that has come to be called deliberative democracy—building on Habermas' work—as the following: that each individual should have "equal influence" over the basic structure of society. This claim should be familiar from our discussion of popular sovereignty; the key difference between majoritarian and deliberative proceduralists, however, is that the conception of the "basic structure" assumed by the latter is far wider than that assumed by the former. For Habermas and others, the proper targets of socialization or democratization of control are not restricted to the legal and institutional framework within which conflicts between already-formed subjectivities are resolved. Since majoritarian procedures take the preferences of individuals as given, they will simply perpetuate whatever power relations are already embedded within those preferences.[79] As radical theorists have long pointed out, liberal institutions which give equal weight to the beliefs and preferences of all people *as they are* will benefit those who are advantaged by cultural and ideological forms of power.[80] Thus, deliberative democrats in a Habermasian tradition also target, as part of the "basic structure" which must be subjected to social control, the norms and discourses which drive the formation of beliefs and preferences in the first place. On their view, it is only when people have equal influence over this far more expansive set of social practices and assumptions that they can be considered to be truly equal.

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[79] Elster, "The Market and the Forum."
[80] Marx, "On the Jewish Question"; Gramsci, *Selections from the Prison Notebooks*; Althusser, "Ideology and Ideological State Apparatuses"; Lukes, *Power: A Radical View*.

For liberals in my schematic picture, the paradigmatic political relationship is an antagonistic one between the state and the individual, whereby the goal of liberal and democratic institutions is to keep the state from interfering illegitimately with the autonomous choices or the authentic identities of individuals. Recognizing that choice and identity are constantly being constructed and reconstructed on all sides, however—and cannot simply be taken for granted as "inputs" to the political process—they refigure the primary political relationship as discourse among citizens: i.e., the processes by which choice and identity are constructed in the first place. As a result, the heart of deliberative theory is discourse ethics—the rules which should guide that process of co-construction.[81]

The project of "deliberative democracy" has many sources, theoretical and practical, and as we have already seen, there are many "deliberative" theories of legitimacy, democracy, justice, and power, which more naturally fit the "revisionist liberal" label—especially those which are more directly inspired by Rawlsian "public reason" than the critical theory of Habermas. Even Habermas, in his later years, has turned more and more to issues of constitutional and legal legitimacy—i.e., to a "liberal" focus on the state and its coercive power.[82] The philosophical project inaugurated by Habermas, however, in its earliest and most thoroughly constructivist forms, was aimed at integrating radical critiques with a modern faith in equal agency, and it therefore did not limit itself to the project of legitimizing coercion or interference. As a result, it is very attractive for those with radical

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[81] Habermas, *Moral Consciousness and Communicative Action*.
[82] This trend begins with Habermas, *Between Facts and Norms*.

concerns who nevertheless hold dear the ideals of modernity and the Enlightenment, who have often ended up endorsing some form of deliberation as key to a reconciliation.[83]

There is disagreement among deliberativists, of course, about what sort of intersubjective exchange is necessary, and why we should trust it to legitimize the norms and discourses which shape our beliefs and preferences. For Habermas, we should trust communicative reason because it is governed by a logic of truth and universalism.[84] When we engage in discourse according to his conception of discourse ethics, we subject ourselves to a set of constraints on our speech, such that we may not employ self-interested motives or strategic inconsistencies. Thus, the progress of discourse naturally eliminates any propositions or norms that fail to withstand the scrutiny of rationality and universalizability. Others following in Habermas' footsteps, however, have rejected his trust in this logic, pointing out the ways in which "reasonable" discourse still privileges certain subjectivities over others.[85] Where they have sought to preserve the goal of deliberation, then, they have advocated more open and expansive forms of communication and intersubjective exchange.[86] So long as it embraces the logic of equal agency as an ideal, however, any deliberative theory must hold that *some* kind of agency, once equalized, would *truly* represent equal treatment.

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[83] See, e.g., Ron, "Power"; Young, *Inclusion and Democracy*; Knight and Johnson, *The Priority of Democracy*; Hayward, "What Can Political Freedom Mean in a Multicultural Democracy?"; Allen, *The Politics of Our Selves*; Allen, *Talking to Strangers*.

[84] See especially the discussion in *Moral Consciousness and Communicative Action*, 57–76.

[85] Sanders, "Against Deliberation"; Young, "Activist Challenges to Deliberative Democracy."

[86] See, for example, Benhabib, *Democracy and Difference: Contesting the Boundaries of the Political*; Krause, *Civil Passions*.

Even Clarissa Hayward ultimately revives a version of this logic. Above, I approvingly cited her rejection of the dichotomy between action that is "independently chosen and/or authentic"[87] and action that is "shaped by the action of others."[88] Nevertheless, she places her trust in a conception of "political freedom" as the "capacity to act upon" the power structure—i.e., "the boundaries that constrain and enable social action"—thereby veering dangerously close to the dichotomy she explicitly disavows. While power, she acknowledges, is everywhere, she adopts "domination" as her term of abuse instead, to divide those social relations that hinder political freedom from those that promote it.[89] In the end, therefore, her account ends up relying on the seductive logic of equal agency, placing domination is in a dichotomous relationship with political freedom, and framing the ultimate end of politics as equal political freedom.

1.5 ~ Beyond naturalization: The "postmodern" alternative

> *A characteristic liberal sleight of hand involves trying to naturalize or otherwise obscure liberal institutional arrangements in order to disguise the particular regime of public institutions that they favor.*
> — *Ian Shapiro*[90]

In this chapter, I have demonstrated the pervasiveness of the logic of equal agency in contemporary political theory and philosophy. I began with a schematic narrative of its roots in a modern turn to "subjective" rather than "objective" approaches to human interests, before pointing out two dilemmas that must be faced by any theory aiming to use

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[87] Hayward, *De-Facing Power*, 4.
[88] Ibid., 15.
[89] Ibid., 39, 170–174.
[90] Shapiro, *Democratic Justice*, 32.

the logic of equal agency as a top-level heuristic, and exploring a series of prominent responses to each. I categorized these responses as "classical," "revisionist," or "radical," according to how they conceived of the dichotomy between freedom or agency, on the one hand, and power on the other.

In doing so, I have tried to show them in a fair and attractive light, while also noting the difficulties encountered by each, and the disagreements between and among the wide variety of approaches I surveyed. In concluding, however, and preparing the ground for the chapters to follow, I will begin to show my hand, highlighting a pattern in the sequence of responses I have presented: each subsequent category exposes a different domain of human life as *artificial* rather than *fixed by nature*—and each, in my view, is correct to do so. As a result, this domain of human life instead appears "naturally" subject to revision, which in turn opens that domain—correctly, again—to political theorization.

On "objective" approaches, for instance, human life was assumed to have some kind of *natural* form, but the "classical liberal" objects to this assumption, de-naturalizing the shape of a human life and seeking to subject it to the choice of individuals, in the process spawning language of "self-ownership" and "self-determination." For the most part, however, the "classical liberal" as I have drawn him does not extend this de-naturalization to *political* forms, which therefore appear simply as a backdrop to individual choice and are not themselves subject to revision. The "revisionist liberal" de-naturalizes those political forms as well, opening them up to collective choice. Finally, while private ownership of the means of production or patriarchal gender roles are "naturalized" by

revisionist liberals, "radicals" seek to *de*-naturalize these features of human existence, exposing them all as artificial and, therefore, as properly subject to revision.

In each stage of this sequence, de-naturalizing a particular domain of human life—exposing it as an artificial human creation—makes it *naturally* an object of choice. Each stage is correct in doing so, I surmise. Yet none goes far enough. The "postmodern" argument I develop in the next chapter, then, is simply that we ought to follow this sequence to its logical conclusion: i.e., that *everything* about human life is "artificial," and that everything is therefore "naturally" subject to revision. In practice, of course, we cannot simultaneously revise everything at once, but the point of the postmodern argument I develop is that we ought not render any domain of human life off limits, *in principle*, to revision.

As a result, postmodern views need not reject all of the tools developed by modern approaches, such as the classical liberal's emphasis on autonomous choice, or the revisionist liberal's insistence that state power be justifiable to all, or the deliberative democrat's emphasis on reasonable communication. If they are embraced, however, they must be embraced as *tools*: i.e., as particular responses to particular circumstances, whose usefulness is understood as contingent rather than necessary or universal. What postmodern approaches must reject is the idea that autonomous choice is the *only* politically relevant good; that the justifiability of state coercion is *always* the most important concern; that any form of communication is *entirely* trustworthy. What they must reject, in other words, is the idea that any form of agency, once equalized, could ever represent truly equal treatment.

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Chapter Two: Beyond the Search for the Subject

2.1 ~ Introduction

> *Trust those who seek the truth; doubt those who find it.*
>
> *— Andre Gide*[1]

In the previous chapter, I argued that a key innovation of modern liberalism was to trust individual subjects to determine their own interests rather than deciding what their interests are from some supposedly "objective" external perspective. As I also showed, however, there is great disagreement among liberals and democrats about what this means. Where those I called "classical" liberals have defined freedom roughly as the absence of coercion or interference, "revisionist" liberals have understood only "illegitimate" or "arbitrary" or "undemocratic" coercion as inimical to freedom, and those I labeled "radical" theorists have sought to expand the scope of our suspicions beyond coercive forms of power altogether. As socialists feminists, postcolonial theorists and others have long pointed out, many uncoerced "choices"—even when experienced as authentic or autonomous—may, in some sense, still be impositions. This represents the first dilemma of equal agency outlined in the previous chapter: how can we know what a subject *really* wants?

Placing the work of Michel Foucault in conversation with contemporary scientific treatments of human nature and agency, I argue in the present chapter that this question cannot be answered. No amount of knowledge will enable the expression of one's truly autonomous choices and authentic desires; no configuration of rights or capabilities can

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[1] Gide, *Ainsi Soit-Il, Ou Les Jeux Sont Faits*.

guarantee self-actualization; and no particular set of beliefs and habits will finally liberate the authentic subjectivity of the working class, or women, or formerly colonized peoples—or anyone else supposed to suffer from "repression" or "false consciousness"—for the simple reason that there is no authentic, essential self or subject to be liberated.

This "postmodern" critique of subjectivity is not, of course, a revolutionary innovation—in fact, "the death of the subject" represented most prominently by the work of Foucault is often treated as a fait accompli by many in the increasingly post-humanist humanities.[2] Neither is my analysis of Foucault especially novel. Foucault was both a highly productive and a ceaselessly creative scholar, and he is already widely known throughout the social sciences and humanities not just for a single groundbreaking, paradigm-shifting theoretical innovation, but for several. I shall not adopt the pretense, therefore, of improving upon the vast body of existing interpretive scholarship. My purposes in discussing his work, rather, are threefold.

First, the obituary for the subject bears repeating—evidently, many scholars in political theory have failed to grasp its significance—and I return to Foucault's account simply because it is among the first and best known formulations. I hope that in elaborating Foucault's critique of the subject in the context of the previous chapter and my reading of the scientific literature, its significance will become clearer to those who are not yet convinced. Second, meanwhile, even among those who are convinced, few have noticed the extent to which this insight is confirmed and extended by research in the biological and

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[2] Ruddick, "When Nothing Is Cool."

cognitive sciences, which over the last several decades have begun to understand human nature and agency in resolutely anti-essentialist terms.[3] As I demonstrate in this chapter, it is precisely because of the kinds of biological beings we are that we are thoroughly constructed by social and cultural power. It is precisely the *correct* account of human "nature," in other words, which compels us to reject the naturalized or essentialized accounts of subjectivity which populate much political theory. Finally, a significant part of integrating the insights of "critical" and "practical" is demonstrating that my constructive arguments for certain liberal and democratic institutions are consistent with a "postmodern" (and specifically Foucauldian) analysis of power and subjectivity.[4] Since Foucault's account has often been at the center of debates about whether such a reconciliation is possible, it is useful to begin with his statement of the problem.

I have, then, a rather limited agenda: I seek only to explain, clarify, and elaborate a Foucauldian critique of subjectivity, so that I may ultimately use it in my broader argument against ideals of equal agency. The core insight I seek to defend can be stated as follows: we must reject any attempt to draw clear, normatively significant boundaries between subjective agency, on the one hand, and the constraints of power, on the other.

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[3] There are, however, exceptions. Among scholars with a comprehensive understanding of Foucault's work who have paid attention to developments in these fields, indeed, a similar appreciation has emerged. Though this chapter offers a unique reading of Foucault's core lesson and its relationship to contemporary science, therefore, it is not alone in noting complementarities between the two approaches. See, e.g., Connolly, *Neuropolitics*; Thiele, *The Heart of Judgment*; Johnston and Malabou, *Self and Emotional Life*; Massumi, *Parables for the Virtual*; Meehan, "Feminism and Rethinking Our Models of the Self"; Rabinow and Caduff, "Life – After Canguilhem."

[4] As noted in the introduction, there are many ways of formulating the objections raised by the "critical" tradition to ideals of individual agency, though they are clearly not unrelated. I choose to focus on Foucault's formulation in particular because of the most prominent perspectives in this tradition which might be employed against a logic of equal agency—including, for example, Derrida, Deleuze, Lacan, and so on—I find his to be by far the most compelling.

2.2 ~ *What a subject really wants: Foucault's critique of subjectivity*

> *But there is no such substratum; there is no 'being' behind the doing,*
> *effecting, becoming; 'the doer' is simply fabricated into the doing—the*
> *doing is everything.*
>
> — *Friedrich Nietzsche*[5]

We may start on the "power" side of the misconceived dichotomy between internal, subjective agency and external, constraining power. Any conception of power as "constraining" otherwise autonomous or authentic subjects, Foucault argues, is incomplete at best, and dangerous at worst. He labels it the "juridical" or "sovereign" account of power, claiming that it is an artifact of the late medieval recovery of Roman law,[6] and that its use was cemented in the early modern world both by monarchs and their enemies, fighting on the terrain of legitimacy.[7] Against this conception of power, he famously asserts that we must "cut off the head of the king" in political theory[8]—that is, we must abandon the notion that power can be exerted only by sovereign individuals who intend to exert it (such as the king), and only through the juridical means of constraint and repression.[9] Rather than merely constraining and repressing, then, power may be "productive."[10] Instead of being the possession of individuals who may use it at will, power creates individuals and circulates through them: "The individual is in fact a power-effect, and at

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[5] Nietzsche, *On the Genealogy of Morality*, 25.
[6] Foucault, *Society Must Be Defended*, 34.
[7] Ibid., 26.
[8] Foucault, *History of Sexuality, Vol. 1*, 88. See also Foucault, "Truth and Power," 122.
[9] Foucault, "Truth and Power," 120; Foucault, *Society Must Be Defended*, 28. See generally Foucault, *History of Sexuality, Vol. 1*.
[10] Foucault, "Truth and Power," 120.

the same time, and to the extent that he is a power-effect, the individual is a relay: power passes through the individuals it has constituted."[11]

In broad strokes, Foucault's "middle period" work may be characterized as a series of retellings of standard historical narratives, which in the terms of juridical and sovereign power appear to be liberations—medicalizing madness as "mental health;"[12] replacing public torture with the "humane" treatment of prisoners;[13] and uncovering the repressed "truth" of sexuality.[14] In his narration of each supposed liberation, however, any real reductions in the reach of "juridical" power are accompanied by an increase in the intensity of productive forms of power that cannot be adequately captured by the language of constraint and repression.[15] Due in part to its subtlety, this kind of power can sometimes be more pernicious than juridical or sovereign power: it is able to hide in plain sight in a society whose dominant conception of power is stuck in the world of late medieval monarchs. Not only does the juridical conception of power miss out on other types of power, in other words, it actively conceals and legitimizes them.

Turning to the other side of the traditional dichotomy between constraining power and subjective agency, then, Foucault's account implies that subjects are not best understood as having an authentic or autonomous core which can be constrained varying degrees by

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[11] Foucault, *Society Must Be Defended*, 29–30.
[12] Foucault, *Madness and Civilization*.
[13] Foucault, *Discipline and Punish*.
[14] Foucault, *History of Sexuality, Vol. 1*.
[15] Foucault does not intend for his description of the more sinister elements of these transformations to engender nostalgia for the past – in fact, his intention was the opposite: "I was carrying out a historical analysis in such a manner that people could criticize the present; but it was impossible for them to say, 'Let's go back to the good old days…'" Foucault, "Space, Knowledge and Power," 359.

inauthentic external influences. Instead, each individual subject is a "power-effect,"[16] necessarily constituted by such "external" influences. The goal implied by the logic of equal agency, therefore—liberating an authentic subject from external constraints—blinds us to the dangers posed by such productive forms of power; the processes by which individuals "constitute themselves as subjects," forming habits, identities, practices, and perspectives. Though these processes are often highly suspicious—as when women or people of color are habituated to deference and inferiority, for instance, thereby increasing the relative power of males and whites—they are actively concealed by exclusively repressive conceptions of power. Because "subjectification" acts upon a person's subjective experience of the world, rather than appearing as an external barrier to her agency, the resulting subordination is naturalized and thereby unrecognized as an injustice.

The distinctive nature of Foucault's "postmodern" claims is perhaps best appreciated by way of a contrast with the critique of liberalism developed by "modern" radicals represented most prominently by Marxists such as Lukes, Gramsci, and Althusser. In some ways, of course, Foucault mimics tis critique: just as bourgeois "ideology" is a particularly insidious form of power—generating a "false consciousness" that leads oppressed subjects to believe they are free—"productive" power is all the more pernicious for being unobservable to those it has ensnared. For Foucault, however, Marxism—or "academic" Marxism, at least—"exhibits a very serious defect—basically, that of assuming that the human subject, the subject of knowledge, and forms of knowledge themselves are

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[16] Foucault, *Society Must Be Defended*, 29–30.

somehow given beforehand and definitively, and that economic, social, and political conditions of existence are merely laid or imprinted on this definitely given subject."[17] The Marxist notion of "ideology," he argues, is ultimately quite similar to liberal conceptions of power, in that it is primarily repressive rather than creative of the subject: "ideology is a sort of negative element through which… the subject's relation to truth… is clouded, obscured, violated by conditions of existence, social relations, or the political forms imposed on the subject of knowledge from the outside."[18]

In imagining that ideology imposes a discrete set of false beliefs upon subjects, Marxists—along with many feminists and others inspired by the notion of "false consciousness"—are still focused on the possibility of liberating the truly authentic subject; i.e., that which remains when the demonstrably false beliefs have been removed. But Foucault is suspicious of this notion of liberation, which

> …runs the risk of falling back on the idea that there exists a human nature or base that, as a consequence of certain historical, economic, and social processes, has been concealed, alienated, or imprisoned in and by mechanisms of repression. According to this hypothesis, all that is required is to break these repressive deadlocks and man will be reconciled with himself, rediscover his nature or regain contact with his origin, and reestablish a full and positive relationship with himself.[19]

Rather than simply *imposing* certain false beliefs upon a pre-given subject, Foucault insists, power *creates* the subject, inflecting its unconscious habits, languages, and social practices; even the body itself. Foucault's historical studies all narrative how various sorts of subjects

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[17] Foucault, "Truth and Juridical Forms," 1–2.
[18] Ibid., 15.
[19] Foucault, "Ethics of Care of the Self," 282.

are brought into existence by some form of what he came to call "disciplinary" power. Some "misbehaving" subjects are constituted as mad by the discipline of psychiatry—which is intimately tied up with the institutions of the mental hospital and the state—while others are constituted as criminals by the discipline of criminology and the penal system.[20] Even more subtly, we are all constituted as sexual subjects in particular ways by the scientific, educational, and bureaucratic institutions by which we are governed.[21] Where both liberals and Marxists hold out hope for an escape from illegitimate external power by reference to a realm of authentic internal subjectivity, therefore—demonstrating their common Enlightenment heritage[22]—Foucault denies this possibility.

If we assume that the point of liberal and democratic institutions is to protect individual subjects from the intrusions of illegitimate external power, of course, then Foucault's claim that there is no escape from power can seem unhelpfully pessimistic; potentially even quietist or "conservative."[23] This accusation, however, relies on precisely the sort of mutually exclusive relationship between external power and internal freedom that Foucault explicitly rejects. Rather than imagining a "face to face confrontation of power and freedom as mutually exclusive facts (freedom disappearing everywhere power is exercised)," Foucault maintains that "power is exercised only over free subjects, and only insofar as they are 'free.'"[24] By "free," here, he means that subjects are "faced with a field

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[20] Foucault, *Madness and Civilization*; Foucault, *Discipline and Punish*.
[21] Foucault, *History of Sexuality, Vol. 1*.
[22] Haugaard, "Power," 5.
[23] Fraser, "Michel Foucault."
[24] Foucault, "The Subject and Power," 342. See also the discussion in Foucault, "Ethics of Care of the Self," 292.

of possibilities in which several kinds of conduct, several ways of reacting and modes of behavior are available. Where the determining factors are exhaustive, there is no relationship of power."[25] Freedom is defined not as the absence of any sort of power, therefore, but as the absence of total control by "determining factors," as in the case of perfect slavery or purely physical constraint. Power, by contrast, is "a mode of action that does not act directly and immediately on others. Instead, it acts upon their actions."[26]

Freedom, being constitutively enmeshed in power relations, has no intrinsic value, good or bad, and as a corollary, power is not inherently evil: "that idea, which is very far from my way of thinking, has often been attributed to me. Power is not evil. Power is games of strategy."[27] In arguing that there is no escape from power, Foucault seeks to show not that "everything is bad," he explains, merely "that everything is dangerous."[28] By highlighting productive, disciplinary forms of power, therefore, Foucault does not claim that no differences can be found between juridical and disciplinary power—far from it. Rather, he seeks to show how the juridical conception conceals other types of power that may *also* be dangerous. That is the point of bringing them all under the label of "power," despite the fact that he acknowledges differences between forms. If everything is a power-effect, and so everything is dangerous, this does not mean that it is impossible to discern

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[25] Foucault, "The Subject and Power," 342.
[26] Ibid., 340.
[27] Foucault, "Ethics of Care of the Self," 298.
[28] Foucault, "On the Genealogy of Ethics."

better and worse relations of power; better and worse power effects. Indeed, we should: "the ethico-political choice we have to make… is to determine which is the main danger."[29]

The trouble comes when, in our zeal to avoid imposing some allegedly "objective" conception of human interests upon others, we put our faith instead in a particular boundary between their authentic internal subjectivity, on the one hand, and external "constraints" on the other—suggesting that the latter category describes all harms worthy of (political) resistance. Against this goal—which is central to the logic of equal agency—Foucault's analysis resists any attempt to separate the realm of power from that of freedom; any attempt to fix and categorize danger, and thereby confine it. As long as we choose to fix a type of influence to trust, he suggests, we invite it to exploit us. As soon as we define the "true" boundaries of the subject, power will infiltrate these boundaries as a way of escaping our critical vision.

Foucault's posture can be helpfully understood as one of persistent and thoroughgoing "de-naturalization," of the kind described in the conclusion of the previous chapter. Many forms of domination become entrenched and justified by becoming naturalized through systems of knowledge. The superiority of the white race, of the nobility, of men, and of heterosexuality, have all at one time appeared to both oppressor and oppressed as natural. This is why it was so important for Foucault to reveal the power relations that constitute scientific practice: i.e., not because they have no value, but because they are not magically

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[29] Foucault, "Ethics of Care of the Self," 256.

immune to dangerous power relations, as they are often perceived to be.[30] Like all human institutions, science is done by human beings, who are both products and conveyors of power; yet receiving the imprimatur of science is often enough to render something as incontestable. The declarations of "scientists"—especially when they speak about human beings—have a particularly potent "naturalizing" power. What's more, scientific disciplines are not merely self-contained discourses affecting primarily the *beliefs* of subjects in their grip. Rather, they are intimately tied up with institutions, social practices, and all of the "capillary" tentacles of power. Thus, the relations of power embedded in knowledge production are inscribed on the deepest levels of the individuality and subjectivity of subjects.

One of the clearest examples of this phenomenon is the sense of inferiority often internalized by colonized subjects, endorsed by "authoritative" racial scientists and embedded in innumerable social practices and institutions.[31] The entire subjective experience associated with such a vivid awareness of one's place in society cannot be traced merely to a false belief that could be shed while maintaining a core subjectivity. Indeed, many colonized subjects whose subjectivity was forged among ubiquitous

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[30] As he said in a later interview, for example, "One can show… that the medicalization of madness, in other words, the organization of medical knowledge around individuals designated as mad, was connected with a whole series of social and economic processes at a given time, but also with institutions and practices of power. This fact *in no way impugns the scientific validity* or the therapeutic effectiveness of psychiatry: it does not endorse psychiatry but neither does it invalidate it. It is also true that mathematics, for example, is linked, albeit in a completely different manner than psychiatry, to power structures, if only in the way it is taught, the way in which consensus among mathematicians is organized, functions in a closed circuit, has its values, determines what is good (true) or bad (false) in mathematics. This in no way means that mathematics is only a game of power, but that the game of truth of mathematics is linked in a certain way – without thereby being invalidated in any way – to games and institutions of power" (emphasis added). Foucault, "Interview," 296.

[31] For a vivid description of this process, see Fanon, *The Wretched of the Earth*.

messages of racial or ethnic hierarchy were able to see through the explicit proclamations of scientists about their comparative racial "fitness"—they were not, that is, in the grip of some specific "ideology" or "false consciousness." Rather, this "knowledge" was encoded in much subtler and more pervasive ways, in their experience of the world, their habits, their unconscious biases, and the narratives through which they understood their lives.

Of course, white subjectivity cannot be understood as any more separable from relations of power, even if white subjects tend to *benefit* from those relations of power more often than others. The point is that there is no *normal* or *natural* subjectivity which racial and ethnic prejudice *distorts*. Rather, subjectivity is *always already* inflected with power; there is no subjectivity that is not a power-effect. In the same way, there can be no procedure for distinguishing our true or trustworthy subjective interests from those that have been imposed upon us. Thus, rather than "starting out with a theory of the subject— as is done, for example, in phenomenology or existentialism," Foucault sought to study "how the subject constituted itself, in one specific form or another, as a mad or a healthy subject, as a delinquent or nondelinquent subject, through certain practices that were also games of truth, practices of power, and so on."[32] Healthy subjects were constituted by these practices just as much as mad subjects. The trouble with naturalized theories of the subject, therefore, is not that they distort a true understanding of subjectivity, but that they try to settle on a single understanding of subjectivity in the first place.

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[32] Foucault, "Ethics of Care of the Self," 290.

In the wake of what I identified as the "modern" turn to subjectivity, political thinkers rightly rejected *certain* essentialist theories of human nature, whereby a teleological conception of the best human life could be read off sacred texts or observations of human flourishing. In its place, however, they substituted a picture of the human being as fundamentally a willing subject whose greatest perfection is self-determination or "sovereignty": the manifestation of an internal subject in the external world. This reflects the transition from objective to subjective interests as the primary terrain of political theory. We should read the Foucauldian "postmodern" view, then, neither as an extension of the celebration of subjectivity, and therefore as a descent into relativism as the most extreme form of deference; nor as a call for a return to a teleological view. It is rather a rejection of both of these fundamentally essentialist conceptions of human nature in favor of *anti*-essentialism—a view which, as it happens, is supported by the best contemporary biology and cognitive science.

2.3 ~ Evolved plasticity: A postmodern view of human nature and subjectivity

> *For decades, proponents of the power of culture in human development have been tribal enemies of those who champion the power of evolution. The former have been vilified for portraying humans as blank slates; the latter scorned for embracing genetic determinism. The middle ground was no-man's-land. Now, at last, the war might be over. A consensus is emerging that humans have an impressive capacity for open-ended change, much as culturalists have claimed, but that this is a result of genetic evolution—and is itself an evolutionary process. Culture can now be approached from an evolutionary perspective, while evolutionists have much to learn from the "natural historians" of cultures.*
>
> *— David Sloan Wilson*[33]

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[33] Wilson, "Forget Fittest, It's Survival of the Most Cultured."

At first, the biological and cognitive sciences may seem an odd place to find support for Foucault's "denaturalizing" posture, given his wariness of the "normalizing" tendencies of science, and of what he called the "human sciences" in particular. Many of his followers have followed his lead in this regard—some much farther than Foucault seems to have intended—and as a result, many scientists have written off Foucault's "postmodern" perspective as little more than anti-science relativists. With a little charitable interpretation, however, we can reject the terms of this conflict, synthesizing the best work in both traditions to develop an account of human "nature" and subjectivity which is consistent with the core commitments of both.

To clarify, then: my claim is not that science "proves" Foucault right. Given continuing disagreement about the details and implications of the scientific results I discuss in this section, as well as the fallibility of science more generally, granting such unquestioned priority to scientific evidence would be unwise. The role it plays here, then, is as one among several forms of evidence which, when taken together, suggest a particularly compelling account of what it is to be human.

A Darwinian defense of anti-essentialism

Many Foucauldians shy away from discourses of Truth and especially Human Nature, of course, whose destructive path through history has been catalogued in detail, but this does not necessarily entail a rejection of all accuracy claims whatsoever. Regardless of whether she states it in these terms, for example, Judith Butler's Foucauldian account of

sexuality is *more accurate* than previous accounts.[34] What makes it more accurate, though, is its *anti-essentialism*; its recognition that the "nature" of sexuality is not fixed.[35] Since discourse inevitably structures experience, the description of homosexual acts as sinful was often painfully accurate from the perspective of those committing them, and the liberal view of sexual "orientation" as a natural binary (which Butler and others have attempted to displace) nevertheless accords with the experiences of many contemporary gays and lesbians. However, we will never capture the "final" truth of sexuality, since this "truth" is a moving target—one that is partly constituted by our attempts to find it—and this is the central feature of both Foucault's and Butler's "postmodern" accounts.

What this means is not that there is no biological component to sexuality, but simply that complex subjective experiences like sexuality are shaped by social relations of power *just as necessarily* as they are shaped by biology. It is not possible to identify a purely "natural" form of sexual desire, which has been liberated from social constraints and is therefore a reliable guide to an agent's true subjective interests. As a result, naïve appeals to "human nature" or the "naturalness" of certain subject positions and social forms simply serve to blind us to the ways in which relations of power are also inevitably involved in structuring our assumptions, habits, and social practices.

Far from denying the significance of biology, then, this postmodern account is more accurate precisely because it correctly identifies the kinds of biological beings we are, as

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[34] Butler, *Gender Trouble*.
[35] See also Fausto-Sterling, *Myths Of Gender*; Fausto-Sterling, *Sexing the Body*; Laqueur, *Making Sex*; Warner, *The Trouble with Normal*.

confirmed and extended by the best biological and cognitive science. First, of course, biologists long ago abandoned the simplistic idea that traits could be either genetic or environmental. We are still far from understanding the vast complexity made possible by the interaction of genetic, epigenetic, and environmental factors, but we can say with certainty that naïve claims of genetic determinism have no place in serious biological or psychological science.[36] As the biologist Paul Ehrlich quips, "trying to separate the contributions of nature and nurture to an attribute is rather like trying to separate the contributions of length and width to the area of a rectangle."[37]

More importantly for our purposes here, *homo sapiens* is an especially flexible, plastic organism. "The great evolutionary advantage of human beings," the psychologist Alison Gopnik summarizes, "is their ability to escape from the constraints of evolution"—and as a result, "plasticity is… the key to human nature at every level, from brains to minds to societies."[38] Or in the behavior biologist Robert Sapolsky's words, "what human genes are about, most dramatically, is coding for ways in which you have freedom from the effects of genetics."[39] Rather than relying on the "classical theory of essences," George Lakoff and Mark Johnson explain, contemporary biology and cognitive science understand human "nature" in terms of "variation, change and evolution… it is part of our nature to vary and change."[40] The reason this "evolved plasticity" conveys such a distinct evolutionary

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[36] See, e.g., Francis, *Epigenetics*; Ridley, *Nature Via Nurture*; Frost, *Biocultural Creatures*.
[37] Ehrlich, *Human Natures*, 6.
[38] Gopnik, *The Philosophical Baby*.
[39] Sapolsky, "Behavioral Genetics." at 1:32
[40] Lakoff and Johnson, *Philosophy in the Flesh*, 553–57.

advantage, then, is that it enables us to learn from one another in a cumulative fashion, eventually building and transmitting extremely complex sets of cultural practices.[41]

Evolutionary theorists consider the invention of culture to be one of the great evolutionary transitions, on par with the jump from self-reproducing protein strands to units called cells, and from single- to multi-cellular organisms.[42] Each of these transitions was a crucial advance in the ability of "selfish" units to bind their fates together, cooperating with one another for mutual advantage, and each allowed creativity and diversity in evolution on a different order of magnitude than had previously been seen. The introduction of culture did this too, by creating a completely different system of heredity than the one that had been responsible for all previous creativity and diversity—the self-replicating protein strands known as RNA and DNA. While cultural transmission lacks many of the advantages of particulate, high-fidelity protein replication, it has the advantage of being orders of magnitude faster. In the evolutionary biologist Mark Pagel's words, culture stands "in relation to our genetical evolution something like an animal's behavior does to the more leisurely movement of a plant."[43] It is true, he writes, that we are in some sense "wired" by our biology. But it is crucial to understand that what we are wired "for" is *culture*.

As Pagel observes, "we are the only species that acquires the rules of its daily living from the accumulated knowledge of our ancestors rather than from the genes they pass to

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[41] See also Prinz, *Beyond Human Nature*; Oyama, *Evolution's Eye*; Tomasello, *A Natural History of Human Thinking*; Warneken and Tomasello, "Cognition for Culture"; Marks, "The Biological Myth of Human Evolution"; Pagel, *Wired for Culture*.
[42] Smith and Szathmáry, *The Major Transitions in Evolution*; Jablonka and Lamb, *Evolution in Four Dimensions*.
[43] Pagel, *Wired for Culture*, 10.

us."[44] A newborn human could be born into a staggering variety of ecological contexts, from the "Arctic ice" to the "rich tropical coasts of Papua New Guinea," meaning that in order to survive, "we have had no choice but to evolve to allow our culture to occupy our minds, writing its language and story into our consciousness."[45] Our biological cognitive architecture, Pagel summarizes, has been selected for its *susceptibility to cultural influence*. Some see this as a kind of "freedom" from the power of biology or genetics, but this is not quite right. From an evolutionary perspective, Pagel points out, the transition to culture was not an unambiguous process of liberation: rather than *eliminating* the power of biology over our behavior, cultural plasticity simply changes the intermediate mechanism through which that power is exerted. Though they no longer dictate our behavior directly, our genes subject us instead to "cultural" power. Our failure to recognize it as power, then—our tendency to understand the particular habits and assumptions we happen to have absorbed as "natural" and "universal"—makes it all the more subtle and effective. It is a very Foucauldian insight indeed.

Such resonances do not end with the general observation that our cultural context is important for the formation of our particular subjectivities in ways that easily escape our notice. For example, Pagel notes that evolutionary biology and cognitive science undermine the assumption that our minds are "designed to perceive the truth and act on it."[46] On the contrary, he argues, the tools of culture such as language, discourse, and

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[44] Ibid.
[45] Ibid., 12.
[46] Ibid., 345. Or, in John Gray's words, "truth has no systematic evolutionary advantage over error." Gray, *Straw Dogs*, 27.

knowledge, came into existence as strategies for "manipulat[ing] others and ourselves."[47] Our brains have evolved not to track the truth, but to make use of "false beliefs, copying, lies, deception, [and] self-deception."[48] He speaks of language as an "apparatus for producing action at a distance"[49] and as "a self-interested piece of social technology" which "watches and regulates our social behavior."[50]

He might as well be quoting Foucault's definition of power as "action on the action of another,"[51] or his conception of discourse as "a strategic and polemical game,"[52] or his view of knowledge as "a certain strategic relation in which man is placed."[53] For Foucault, as for Nietzsche, "there is no such thing as the seed of knowledge,"[54] meaning that our minds are not built for discovering the truth. Instead, "knowledge is simply the outcome of the interplay, the encounter, the junction, the struggle, and the compromise between the instincts."[55] Pagel agrees, pointing out that a stable individual subjectivity "is an illusion, the construction of a mind that is in turn a construction of its genes," which "sometimes don't even agree among themselves,"[56] giving rise to substantial internal conflict. There is no given or universal subject of knowledge or action, in other words, whose perspective is neutral or objective—nor may we even count on a single subject to be stable over time.

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[47] Pagel, *Wired for Culture*, 345. On this point, see also Mercier and Sperber, "Why Do Humans Reason?"
[48] Pagel, *Wired for Culture*, 347.
[49] Ibid., 303.
[50] Ibid.
[51] Foucault, "The Subject and Power."
[52] Foucault, "Truth and Juridical Forms," 2.
[53] Ibid., 14.
[54] Ibid., 8.
[55] Ibid.
[56] Pagel, *Wired for Culture*, 347.

Evolved plasticity: evidence from cognitive science

I have relied on Pagel's work for narrative purposes, but it is important to note that his general understanding is far from heterodox in evolutionary biology.[57] Moreover, it is widely supported by independent discoveries in cognitive science. As a wealth of research in a number of fields has demonstrated over the last several decades, indeed, the idea of a stable, rational, willing subject—which may have a greater or lesser degree of control over emotional, social, and corporeal elements of the self, but is nonetheless distinct from them—is an outdated relic of Cartesianism that has been displaced by a more nuanced understanding of the mind's evolved architecture.[58]

Neuroscientists, for instance, have long recognized that there is "no clean delineation between brain regions underlying emotion and cognition,"[59] while experimental psychologists report that what appears to us as "pure" cognition is always, inevitably, modulated by unconscious biases and "imbued" at every stage with emotion.[60] What shapes these emotions and affects, then, is culture.[61] Cognition is not linear, meanwhile—as it sometimes appears to us—but is rather a vast array of complexly intertwined parallel

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[57] For similar perspectives, see, e.g., Oyama, *Evolution's Eye*; Prinz, *Beyond Human Nature*; Warneken and Tomasello, "Cognition for Culture"; Tomasello, *A Natural History of Human Thinking*; West-Eberhard, *Developmental Plasticity and Evolution*; Frost, *Biocultural Creatures*; Marks, "The Biological Myth of Human Evolution"; Lakoff and Johnson, *Philosophy in the Flesh*; Meloni, "How Biology Became Social, and What It Means for Social Theory"; Rose, "The Human Sciences in a Biological Age"; Ingold and Palsson, *Biosocial Becomings*; Meloni, "The Social Brain Meets the Reactive Genome"; Keller, *The Mirage of a Space between Nature and Nurture*; Fausto-Sterling, *Sex/Gender*.
[58] For invocations of Cartesianism as the enemy of the new cognitive science, see Damasio, *Descartes' Error*, 250–51; Lakoff and Johnson, *Philosophy in the Flesh*, 94–95; Rowlands, *The New Science of the Mind*, 2 and throughout; Gallagher, "Philosophical Antecedents of Situated Cognition," 35.
[59] Phelps, Lempert, and Sokol-Hessner, "Emotion and Decision Making," 265.
[60] Lerner et al., "Emotion and Decision Making," 816.
[61] Morris, Chiu, and Liu, "Polycultural Psychology"; Han et al., "A Cultural Neuroscience Approach to the Biosocial Nature of the Human Brain"; Kim and Sasaki, "Cultural Neuroscience."

processes that have no coherent unity.[62] Human subjectivity is not "a unified, homogenous entity, nor even…… a collection of entities, but rather… a disunified, heterogenous collection of networks of processes."[63] Even the capacities experienced as "rational reflection" and "conscious control" are neither rational nor fully conscious.[64] There is no unique locus of choice and control; no rational agent at the core of the self.[65]

Perhaps the most relevant consequence of this picture for moral and political theory is the inevitably "motivated" nature of reasoning.[66] Thought processes we experience as entirely rational, countless studies have shown, are nonetheless influenced by unconscious interests and implicit biases—even including many we explicitly reject.[67] Over and over again, for example, people who actively disavow racist sentiments have been demonstrated to retain implicit associations between racial minorities and negative emotions or judgments.[68] Even our most basic perceptions of the world are inexorably shaped by our identities and our prior commitments, a phenomenon which reliably and unconsciously reinforces those commitments.[69] Among political psychologists, for example, it is commonly accepted that "partisan loyalties have pervasive effects on perceptions of the political world"[70]—or in the words of one classic study, that party identification "raises a

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[62] Oppenheimer and Kelso, "Information Processing as a Paradigm for Decision Making."
[63] Varela, Thompson, and Rosch, *The Embodied Mind*, 106–7.
[64] Lakoff and Johnson, *Philosophy in the Flesh*, 5–6.
[65] Varela, Thompson, and Rosch, *The Embodied Mind*, xix.
[66] Kunda, "The Case for Motivated Reasoning."
[67] See the review in Greenwald and Krieger, "Implicit Bias."
[68] Greenwald, McGhee, and K, "Measuring Individual Differences in Implicit Cognition"; Sniderman et al., "The New Racism."
[69] Lodge and Taber, *The Rationalizing Voter*.
[70] Bartels, "Beyond the Running Tally," 138.

perceptual screen through which the individual tends to see what is favorable to his partisan orientation."[71] We perceive events and interpret facts such that they confirm and further entrench our pre-existing partisan narratives, which are extremely difficult to dislodge.[72] Even evidence that explicitly challenges these narratives turns out, quite often, to have the perverse effect of supporting them.[73] This particularly resilient "confirmation bias" is observed across a wide variety of contexts, but most reliably where morally and politically charged issues are at stake.[74]

Generalizing from results such as these, which have accumulated steadily from disparate corners of the field, a number of cognitive scientists have begun to articulate post-Cartesian paradigms for understanding the human mind, replacing the outdated "dualism" which assumes a strict separation between an autonomous capacity for rational, conscious control and the emotional, heuristic, socially-inflected, bodily instincts. Instead, many scientists now think of cognition as necessarily "grounded," "situated," "enacted," and "embodied"[75]—confirming and extending the insights of philosophers such as Dewey,

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[71] Campbell et al., *The American Voter*, 133., cited in Bartels, "Beyond the Running Tally."
[72] Kahan et al., "Culture and Identity-Protective Cognition"; Nyhan and Reifler, "When Corrections Fail."
[73] Nyhan, Reifler, and Ubel, "The Hazards of Correcting Myths about Health Care Reform"; Nyhan et al., "Effective Messages in Vaccine Promotion."
[74] Liu and Ditto, "What Dilemma?"; Greene, *Moral Tribes*; Haidt, *The Righteous Mind*; Lodge and Taber, *The Rationalizing Voter*.
[75] Not all cognitive scientists agree on any one formulation, of course. Despite the general acknowledgment that the old paradigms have failed, the precise nature of that failure is in dispute, as well as the findings that should take center stage in any new paradigm for thinking about cognition. Nevertheless, the related proposals of "grounded," "situated," and "embodied" cognition are a good candidate for the most relevant and persuasive paradigm. Varela, Thompson, and Rosch, *The Embodied Mind*; Lakoff and Johnson, *Philosophy in the Flesh*; Robbins and Aydede, *The Cambridge Handbook of Situated Cognition*; Barsalou, "Grounded Cognition"; Noe, *Action in Perception*; Pecher and Zwaan, *Grounding Cognition*; Rowlands, *The New Science of the Mind*; Clancey, *Situated Cognition*.

Heidegger, Merleau-Ponty, and Wittgenstein.[76] As Lakoff and Johnson put it, "there is no such fully autonomous faculty of reason separate from and independent of bodily capacities such as perception and movement. The evidence supports, instead, an evolutionary view, in which reason uses and grows out of such bodily capacities."[77] Our seemingly rational processes of conscious control are inevitably "grounded" or "situated" in non-rational, non-conscious processes; they are "embodied" in our physical bodies, "extended" into the physical world, and "enacted" by our sensorimotor processes.

To see this more clearly, consider Lakoff and Johnson's widely celebrated account of the formation of abstract concepts: "What makes concepts concepts is their inferential capacity, their ability to be bound together in ways that yield inferences. An embodied concept is a neural structure that is actually part of, or makes use of the sensorimotor system of our brains. Much of conceptual inference is, therefore, sensorimotor inference."[78] Primary concepts such as "chair" or "journey" are formulated directly through sensorimotor interaction with the world, while more abstract concepts are achieved when "bodily inference forms are mapped onto abstract modes of inference by metaphor."[79] This means that rational thought is constitutively—rather than causally (and therefore contingently)—embodied.[80] It is not just that reason *happens* to be located in our brains and bodies; the particular forms of reason we have as human beings are what they are only

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[76] Gallagher, "Philosophical Antecedents of Situated Cognition."
[77] Lakoff and Johnson, *Philosophy in the Flesh*, 17.
[78] Ibid., 20.
[79] Ibid., 77.
[80] Robbins and Aydede, *The Cambridge Handbook of Situated Cognition*, 4.

in and through their embodiment in our *particular* brains and bodies. The concepts we use to do all of our thinking have an evolutionary and experiential history which is embedded in those concepts. And, as we have been saying all along, it is not as if that history could be eroded to reveal some underlying rational or truly authentic core. That history is *all there is* to our concepts.

Evolved plasticity and human agency

All this talk of embodiment might seem to have taken us rather far afield from our original focus on the sociocultural sources of our agency, but in fact the two insights reinforce one another. The history embedded in our conceptual structure—and therefore in our capacities for reason and conscious control—is just as much social as biological. More precisely, it is biologically hardwired to be social. Both the primary experiences we have and the way that we map them onto abstract thought are clearly influenced by our social context. Indeed, the fact that this social history is embodied just underscores how central it is to whatever forms of "agency" we may have. As Lakoff and Johnson put it, "we do not, for the most part, have control over how we conceptualize situations and reason about them… we cannot freely change our conceptual systems by fiat."[81] We cannot bootstrap ourselves, in other words, to forms of subjectivity that are definitively more authentic than those we have left behind.

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[81] Lakoff and Johnson, *Philosophy in the Flesh*, 556.

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More generally, Lakoff and Johnson observe, "The very notion of a well-defined, global, and consistent 'self-interest' for any human being over any significant length of time makes no sense," offering three observations in particular:

> 1. Most of our reasoning is unconscious, so most determination of self-interest in our everyday lives is not done at the level of conscious choice.
> 2. Our unconscious conceptual systems make use of multiple metaphors and prototypes, especially in the area of metaphors for what is right and what is good and ought to be pursued. Thus, in most cases there is not a univocal, self-consistent notion of 'the good' or of the 'best outcome.'
> 3. Since our unconscious reasoning about what is a 'best outcome' often conflicts with our conscious determination of the 'best outcome,' there is no single unitary consistent locus of 'self-interest.'[82]

Even the capacity for deliberative reason through which many had hoped to escape the influence of power is itself necessarily embedded in a social identity that is, in Foucauldian terms, a "power-effect." It is simply not true that "reason is the same for all mankind"; or as Kant put it, that "what experience teaches me under certain circumstances, it must always teach me and everybody."[83] Rather, the discursive and disciplinary power which molds our social identity shapes the way we conceive of the most basic elements of rationality such as reasons, evidence, and consistency. Like every other human faculty, in other words, "reason" is an evolved biological capacity which is partly constituted by cultural power, with no "pure," "natural," or "perfect" form. There is no "normal" or "unbiased" mode of reasoning, which can then be "obstructed" or "biased" by "interfering" intrusions into our agency. Rather, reasoning is constituted by bias, heuristic, affect; it is

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[82] Ibid., 559.
[83] The first quote is Danielle Allen's gloss of the broader meaning of the second quote, which is from Kant's *Prolegomena*. See Allen, *Talking to Strangers*, 64. Citing Prolegomena, p. 46-47

"always already" enmeshed in power relations. Trying to separate reason from power, therefore, is not simply difficult, it is incoherent.

To summarize: the conception of human nature and agency which is emerging from evolutionary biology and cognitive science is resolutely anti-essentialist in precisely the way Foucault suggests. The biology thus grounds Foucault's assessment that there can be no hope of finding a "natural" or "authentic" subjectivity—whether common to mankind or unique to each individual—underneath whatever has been "imposed" by cultural power. Each individual human agent is necessarily a tangle of biological and cultural interactions that cannot be disambiguated, even in the ideal. Attempting to defer to what subjects really want, therefore, can only ever result in the imposition of some particular conception of their interests upon them.

2.4 ~ Normativity beyond subjectivity

> *My point is not that everything is bad, but that everything is dangerous, which is not exactly the same as bad. If everything is dangerous, then we always have something to do. So my position leads not to apathy but to a hyper- and pessimistic activism. I think that the ethico-political choice we have to make every day is to determine which is the main danger.*
> — *Michael Foucault*[84]

This chapter began by articulating Foucault's thoroughgoing "postmodern" critique of what I have called the "search for the subject." As Foucault and many others have

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[84] Foucault, "On the Genealogy of Ethics," 256. See also Judith Butler's account in "For a Careful Reading," 141. "It is clear that in order to set political goals, it is necessary to assert normative judgements. In a sense, my own work has been concerned to expose and ameliorate those cruelties by which subjects are produced and differentiated. I concede that this is not the only goal, and that there are questions of social and economic justice which are not primarily concerned with questions of subject-formation. To this end it is crucial to rethink the domain of power-relations, and to develop a way of adjudicating political norms without forgetting that such an adjudication will also always be a struggle of power."

understood, this critique is damaging, at the very least—if not entirely fatal—to both liberal and radical ideals grounded in a logic of equal agency. As we saw in the first chapter, however, such ideals clearly persist in contemporary political theory and philosophy. Many within the tradition I referred to in the introduction as "critical" theory have more or less accepted the so-called "death of the subject" inaugurated by the work of Foucault (among others). Among those in the traditions of "analytic liberalism" and "practical theory," however, most either reject it without much fanfare, or simply ignore it altogether. In order to integrate critical and practical "realisms"—and especially if we are to do so in a way that is at least potentially compelling to analytic liberals—we must move beyond this impasse. We can understand this rejection and ignorance as grounded, then—either implicitly or explicitly—in one of two primary objections to Foucault's approach.

The first claims that by denying the existence of human nature, Foucault's work eviscerates any basis for scientific knowledge and must be a relic of anti-science "relativism"; or worse, a progenitor of the "post-truth" world whose apotheosis is the Presidency of Donald Trump.[85] The previous section has demonstrated, however, that this worry is misplaced. We can capture and even explicate more clearly Foucault's core insights about power and agency, I have shown, by turning to the contemporary science of human nature.

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[85] Gross, Levitt, and Lewis, *The Flight from Science and Reason*.

The second objection is one of "moral" rather than "scientific" relativism, and it may seem to strike nearer to the heart of Foucault's approach.[86] Indeed, many of Foucault's followers seem take it on board, accepting that if we accept the death of the subject, we cannot proceed with constructive normative theory, and must confine ourselves to critique.[87] This objection, however, is equally unfounded, and in this section, I demonstrate why, using the conception of human nature and agency developed in previous sections to elaborate further upon the "agent-relative" approach to political theory that I began to develop in the introduction to the dissertation.

On this approach, recall, theories are to be evaluated not as claims about some external or transcendental reality—describing "things that go ought in the night"—but as tools to be used by particular people, who are collectively assumed to share the goal of respecting the interests of others. In this chapter, then, we have learned more about the intelligent social apes who will use these tools. On the picture I have drawn, it seems, their thoughts and behaviors are structured by an overwhelmingly complex interaction between biological matter and cultural influence. By the time they are capable of reflecting on political ideals, they will already have a working sense of goods and bads, which will be reflected in the kinds of arguments, ideals, and reasons they find persuasive. However, their values will not be fully complete, rationally ordered, or stable across time, and thus, their judgments will always be "intuitive" in the sense of being undertheorized. It will not be possible to

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[86] E.g., Taylor, "Foucault on Freedom and Truth"; Fraser, "Michel Foucault"; Habermas, *Philosophical Discourse*, 266–326; Benhabib, "Feminism and Postmodernism."
[87] Hendrix, "Political Theorists as Dangerous Social Actors."

capture every affect, thought, belief, intuition, or reason that produces even a single action—much less bring them into line with a rigid set of principles for judgment.

What this means for political theories like this one, then—which, by nature, trade in arguments—is that they can only influence action indirectly, incompletely, and unpredictably. A theory is thus, in Jon Elster's words, necessarily an "'essay in persuasion,' not a demonstration."[88] If they are effective in changing action in any straightforwardly "theoretical" way—that is, by providing normative reasons that influence some internal deliberative process and produce changes in behavior—this will mean that they have connected a pre-existing understanding of normative value with some set of possible actions as opposed to others. It will change an intelligent social ape's overall sense of the value of those options; and thereby change the likelihood that s/he will take those actions. And explicitly addressing theory to particular human beings, understood in this way, can help to justify some of the commitments of the "agent-relative" approach I have described.

First, it explains my indifference to "external" or "categorical" reasons which apply to all human beings in virtue of their humanity or rational agency. I am of course not the first to evince skepticism of external reasons,[89] and nothing I say here will shake the confidence of those who are firmly convinced otherwise. In the context of the account of human "nature" I have offered above, however, it is worth noting that such an account would seem to depend upon the existence of some essential feature of human agency such as rational

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[88] Elster, *Securities Against Misrule*, 14.
[89] See, e.g., Williams, *Ethics and the Limits of Philosophy*; Rorty, *Contingency, Irony, and Solidarity*; Herzog, *Without Foundations*.

autonomy or an innate moral sense. At the very least, it would seem to imply a strict separation between the "self-interested" or "strategic" motives involved in practical reason and the "altruistic" or "communicative" motives involved in "properly" moral reasoning. On my anti-essentialist picture of the complex biocultural construction of human subjectivity, however, it cannot be broken down such discrete categories. It would seem to imply, in other words, that "reason is the same for all mankind."

Second, it explains why an "imprecise" conception of "human interests" is appropriate. If we assume that we want to respect the interests of other human beings, of course, it makes sense to figure out what human beings are. Both the objective and the subjective strategies are perfectly understandable responses, then, to the question of how to respect the interests of others. Aristotle, exemplar of the objective strategy, posits a *telos* for human beings, and articulates a set of virtues which best fulfill that *telos* and therefore constitute human flourishing. Kant, exemplar of the subjective strategy, identifies the essential feature of humanity as rational agency instead, and deduces a moral and political philosophy from an account of rationality.[90] Both offer extremely rich, generative theories, from which we can still learn a great deal. The problem, then, is not that either has the wrong account of the *telos* or essence of human beings. The problem is that they posit a single *telos* or essence in the first place. Subjective approaches, I have argued, are right to reject the form of essentialism practiced by teleological thinkers who posit some objective

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[90] To many readers, this seemed to be the strategy of Rawls in *A Theory of Justice*. In the wake of communitarian critiques which posed this reading, however, Rawls later protested that this was not the case; that the theory of justice as fairness was, to use his famous phrase, "political, not metaphysical." I address this possibility briefly in the next chapter.

good for human beings. They lead us astray, however, when they replace it with a different form of essentialism, supposing that the human being is fundamentally a willing being; an agent, whose *telos* is not to achieve any particular end, but to choose its own ends.

If we cannot derive heuristics for political judgment from either an objective or a subjective conception of what is good for human beings, of course, the question arises: whence *should* we derive them? We can answer this question in two ways. One is simply to reject the premise; to say that the trouble comes from the assumption that heuristics must be derived from anything at all, rather than formulated as responses to problems and dangers as they arise. This is a key commitment of the agent-relative approach, as we saw.

We might also productively frame our answer, however, in the flawed terms of derivation, answering that we should derive our heuristics from the *right* conception of human nature—which is to say, an anti-essentialist one. The lesson we learn either way is that out of respect for the "evolved plasticity" of human beings, we should reject the understandable temptation to make advances in political theory by articulating more and more precise conceptions of what human interests *really* are—either in objective *or* subjective terms. If it is true that discourse inevitably structures experience, and that we can never reach a "final" truth about human capacities like sexuality or reason, then there can also be no final or definitive conception of what is good in human life. It is not simply that there is wide variation in the specific virtues, actions, principles, social institutions, cultural rituals, and forms of life valued by people within various cultural environments, which will hardly be news to anyone. What this chapter allows us to see with more clarity, rather, is that at least some of the ends supposedly served by these forms of life across

(nearly) all cultures—including happiness and a sense of effective control over one's own affairs—are themselves thoroughly dependent upon one's cultural context.

It is important to recognize that this claim does imply a particular view of human nature.[91] The anti-essentialism of this conception, however, cautions us against any more concrete assertions, observing instead that speculation about the essential "properties" of humans *qua* humans has most often led us into error. Many more of our behaviors exhibit variation than those of any other species—indeed, nearly all human behavior varies cross-culturally—and this variation exhibits much greater range than it does in any other species. That is what it means to be "wired for culture." As a result, human behavior is governed by relationships between biology and environment whose complexity is many orders of magnitude greater than we observe elsewhere in the biological world. More important for our purposes here, however, is that it is not just our behavior but our *experience* which varies, for it is our experience which registers feelings of pleasure, happiness, fulfillment, agency, authenticity, and so on, which are widely considered central to human interests.

We might be tempted to think, then, that we ought to say nothing at all about the goods in human life, but this too would be a mistake. Regardless of whether or not we *say* anything about the goods in human life, we cannot help *acting* in the world, and in particular, we cannot help acting upon the basis of other-regarding reasons. To refrain from

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[91] In this sense, the present work also contributes to what has been called the "ontological turn" in recent political theory. See White, "Weak Ontology"; White, *Sustaining Affirmation*; Coole and Frost, *The New Materialisms*; Meloni, "Naturalism as an Ontology of Ourselves"; Frost, *Biocultural Creatures*; Rosenthal, "Ontology and Political Theory"; Floyd, "Analytics and Continentals.". Since this "ontological" turn is in many ways a reaction to Rawls' "political turn" between *A Theory of Justice* and *Political Liberalism*— which critics argue is simply *concealing* its ontology—this is another way in which it integrates critical and practical "realisms" against the target of analytic liberalism.

reflecting on the sorts of normative reasons we accept, then, is not to avoid the theoretical and political imperialism associated with objective or universalist moralities by retreating into the safe harbor of relativism. As I suggested above, relativism is itself a particular other-regarding perspective which guides action in the world in particular ways. Specifically, it is the most extreme attempt at deference to the subjectivity of others. And as I have shown, it therefore chases a mirage: by refusing to "impose" specific theories of the good upon others, we do not thereby avoid having any impact on them or exerting any power over them. Given that we *inevitably* exert power over each other, act on the basis of other-regarding reasons when doing so, and discuss these reasons with one another, I conclude, reflecting on those reasons is the only responsible way forward.

The modern "liberal" turn to subjectivity makes an advance by acknowledging uncertainty about objective human interests. What I have shown in this chapter, however, is that certainty in the subjective realm is just as elusive. The innovation of a "postmodern" approach, then, is the introduction of uncertainty about *subjective* human interests as well. Where some have worried that this precludes us altogether from seeking to respect human interests, this charge of "relativism" relies upon precisely the same subjectivist assumptions about how to respect the interests of others that we have been at pains to reject. So long as we are asking the question of what the subject *really* wants, refusing to draw a boundary between the realms of freedom and power will indeed frustrate any attempts at an answer. Yet if we reject that question altogether, we have no cause for worry. The insight of a postmodern approach, then, is simply that we must accept uncertainty about human interests in objective *and* subjective terms—thereby fulfilling the promise of anti-

vanguardism most completely. It allows us to make humility the foundation of political inquiry while acknowledging our responsibility to think through the social and political choices we will inevitably make in the world.

The fact that power is everywhere, Foucault reminds us, and that everything is dangerous, does not mean that all power is *equally* dangerous; and this recognition opens up the possibility of a different kind of normative inquiry. In particular, it is worth noting, I do not seek to undermine *all* theories of freedom, subjective agency, domination, and so on—many of which, I have emphasized from the beginning, may still be quite useful. My point is simply that theories of freedom or any other form of subjective agency ought not serve as *top-level* heuristics or anchoring principles. In the next chapter, I shall explore this claim in greater detail.

Chapter Three: Beyond the Logic of Equal Agency

3.1 ~ Introduction

> *In its majestic equality, the law forbids rich and poor alike to sleep under bridges, beg in the streets and steal loaves of bread.*
> — *Anatole France[1]*

The first chapter documented the way in which a modern, "liberal" turn to the subjective interests of individuals continues to motivate a great many normative frameworks in political philosophy, all of which rely in some way upon a logic of "equal agency." Employing this logic, I showed, requires resolving two dilemmas. The first concerns how to respect the authentic interests of any individual subject—or, as I put it, how to determine "what a subject *really* wants"—while the second concerns how to reconcile the conflicting ends of subjects while nevertheless respecting all as equals. In the second chapter, then, I argued that we should not give a determinate answer to the first dilemma: on our best understanding of human "nature," there is no basis for a clear, normatively salient boundary between authentic, internal subjectivity, and constraining, external power; and thus no way to determine a subject's true subjective interests.

What are the consequences for the logic of equal agency if we accept this argument? There are reasons to suspect, right away, that it must be abandoned along with the search for the authentic subject: if we cannot even know what it means for a single individual to authentically express her agency, after all, how can we attempt to guarantee that capacity to everyone? Foucault certainly seems to have concluded as much, as have many others

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[1] Quote from *Le Lys Rouge*; translation from https://en.wikiquote.org/wiki/Anatole_France

who accept the "death of the subject" which his name has come to represent. More generally, Foucauldians and other poststructuralist critics of subjectivity tend to be skeptical of liberal constructs like "individual rights," and at best lukewarm towards other fundamental norms and institutions of liberal democracy—such as "civil discourse" and "the rule of law"—that are typically justified using a logic of equal agency.

Ultimately, I shall argue in this chapter, these initial suspicions are vindicated. So far, however, we have only explicitly addressed the *first* of the two dilemmas, and defenders of the logic of equal agency might suggest that the second dilemma can be resolved without giving a determinate answer to the first: i.e., that equal agency logic could be useful even if it cannot be claimed to track the reality of subjectivity in any way. Moreover, I do seek to moderate Foucauldian skepticism of liberal rights—as part of the project of integrating critical and practical realisms—and enable a more full-throated endorsement of other liberal-democratic norms and institutions on Foucauldian grounds.[2] The case for escaping the second dilemma of equal agency thus deserves its own chapter.

3.2 ~ Equal agency and the demand for categorical priority

> *The ideal of impartiality in moral theory expresses a logic of identity that seeks to reduce differences to unity. The stances of detachment and dispassion that supposedly produce impartiality are attained only by abstracting from the particularities of situation, feeling, affiliation, and point of view. These particularities still operate, however, in the actual context of action. Thus, the ideal of impartiality generates a dichotomy between universal and particular, public and private, reason and passion. It is, moreover, an impossible ideal, because the particularities of context and affiliation cannot and should not be removed from moral reasoning.*

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[2] For similar views, see Golder, *Foucault and the Politics of Rights*; Golder and Fitzpatrick, *Foucault's Law*.

Finally, the ideal of impartiality serves ideological functions. It masks the ways in which the particular perspectives of dominant groups claim universality, and helps justify hierarchical decisionmaking structures.
— Iris Marion Young[3]

To understand why equal agency theories cannot live up to their promises, we must begin by reminding ourselves of what they are, and we may now combine the understanding of equal agency developed in the introduction—i.e., as a heuristic used by real people to solve real problems—with the understanding developed in chapter one—i.e., as an artifact of a very general turn to subjectivity which accompanied liberal modernity.

Clarifying the target: equal agency as a top-level heuristic

In the introduction, recall, equal agency as well as the dispersion of power were understood as responses to a particular theoretical predicament: the need for a heuristic that is more comprehensive than mid-level theories like "freedom" and "equality" (which come into conflict when each is considered on its own), yet more usable than the "maximally comprehensive heuristic" which accounts for all possible considerations. Both of the heuristics at the center of this dissertation, then, make use of the same basic strategy for balancing these demands: both, that is, strive not to achieve the good directly, but to distribute capacities among agents. Following Ian Shapiro, I called this a commitment to anti-vanguardism, and the affinity between this strategy and the turn to subjectivity which accompanied liberal modernity should be clear.

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[3] Young, *Justice and the Politics of Difference*, 97.

My target, however, is not the turn to subjectivity—indeed, I endorse it as a step in the right direction—but the more specific ideal of equal agency, which is one particularly prominent response to it; one way of formulating the wisdom of "anti-vanguardism." The ideals of equal agency I discussed in chapter one do not just involve any kind of respect for any kind of subjective agency; they recommend precisely *equal* respect for the subjective agency of all, and as a direct result, they also require a precise conception of the *form* of subjective agency which is to be respected, so that it may be targeted for equalization. They differed in nearly every other respect—most notably with regard to *which* specific form of subjective agency was to be equalized—but were united by these two inseparable commitments.

We may also clarify the target here—the "logic of equal agency"—by reminding ourselves of what it is not. It does *not* refer, most importantly, to *any* proposal for a certain kind of agency to be equalized. A proposal to implement equal rights, for instance, or universal suffrage, or an unconditional basic income, need not make use of a "logic of equal agency" in the pejorative sense I intend. These are concrete policy proposals, and they can be understood in a variety of terms, including—as I shall argue—those offered by the dispersion of power. In order to qualify as employing the "logic of equal agency" in this specific sense which I take as my target, then, a theory must be attempting to provide some general principle to guide the choice of political ideals, actions, and institutions. It must claim enough comprehensiveness to yield reliable answers in the sorts of political situations when theories at the highest useful level of generality are called for. And it must claim to do so, of course, by aiming for the equal distribution of some form of agency.

The basic problem with the logic of equal agency, I have said, is that it trades too much comprehensiveness for what turns out to be a specious usability. In order to respect all people as equal agents, we must define what it is to be an agent in such a way that this capacity could, in theory, at least, be equalized—and such that a world of *equal* agents would not simply look like a world of *identical* agents. As I noted in the first chapter, this is why the liberal ideals of equality and freedom, while often understood as opposed to one another, are in reality deeply interdependent, and also why they are associated with a turn to subjective rather than objective measures of value.

In order to theorize *equal* freedom or agency, then, we must aside certain ways in which people are *unequally* endowed with skills and resources, and *differently* situated in the social structure. We must set aside certain inequalities in capacities, in other words, in order to focus on equalizing the specific capacities identified as essential to subjectivity. We need not ignore such concerns entirely, but we must give them a *categorically lower priority in normative terms*.

In short, then, the aim of this chapter is to show that categorical priority for certain kinds of normative concerns is thoroughly implausible. At a theoretical level, there are two ways that categorical priority could be justified, and neither is acceptable. The first remains within the terms of equal agency, but is plausible only if we accept a "naturalized" boundary between authentic, internal, subjective agency, and constraining external power—i.e., precisely the kind of boundary we have rejected in the previous chapter. The second moves to justify categorical priority on grounds other than a commitment to equal agency, but no grounds can be found which are both comprehensive (and therefore

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accurate, or convincing on its own terms); and also persuasive as a defense of categorical priority. In this section, I elaborate on the failure of both justifications before turning in the next section to an illustration of their failure in a variety of contemporary political theories employing the logic of equal agency.

Justifying categorical priority within the terms of equal agency; or, resolving the second dilemma by returning to the first

First, we may examine the justification that remains within the terms of equal agency. As a formal matter, of course, articulating a concept of agency that is at least conceivably universalizable is not difficult: as we have said, all that is required is to understand certain forms of power as constraining of agency, and to prioritize the elimination, minimization, or legitimization of those forms of power. This allows us to resolve what I have called the "second dilemma" of equal agency: how to respect the conflicting ends of subjects, resolving conflicts in favor of some in a way that nevertheless treats all as equals. The real question that must be answered, then, is *which* of these possible resolutions of the conflicts between agents is best, and it is this problem—the need to choose between rival theories of equal agency—which leads theorists of equal agency back to the first dilemma.

Consider: if there are many ways of conceiving of agency which would render agents formally equal, the only way to decide which of these conceptions is best, *from within the terms of equal agency*, is to decide which of them grants us the maximum amount of freedom that is compatible with the same level of freedom for others.[4] In order to decide

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[4] This is the logic behind the statement in the 1789 *Declaration of the Rights of Man and of the Citizen* that "liberty consists in the freedom to do everything which injures no one else; hence the exercise of the

which system for reconciling the subjective interests of different individuals guarantees the maximum level of agency to all, that is, we must decide upon a way of measuring how much agency each individual possesses as an individual. We must draw a clear boundary between some form of subjective agency, which is positioned as having intrinsic value, and a form of constraint on that agency, which is positioned as presumptively bad, such that the less constrained by illegitimate power an agent is, the freer she is.

We must interpret theories of equal agency, therefore, not simply as proposals for *some* kind of agency that could be equalized among subjects. Such proposals abound— "universal suffrage," for instance—but they do not qualify in my sense as employing the basic "logic of equal agency" unless they purport to be *comprehensive* or "top-level" heuristics, which are reliable in most situations of judgment. And theories employing the logic of equal agency are only plausible candidates for this kind of comprehensive, top-level heuristic if they are understood as proposals about the "maximum" level of freedom that people can have in equal measure—or in other words, the maximum level that people can have without infringing on the freedom of others.

For libertarians or "classical" liberals, for instance, the goal is to render people equal in freedom as the absence of coercion, such that each can decide what to do just to the extent that it does not require coercing others. For "revisionist" liberals, by contrast, people

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natural rights of each man has no limits except those which assure to the other members of the society the enjoyment of the same rights." It is also, *mutatis mutandis*, the logic behind John Stuart Mill's definition of liberty ("The only freedom which deserves the name, is that of pursuing our own good in our own way, so long as we do not attempt to deprive others of theirs, or impede their efforts to obtain it," *On Liberty*, 83.) and Rawls' first principle of justice ("each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others," *A Theory of Justice*, 60.). For a penetrating criticism of this logic along similar lines as the one I articulate here, see O'Neill, "The Most Extensive Liberty."

ought to be made equal in freedom as the absence of *illegitimate* or *undemocratic* or *arbitrary* coercion and interference. On the liberal principle of legitimacy, that is, each person can decide what to do just to the extent that it does not require coercing others for reasons that they could not accept; while for a democratic proceduralist, each person can decide what to do to the extent that it does not require coercing others via procedures which they had no chance of influencing. On the republican principle of freedom as non-domination, meanwhile, each person can decide what to do to the extent that it does not require dominating others.

For "radical" theorists, of course, the enemy of freedom is no longer cast as a form of interference or coercion, and the relevant form of agency is no longer easily rendered as freedom of choice. If they still accept the logic of equal agency, however, they may attempt to respect the interests of others by treating them as equal in authentic subjectivity in some other way; having been liberated from ideology, for example. A relativist stance, finally, takes this logic to the extreme, attempting (and inevitably failing, I have argued) to treat people as equals in freedom from all influence whatsoever.

The constructivist ideal of deliberative democracy resists this relativist inference while accepting the significance of radical forms of power. On a deliberative model, there is no need to draw a categorical distinction between coercive interference and other forms of power, because there is no need to limit the scope of the "basic structure" to the coercive legal institutions of the state. Like democratic proceduralists, deliberativists advocate a form of equal influence over the conditions of social life, but unlike proceduralists, they do not limit their conception of these conditions to state coercion, and they do not limit

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"influence" to voting and rights. Instead, deliberativists include many if not all of the norms and discourses which structure social life in the "basic structure" which is to be legitimized, and their conception of "influence" includes reasonable deliberation about those norms and discourses. The maximum level of agency compatible with the same level for others, then, is freedom from norms and discourses over which they have not had equal influence.

How can we decide which of these claims is right? How can we decide which proposal really represents the *maximum* level of agency which is compatible with an equal amount for others? The only sensible way we can answer this question, at least when phrased in such terms, is to come to an understanding of what freedom *really* is; and as a corollary, what forms of power *really* constrain it. In order to decide how to make agents equal in subjective agency, in other words, we must understand subjects *really* want.

Asking this question is not *always* misleading: it can be useful as a mode of critique. After all, the sequence in which we have examined these theories is not random: in my view, each correctly identifies the flaws of its predecessors in the sequence. "Classical" liberalism rejects theories which seek to coercively impose some objective conception of the good upon others, and in this sense represents an advance. We should, that is, try to take into account, in *some* way, what subjects want for themselves. Yet they limit the scope of our "political" concern to actual coercion and interference with choice, thereby limiting the importance of "subjective" concerns to the choices individuals make, in the choice structures they are actually given by existing sociolegal frameworks. Given a goal of treating people as equals, it makes little sense to take the "status quo" of the basic sociolegal framework as a default starting point, thereby ignoring the coercion and interference

already embedded in those frameworks. "Revisionist" liberals are *right*, therefore, to reject the categorical priority granted by classical liberals to unauthorized coercion as the only politically relevant threat to subjective agency.

The revisionist liberal *solution*, however, is less convincing. Though they adopt different methods for legitimizing the coercive institutions of the state, more specifically, they still consider this to be the primary locus of "politically relevant" dangers, and therefore give concerns about it categorical priority. This solution, and the conception of maximum subjective agency it implies, is subject to persuasive critiques at the hands of those I have called "radicals." There are many other kinds of power that might threaten our subjective agency, yet are neglected on revisionist liberal models. "Radical" theorists are *right*, therefore, to reject the categorical priority given by liberals to legitimizing the coercive apparatus of the state, or coercive means more generally.

In substantive terms, each of these critiques is correct. By problematizing the particular boundary between subjective agency and constraining power drawn by its predecessors, each successfully undermines the claim that equalizing the form of agency they have targeted for equalization will truly treat people as equals. In so doing, it also undermines the categorical priority granted to concerns about the forms of power which have been said to constrain that form of agency. We can therefore incorporate the lessons learned from each critique: it is unjustifiable to grant categorical priority to protecting agents from any of these forms of power, and thereby ignore threats from other forms. Yet because the logic of equal agency demands that the problem be treated as the *particular* boundary drawn rather than the practice of boundary-drawing—the particular answer given to the question

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of what the subject *really* wants, rather than the question itself—we must not follow such theories in their turn from critique to construction.

What we have seen in the previous chapter, of course, is that there *is* no natural boundary between what is authentic or internal to the subject, and what counts as an external constraint upon it. Any conception of agency as the manifestation of a stable internal subject in the external world presupposes and perpetuates a series of dichotomies—including nature/culture, reason/power, and agency/structure—which implicitly position the subject against various forces threatening to constrain it. Culture is thus supposed to "modify" a pre-existing nature, power is supposed to "distort" reason, and structure is supposed to "restrict" agency, thereby leading us to value and protect authentic subjects from these varieties of external interference. But nature and culture are co-constitutive, like reason and power, and agency and structure: we cannot distinguish them even in theory. This task is not simply difficult; it is incoherent. The effect of maintaining a conception of agency grounded in subjectivity, which necessarily replicates such dichotomies, is therefore simply to naturalize and obscure contingent relations of power. Because the logic of equal agency demands such a conception, we must abandon that logic.

Justifying categorical priority on other grounds; or, resolving the second dilemma by escaping equal agency altogether

It might be objected that theories of equal agency can be defended without reference to any kind of *natural* boundary—i.e., that the second dilemma presented by equal agency can be resolved *without* reference to the first. If so, the logic of equal agency could serve as a top-level heuristic without engaging in the futile, dangerous search for the subject.

Given the arguments in the first two chapters, however, I argue that the kind of categorical priority required for answering the second dilemma can appear plausible only in virtue of implicit and disavowed naturalizations.

Consider, as a particularly clear case, the libertarian mantra that all taxation is equivalent to theft at the point of a gun, and therefore at least presumptively illegitimate. There is a certain truth to the first half of this assertion: if you refuse to pay taxes in a modern, high-capacity state, you may eventually be forced to do so. Yet whatever is true of taxation in this regard is also true, to precisely the same degree, of the state's protection of property rights. What the protection of property rights means, in the end, is that if someone takes things which are properly said to belong to you, someone with a gun will make them return it (and/or punish them for doing so). The very property rights which make stuff "yours" for the government to "take" exist only thanks to the same "point of a gun" which enables taxation. In the everyday politics of the welfare state, we treat both as "natural," taking both for granted and arguing about the proper levels each should take. If we take property rights as natural but taxation as artificial, as libertarians want, of course, there is an asymmetry to exploit: property rights have priority over taxation, which then becomes much more difficult to justify. Yet the asymmetry upon which this "everyday libertarianism"[5] depends is clearly an illicit naturalization.

Robert Nozick's philosophical defense of libertarianism makes the role of naturalization in sustaining its plausibility even clearer. As we saw in chapter one, of

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[5] Murphy and Nagel, *The Myth of Ownership*, 36 and throughout.

course, Nozick fully acknowledges that there are non-coercive ways of harming people. What he claims, however, is that these kinds of harm are not *political* harms.[6] There is a categorical difference between coercive and non-coercive power, he claims, and only coercion (or physical aggression) reduces someone's *autonomy* and therefore counts as a *political* harm. Coercion is so different from other kinds of harms or influences, in other words, that it is the only kind of harm that deserves to be dealt with at all in politics: from the perspective of politics, it is something like infinitely worse than other kinds of harms.

This is quite an extravagant claim, and the entirety of the argument in *Anarchy, State, and Utopia* depends upon it—yet he gives little explanation for why he has delimited the scope of politics in this way, nor why this categorization should matter to people making choices in the real world.[7] The closest thing he offers to such an argument is his picture of a neo-Lockean state of nature, in which humans possess fully formed rational capacities and preferences. Whatever they choose in such a state is assumed to be what they *really* want, while the forces that have produced these "natural" capacities and preferences are rendered invisible and assumed to be unproblematic. All danger, correspondingly, lies ahead, as these fully-formed subjects "begin" to interact with one another.

Our arguments in the previous chapter, of course, expose this device of a "state of nature" as both incoherent and dangerous. Given that "human evolution over the last few

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[6] See discussion of "side constraints" and the purpose of "political" philosophy in Nozick, *Anarchy, State, and Utopia*, 30–33.

[7] Joseph Raz remarks, for instance, "We do not find in this book, nor in any of Nozick's writings, much of an explanation as to why some means of getting people to act are allowed, while others are not." Raz, *The Morality of Freedom*, 285.

million years has been bio-cultural evolution," as biological anthropologist Jonathan Marks puts it, it is "perversely unscientific" to speculate about what a "natural" human without culture would be like.[8] The appeal to a state of nature thus conveys no information other than the author's contingent, culturally particular presuppositions. Nozick's state of nature, in particular, figures "natural" humans to be those that have been acted upon by every type of power *except* coercion—a convenient premise if one already wants to deduce a theory which makes coercion categorically worse than all other harms, but not a good *reason* for holding such a theory.

This kind of naturalization is not limited, however, to the theory of Nozick, nor to theories explicitly employing a state of nature. Consider the response offered by the "veil of ignorance" to the kind of "everyday libertarian" intuition that property rights are more natural or sacred than taxation. In my view, at least, Rawls' thought experiment effectively undermines that fiction along the lines articulated above, exposing them as equally artificial and showing that neither deserves category priority. Of course, Rawls does not abandon categorical priority as such: he simply prefers his own version, placing the demands of "justice" above concerns about "the good life." As others have argued, indeed, he even naturalizes a particular sort of "unencumbered self" in order to do so.[9]

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[8] Marks, "The Biological Myth of Human Evolution," 139.

[9] Sandel, "The Procedural Republic and the Unencumbered Self." See also Sandel, *Liberalism and the Limits of Justice*; Taylor, *Sources of the Self*; Honig, *Political Theory and the Displacement of Politics*; Connolly, *Why I Am Not a Secularist*; Mouffe, *The Democratic Paradox*; Young, *Justice and the Politics of Difference*.

I cannot engage the considerable literature that has taken up these questions. My purpose in this chapter and this dissertation is not to offer a decisive refutation of Rawls, or of deontological approaches in general. Instead, my contribution here is simply to link the many criticisms that have been made with my broader arguments about equal agency and its demand for categorical priority. Though the libertarian version prioritizing coercion above all other harms out of respect for an obviously fictional state of nature is a particularly clear case of illicit naturalization, parallel arguments can be made about every categorical boundary between legitimate and illegitimate power—which is precisely what communitarian and agonistic critics observed about Rawls. Any such boundary will imply that illegitimate forms of power are infinitely worse than those classified as legitimate; that they are the only kind of harms worth addressing politically. When phrased in this way, especially against the backdrop of the previous chapters, this ought to seem deeply implausible. Yet *some* such boundary is required to sustain the logic of equal agency.

The only way to make this boundary appear plausible, I contend, is through the kind of illicit naturalization that drives Nozick's conception of properly "political" philosophy. Consider, for instance, that Rawls' response to the criticisms alluded to above invokes the "political" in precisely the same way that Nozick does: i.e., to acknowledge the existence of certain normative concerns while excluding them from the scope of *political* concern, and prioritize those he has chosen to emphasize.

Will Kymlicka makes a similar point in discussing the transition from A Theory of Justice to Political Liberalism, noting that "Rawls's proposal is not to reject the idea of autonomy entirely, but rather to restrict its scope… The idea that we can form and revise

our conception of the good is, he now says, strictly a 'political conception' of the person, adopted solely for the purposes of determining our public rights and responsibilities."[10] In order to restrict our justifications to "public reasons" that "all can accept," in other words, we must still be able to stand back from our own ends and view them as only one of a set of legitimate purposes that people might have. As the theologian Stanley Hauerwas put it, political liberal subjects must be able to say "Jesus Christ is the Lord and Savior, but that's only my opinion."[11] As Kymlicka points out, less dramatically, "there is a cost to non-liberal minorities from accepting Rawls's political conception of the person—namely, it precludes any system of internal restrictions which limit the right of individuals within the group to revise their conceptions of the good. For example, it precludes a religious minority from prohibiting apostasy and proselytization, or from preventing their children learning about other ways of life. The minority may view these civil liberties as harmful."[12]

Where Nozick prioritizes concerns about coercion over all others on the grounds that this is the only "political" harm, Rawls asserts that any concerns which cannot be framed in the terms of "public reason" are not properly "political" and must therefore be confined to the private sphere. In both cases, it is only this exclusionary use of the term "political" which enables them to speak directly to the world; otherwise, they would have to weigh concerns about their preferred concerns against others, which they provide no heuristic structure for doing.

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[10] Kymlicka, *Multicultural Citizenship*, 159.
[11] This is the withering characterization of liberal pluralism given by Hauerwas in a 2015 seminar at Duke with Charles Taylor. See https://www.youtube.com/watch?v=3TmQUo-hqHM
[12] Kymlicka, *Multicultural Citizenship*, 161.

Of course, Nozick and Rawls are hardly the only political philosophers to employ the term "political" in this way. Jeremy Waldron, for example, uses precisely the same argument to undermine the priority granted by Rawls and many others to "justice." Rather than articulating yet another comprehensive criticism of Rawls' conception of justice, then, I turn to that offered by Waldron, which advances my own broader argument about equal agency and categorical priority. Waldron's argument, I demonstrate, conforms to the pattern set up by Nozick and Rawls, pointing out the implausibility of one form of categorical priority—and the "naturalizations" involved in rendering it plausible—while offering another form, no less implausible or naturalized, in its place.

3.3 ~ *Justice, democracy, and conflicting categorical priorities*

> *The temptation to make abstract a priori principles yield concrete practical policies is responsible for many bad arguments.*
> — *Joseph Raz*[13]

Justice and democracy in the debate over judicial review

In *Law and Disagreement*, Waldron articulates "two tasks in political philosophy": theorizing about justice and theorizing about politics.[14] Where the former offers "theories of justice" in response to something like Rawls' "circumstances of justice"—in which disagreement about the proper system of justice is structured by agreement about the most basic rights we have—the latter offers "theories of legitimate authority" in response to situations characterized by more pervasive disagreement, which he labels the

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[13] Raz, *The Morality of Freedom*, 430.
[14] Waldron, *Law and Disagreement*, 1–4. NB: This paragraph is adapted from Samuel Bagg, "What makes a political theory *political?* Comment on Waldron," forthcoming from *Political Studies Review*.

"circumstances of politics."[15] Principles of justice, in other words, are those which tell us how to interpret the rights we all agree that we have, while principles of authority or legitimacy are those which tell us how to decide between competing principles of justice. Theories of justice or rights can therefore be understood as "advice offered to whomever has been identified (by the theory of authority) as the person to take the decision or as one of the persons who is to provide an input into the public choice mechanisms that will yield a collective decision."[16] Since principles of justice speak to substantive political issues, of course, including issues of rights like the freedom of speech, they are necessary for use in political discourse. Given that we disagree about which to adopt, however, we must defer to principles of legitimate authority whenever the two kinds of principles seem to conflict.

Waldron's more recent argument for a more "*political* political theory" echoes many similar themes, with an even more explicit and direct focus on the language of the "political." [17] In both cases, this language serves the same function as it did in Nozick and Rawls. Clearly, concerns about justice are also political in a broad, pre-theoretical sense, as are concerns about the final ends of life, substantive policy outcomes, and so on; Waldron's argument, however, defines the "circumstances of politics" such that all those concerns take a back seat, categorically, to the *truly* political requirement of procedural legitimacy—recalling Nozick's claim that "political philosophy is concerned only with certain ways that persons may not use others; primarily, physically aggressing against

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[15] Ibid., 101.
[16] Ibid., 244.
[17] Waldron, *Political Political Theory*.

them."[18] For Nozick, Rawls, and Waldron, the conception of "politics" each adopts functions as a way of excluding certain claims on principled grounds, thereby granting others categorical priority.

In practice, of course, *particular* priorities and exclusions are unavoidable, and many are even desirable—including, in the right circumstances, those advocated by Nozick, Rawls, and Waldron. Coercion is a very versatile form of power, which allows people nearly complete control over others. Concentrated coercive power is therefore especially dangerous, and legitimizing state power is, correspondingly, an exceedingly important task—especially as state power continues to grow. Both coercion in general, and state coercion in particular, therefore, deserve special consideration: they are sensible practical categories to maintain. Similarly, demands to present arguments in the terms of public reason *can* have a number of important practical benefits, and there may be good reasons to prohibit non-public reasons in certain spheres on this basis.[19] Democracy, finally, *does* depend on a general willingness among democratic citizens, as well as judges and other government officials, to bracket their substantive concerns and accept the results of majority decisions with which they disagree. There is good reason, then, to maintain some kind of priority for *all* of these concerns. What we must jettison is the assumption that any of them is uniquely political, and therefore deserves *absolute* or *categorical* priority.

Yet in each of these cases, the categorical nature of this priority is the *only* thing which distinguishes the theory from alternative approaches. Contrast Waldron's principled

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[18] Nozick, *Anarchy, State, and Utopia*, 32.
[19] See, e.g., MacGilvray, *Reconstructing Public Reason*.

defense of judicial review, for instance, to that pursued by Ian Shapiro, who adopts Waldron's contrarian stance on different grounds. Where Waldron emphasizes the fairness of majoritarian procedures, the dignity of legislation, and the right of participation as the "right of rights," Shapiro attempts to assess the likeliest consequences of judicial review over the long run. Though he acknowledges that judicial review in the US had the effect of reducing domination in certain prominent cases in the decades after World War II, he argues persuasively that this is an anomaly in the history of the Supreme Court, which has misled the majority of political theorists into a "principled" defense of the institution.[20]

This is precisely the sort of "predictive" inquiry, I have argued, which should guide our choices.[21] Rather than enabling it, however, the "principled" approach favored by Waldron—mirroring that of Ronald Dworkin, his most prominent adversary in debates over judicial review—cuts it off prematurely, giving us false certainty on the basis of a claim of categorical priority. Where both supporters and opponents of judicial review have similar views of ideal democratic institutions, agreeing that some balance between majoritarian institutions and liberal rights protection is necessary, we are prevented in both cases from negotiating this balance in response to practical and empirical developments. The only *unique* contribution of the "equal agency" logic employed by Waldron and Dworkin, that is, is to recommend that *categorical* priority be given to one or the other. Yet both forms of categorical priority are fundamentally implausible.

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[20] Shapiro, "Against Impartiality," 477. See also Shapiro, *Politics against Domination*.
[21] See the Introduction to the dissertation and throughout, as well as Bagg, "Between Critical and Normative Theory."

Because it is less precise than the logic of equal agency, the response offered by the dispersion of power to such questions—to be discussed in subsequent chapters—will be less precise than that offered by the logic of equal agency. Theories such as those of Nozick and Waldron which deploy that logic will yield clearer answers in response to practical dilemmas: i.e. prioritize the prevention of coercion every time; respect the majoritarian decision every time. But the imprecision offered by the dispersion of power is a reflection of genuine uncertainty, and rather than offering Nozick's and Waldron's false confidence, the dispersion of power heuristic instead offers a language for productive discussion about what kinds of concerns we should focus on, and how we ought to weigh them. Rather than prematurely cutting off necessary predictive inquiry, it presses us to engage all of our predictive resources in evaluating the "main danger" at any given time.

In this sense, then, the logic of equal agency employed by Nozick and Waldron has the advantage of greater "usability," but it is a specious usability, for it leads us astray. We of course need to make decisions about issues such as whether to advocate for judicial review before we have come to a final, definitive conclusion about its tendency to disperse or concentrate power. But it is better to acknowledge the uncertainty inherent in that decision, rather than mistaking the specificity achievable by equal agency views for accuracy.

Justice and democracy in combatting political extremism

The tension between justice and democracy plays out slightly differently in Alexander Kirshner's *A Theory of Militant Democracy*, which articulates a series of heuristics for grappling with threats to democracy from extremists and anti-democrats. For Kirshner, as

for many democratic theorists, democracy has intrinsic value of some kind,[22] meaning that "self-rule is not simply a means to an end, but an end itself."[23] More specifically, he assumes that everyone has both an "interest in" and a "right to political participation."[24] His account is therefore a "specifically democratic account of the challenges posed by anti-democrats."[25] He distinguishes his "intrinsic" and "democratic" account from accounts focused on "justice"[26] as well as those which are "instrumental," focused on goods such as "non-domination, utility, or an equitable distribution of wealth" rather than directly on democracy itself.[27]

The heuristics Kirshner derives from this intrinsic account of democracy are quite useful in enabling us to negotiate the extremely complex dilemmas of militant democracy. Like Waldron's defense of majoritarianism against the commonsense wisdom favoring extensive judicial review, that is, Kirshner's conclusions can be defended along lines that have nothing to do with the logic of equal agency. Moreover, the crucial innovation of Kirshner's theory—his insistence that the problem of militant democracy is not anti-democratic *laws* but anti-democrats themselves—is a much-needed corrective, in a decidedly "realist" spirit, to much of the pre-existing literature on this and other related questions in democratic theory. Nevertheless, his use of equal agency logic leads him to precisely the kind of overconfidence we have been discussing. As a result, he reaches

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[22] Kirshner, *A Theory of Militant Democracy*, 23.
[23] Ibid., 35.
[24] Ibid., 5.
[25] Ibid., 22.
[26] Ibid., 24, 152.
[27] Ibid., 35.

conclusions about one of his central cases—the right approach to "reconstruction" in the aftermath of the US Civil War—which are highly questionable; at the very least warranting less decisive judgments than Kirshner is willing to proclaim.

In this case, Kirshner compares the views of moderate and radical Republicans. Moderates such as John Sherman argued that former Confederates must be readmitted to political participation as long as they accepted certain basic democratic principles—most importantly, the participatory rights of black men. Radical Republicans such as Thaddeus Stevens, meanwhile, argued for a more extensive mandate for Reconstruction, whose purpose was to remake the South along more egalitarian lines; notably including the redistribution of land from former plantation owners to former slaves. While Kirshner admires this egalitarian vision, he ultimately concludes that it would make the South into a "quasi-permanent vassal territory" and was "irreconcilable with the principle that all citizens possess basic interests in participation."[28] As a result, he faults the radical Republicans for pursuing "utopian" visions of "political paradise" through the means of "exclusionary policies," and praises the moderates for adopting the more reasonable aim of "legitimacy" or "democracy."[29]

Kirshner readily acknowledges, of course, that the radical plan was more just, and his response to this concern is quite revealing. The point of his theory, he says, is to articulate the most *democratic* response to practical questions, rather than the best response, all things considered. Kirshner writes, for instance, that "members of the Reconstruction Congress

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[28] Ibid., 149.
[29] Ibid.

faced a tragic choice: they could pursue democracy by finding ways to allow Southern antidemocrats to participate or they could pursue justice by excluding those antidemocrats. But they could not pursue both."[30] Throughout, he emphasizes a "normative, perhaps even tragic, fault line between the duty to give people what they are due and the duty to act democratically."[31]

This equivocation gets at the heart of the dilemma faced by theorists of equal agency, which I articulated above. Nozick and Waldron more or less openly assert that their preferred concerns deserve categorical priority. For Nozick, "aggression" is the key "political" concern whose elimination deserves priority over others, while for Waldron it is legitimate majority decision-making procedures which deserve this "political" label and thus categorical priority. This gives their theories practical purchase: Nozick can confidently recommend a libertarian state, and Waldron can confidently reject judicial review of legislation. Unfortunately, however, it also makes their theories implausible. It is simply indefensible, given all that we have said in the first and second chapters, to claim that aggression is infinitely worse than other harms. It is similarly implausible that there are no concerns which could lead us to question the priority granted to majority decisions.

To his credit, Kirshner seems to take the opposite, humbler horn of the dilemma. In his admission that his recommendation about the most "democratic" action may conflict with the recommendations of justice, and may therefore not be the best action all things considered, he eschews the overconfidence of Nozick and Waldron. Yet in doing so, he

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[30] Ibid., 24.
[31] Ibid., 152. See also section called "The Tragedy of Militant Democracy," 159-162

also concedes significant practical purchase. He warns the reader—quite literally employing the phrase "*caveat lector*"—that his choice to focus on democracy rather than justice will lead him to recommend "overly restrained" modes of militant democracy.[32] Yet the rest of the book is written as if it has few consequences.[33] Unfortunately, however, this is simply not the case. Instead of offering concrete guidance in response to circumstances when theories are called for, a theory which eschews comprehensiveness requires that we weigh its recommendations against other relevant concerns before we make decisions in the real world. As a result, it can no longer serve as a "top-level" heuristic.

Justice, democracy, and the role of top-level heuristics

Why is this a problem? If the point of political philosophy is simply to analyze concepts such as justice and democracy, there is none. We can articulate a concept of democracy and a concept of justice, recognizing that there is a conceptual tension between them, and leave it at that. Even in the abstract, however, few accept this utterly inert conception of political philosophy; none behave in practice as if this is what they are doing. When we craft theories of freedom, power, legitimacy, justice, democracy, and so on, it is because we understand important normative consequences to follow from the definition of these concepts. Participants in the debates about freedom and power traced in chapter one, for example, invest significant energy into these debates because it seems to them that

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[32] Ibid., 24.
[33] He offers no qualifications, for instance, when saying that he investigates "the norms that should guide states whenever they limit antidemocrats' ability to participate" (21), or that his standards represent "the correct standard by which to judge efforts to defend democracy" (40).

incorrect conceptions lead us to overlook important social ills. If we refuse to see such ills as threats to freedom or exertions of power, they fear, we are liable to ignore them entirely.

It is important to get concepts of freedom and power right, in other words, because people *use* those concepts in practice, granting significant if not categorical priority to the protection of freedom against the threats posed by power. The same, then, can be said of theories of legitimacy, justice, and democracy: because they have such a powerful normative resonance in contemporary political life, it is difficult to defend any action characterized as illegitimate, unjust, or anti-democratic, even if it may have other virtues. In practice, therefore, conceptions of legitimacy, justice, and democracy function as top-level heuristics, taking on categorical priority over other concerns.

Note that there is no reason we *must* make normative arguments in this way. Instead of criticizing inadequate concepts of power or freedom for their tendency to lead us to poor normative decisions, we could accept the concepts as given to us and simply deny them the overwhelming normative *weight* with which they are invested. We could, in other words, simply declare that they ought not function as top-level heuristics; proliferating different conceptions of freedom as appropriate for different circumstances. Indeed, this is essentially what is recommended by the agent-relative approach as outlined in the introduction. We need theories of subjective agency in many concrete situations—like determining whether an experimental subject *really* knew what she was consenting to; or whether a driver really *intended* to run over a pedestrian—but we need not use the same theory across all contexts. Similarly, we need conceptions of legitimacy, and democracy, and justice, in many different situations, but need not use the same one in each.

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Yet on the agent-relative approach, we also cannot ignore the crucial need for top-level heuristics. There are real and important tensions between the many pillars of a liberal democratic society—including, for instance, those typically understood as demands of "democracy" and those typically understood as demands of "justice." Rather than accepting "tragic" complexity in such situations, the agent-relative approach emphasizes that it is precisely in order to help us think through this sort of dilemma that people formulate political ideals in the first place. We must make decisions regardless of whether there are powerful reasons for several conflicting alternatives, and the point of heuristics is to help us make those decisions.

Perhaps even more importantly, we cannot ignore that concepts of freedom, power, legitimacy, justice, and democracy will very often be *used* as top-level heuristics, whether or not they are *intended* as such. It is thus irresponsible to theorize such concepts without either designing them to be as comprehensive as possible, or explicitly contextualizing them as subordinate to some more comprehensive top-level heuristic. The problem with Kirshner's "tragic" complexity in this light, then, is that he does neither. Though he acknowledges that concerns of justice *could*, in theory, overwhelm concerns of democracy, he does not give us any sense of when or how often this might happen. Nor does he provide a heuristic for weighing the two, which situates the theory within a broader context. Meanwhile, he writes as if he had not offered this caveat, presuming most of the time to speak directly to practical questions, with no need to weigh his heuristics against others.

Justice and democracy in the case of radical Reconstruction

There is no better illustration of this point than the case already at hand. If it is true, as Kirshner alleges, that the Reconstruction Congress could not have simultaneously pursued both justice *and* democracy—at least as he has defined them—the question remains: which should they have pursued? Though he never says it in as many words, Kirshner's lesson is clear: the "utopian" aspirations for "political paradise" characteristic of justice may be nice to dream about, but democracy must be our first priority. Despite explicitly opting for the humbler horn of the dilemma, therefore, in practice his approach leads to the same kind of overconfidence characteristic of Nozick and Waldron, granting categorical priority to concerns of democracy over those of justice. Yet because he never says this explicitly, he need not defend this choice.

There is an even more basic problem at work here, however, which is the assumption that justice and democracy are so easily separable in the first place. Kirshner criticized Thaddeus Stevens' plan for radical Reconstruction on the basis that it focused on the "utopian" aspirations of justice, such as the redistribution of plantation land, rather than "realistic" aspirations for legitimacy. As evidence of the fallacy of the radical Republicans' utopianism, then, Kirshner points to 1876, when "the Republicans' resolve would flag, leading them to quit the effort to guarantee black suffrage in the South. Actually transforming the South into a bastion of equality, a moral community, would have required far more determination than simply guaranteeing universal suffrage."[34]

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[34] Kirshner, *A Theory of Militant Democracy*, 150.

Yet the Republicans' "flagging resolve" cannot be treated as entirely exogenous to the decision in question: it is the moderate plan, of course, that carried the day, and it is at least conceivable that if the radical plan had been enacted instead, "more prosaic political and economic concerns" would *not* have come to seem more important than the defense of black suffrage.[35] Most consequentially, the deadlocked 1876 Presidential election which "sounded the death knell" for Reconstruction by forcing Republicans to make a deal with Southerners may not have been deadlocked in the first place! The Republicans' "flagging resolve," that is, was not inevitable; it was a direct result of conflict with anti-democratic representatives who would not have been re-admitted on the radical plan.

It seems, then, that even using Kirshner's highly circumscribed concern for equal participatory rights, the case for a more radical Reconstruction is clear: in order to safeguard even the most basic black participatory rights, Republicans should have been *more* rather than less aggressive in denying participatory rights to former Confederates. And once we account for the innumerable other forms of disempowerment suffered by blacks as a direct result of the restoration of white participatory rights—both before and after 1876—Kirshner's emphasis on the participatory rights of former Confederates at all costs seems even more disproportionate. It is possible, in other words, that something like Kirshner's argument would have been plausible at the time: that the moderate plan would seem like a safer bet; a way of ensuring that the perfect did not turn out to be the enemy of the good. But if we are allowed the advantage of hindsight, which reveals that the moderate

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[35] Ibid., 159.

plan failed even to achieve this minimal objective, it is quite puzzling indeed. To put it another way: are we really meant to suppose that the South would have been a *less* democratic place—however we define "democracy"—in 1910, or 1960, or 2017, if former Confederates had been kept from political participation for a few years longer, and plantation land had been redistributed to freedmen?

Consider the first suggestion. As I shall argue in chapters six and seven, I agree with Kirshner that we should generally respect the participatory rights of anti-democrats, but not because anti-democrats *deserve* to impose their oppressive preferences upon others. The reason, rather—in keeping with my general attempt to reframe questions of democracy in the terms of power dynamics and feasible, agent-relative alternatives rather than intrinsic values—is that it is generally very dangerous to give *anyone* the power to keep others from participating. Kirshner cites a similar logic at times, but he also frames the participatory rights of former Confederates in the terms of equal agency, and something rings false about the overwhelming weight Kirshner gives to this "intrinsic" concern in the face of all the other countervailing factors. Next to the centuries blacks had spent without any rights at all, that is, much less rights of political participation, an extra 5, 10, or even 50 years of partial exclusion of former Confederates pales by comparison. Even if we discount the relevance of backwards-looking concerns, precisely the same observation can be made by looking forward in time: it is difficult to imagine a scheme of disenfranchisement of former Confederates which would not have been justified—strictly in the terms of participatory rights—in order to prevent the disenfranchisement of blacks in the hundred years between the end of the Civil War and the Voting Rights Act of 1965.

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In terms of land redistribution, then, the point here is twofold. On the one hand, the goals of "democracy," on Kirshner's conception, are not necessarily any more basic, feasible, or realistic than the goals of what he calls "justice." It is at least plausible, in other words, that the redistribution of land from plantation owners to former slaves would have been more feasible and durable than attempts to guarantee black participatory rights. On the other hand, then, the goals of "justice" are deeply intertwined with the goals of "democracy" in the first place. It is at least plausible, in other words, that such redistribution would also have been more *effective*, in the long term, at encouraging democracy in the South. The reason, of course, is that land is power.

All of that said, Kirshner may be right about his recommendation in this case. It may in fact have been impossible or counterproductive for the Reconstruction Congress do anything more radical than what was done. But I hope to have shown, at the very least, that we should not be so certain about this. If the century of racialized violence and oppression which followed the end of the Civil War seems inevitable from our perspective, it likely did not seem so from the perspective of newly freed slaves in 1865; especially given that abolition itself had seemed a "utopian" goal only a few years before. As I have emphasized throughout, we should not accept false confidence in the face of real uncertainty.

Even if Kirshner is right, more importantly, he is right because Republicans simply did not have enough power to do what needed to be done: because the century of racialized violence and oppression which followed *was* simply inevitable. It seems strange to me that we should celebrate their action, then, as *democratic*. The rights of former Confederates to make laws effectively sanctioning racialized violence and oppression are not intrinsically

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valuable. If preserving those rights was the best that Republicans could do in their circumstances—if the available alternatives would really have been worse, leading to an even less democratic society over the next hundred years—then so be it. But we should look that ugly truth in the face, rather than celebrating it as a defense of democracy in any sense of the word.

Let us return, then, to what is perhaps the central point of the chapter in the broader context of the dissertation. The main difference between the logic of equal agency and the dispersion of power, I claimed in the Introduction, is the greater specificity demanded by the principle of equality. This might seem to be an advantage, because it gives the theory greater purchase on practical dilemmas, or in our terms, it makes the theory more "usable" in the world. Yet in achieving this greater specificity and usability, the logic of equal agency sacrifices too much comprehensiveness, and because it does so, the "usability" it offers is specious. Because it requires the exclusion of too many concerns, it leads us astray, and should not be used as a top-level heuristic. The fundamental claim of the dissertation, then, is that the dispersion of power is a better "top-level" heuristic than equal agency, because it offers a better balance between comprehensiveness and usability. It is, to be sure, less specific. But that, I argue, is a good thing. It leads us astray less often.

3.4 ~ Can a "radical" approach to equal agency escape these problems?

A final objection that might be posed at this stage is that we simply have not hit upon the *right* form of equal agency. Even supposing we accept that liberals like Nozick, Waldron and Kirshner run into this dilemma, that is, perhaps there is a way of escaping it by turning to a "radical" approach that nonetheless retains the modern dream of equal

agency. The question dividing modern from post-modern radicals as we have defined them, after all, is whether or not they can reformulate the ideal of equal agency in such a way that it gets equal agency right. We turn now to examine this possibility.

Sharon Krause's non-sovereign conception of freedom

First, consider the account of "non-sovereign" agency offered by Sharon Krause, who makes many of the same criticisms of "sovereign" accounts of agency that I have offered in the preceding chapters. Krause presents a compelling vision of freedom as a "plural" concept which makes no assumption of rational autonomy, and whose many valences include non-interference, non-domination, non-oppression, and collective world-making.[36] As a result, she avoids the temptation to reduce all threats to a particular kind of power. The genius of Krause's approach, indeed, is to integrate a great many concerns that are often voiced in the language of freedom, agency, autonomy, authenticity, action-in-concert, and so on—i.e., to articulate the most comprehensive conception of freedom that is still recognizably a conception of freedom.

Consider for a moment, however, why we might want such a maximally comprehensive account. As I have emphasized, an agent-relative approach recommends proliferating different conceptions of freedom as appropriate for different circumstances, so long as they are not mistaken for top-level heuristics. In my view, then, there are indeed circumstances in which more comprehensive accounts might be useful. But there are also circumstances in which more *limited* accounts, like those she criticizes as "incomplete," might be useful.

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[36] Krause, *Freedom Beyond Sovereignty*.

Perhaps the simpler conception of freedom as non-interference works better in certain legal contexts, for instance, than more complex conceptions of freedom as non-domination or non-oppression, because it is easier to reach a consensus about what counts as interference, and it is less likely to be manipulated.[37]

If Krause's goal is simply to articulate one conception of freedom among many—each with its own practical uses—then the goal has been achieved. Yet many will find such a conception of freedom unsatisfying, because it cannot be said to be *more right* than others, and indeed, the project of articulating the *most comprehensive* conception certainly seems to suggest that this comprehensiveness will get something right. In what sense, then, does her more comprehensive account deserve *priority*? In what sense has she gotten freedom "right" in a way that they have gotten it "wrong"?

Drawing on our discussion of justifications for categorical priority above, there are two reasons that we might think one account of freedom is "right" while others are "wrong." On the one hand, we might understand freedom to be a natural category, whose true outlines we can discover. On the other hand, we might need the concept of freedom in order to make practical decisions, and find that one definition does better than the others. While other definitions leave out relevant normative (or political) concerns, the preferred definition does not. My arguments in previous chapters and sections will suffice to explain why I am not particularly sympathetic to the first. If we opt for the second, however, and

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[37] States could use the promotion of freedom as "non-oppression," for instance, as an excuse to make life difficult for cultures and families adopting more traditional gender roles. A more extreme case is that of vanguard parties using the liberation of the working classes as a justification for totalitarian control.

prioritize the conception of freedom which appears not to leave out any relevant normative concerns, this implies that the goal of articulating a conception of freedom is to use it as a comprehensive guide to political choices, as is suggested by the logic of equal agency. It implies that the resulting conception of "freedom" is to be understood and used—as conceptions of freedom are often used in practice—as a top-level heuristic.

At times, Krause does seem to take on the tasks of creating a top-level heuristic or anchoring principle, providing a guiding logic or spirit for democratic politics. Speaking of her conception of freedom, for example, she concludes her book with the following flourish: "the promise of redemption it holds is one that we cannot refuse, for it is the American promise, long delayed, of a freedom that really is for all."[38] And if this is what she intends—if she understands her conception of freedom to be entitled to recognition and priority as the "correct" view in either natural or normative terms—we must say that she has failed. This cannot be blamed on Krause, of course: my point all along has been that this goal cannot be achieved by *any* conception of freedom. No conception of subjective agency, for one, correctly tracks some natural internal subjectivity. Neither can any conception of (equal) subjective agency, on the other hand, serve as a top-level heuristic for political action. Agency as Krause defines it is one part of our interests. But the reason her view fails as a top-level heuristic—and thus as an organizing principle for democratic

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[38] Krause, *Freedom Beyond Sovereignty*, 193. She defends the goal of equal freedom in many other places as well. See, e.g., "every individual is entitled, within the limits set by the equal entitlement of all, to live in this world in a way that manifests her distinctive individuality." (13) "Indeed, a person whose subjective existence can only be affirmed through the suppression of black people ought to be prevented from exercising his agency, at least so far as to prevent harm to others and to be consistent with the equal exercise of freedom for all." (153)

thought—is the same reason that all equal agency views fail in this respect: equalizing agency, even in her expansive sense, cannot be the only thing we care about in politics.

On balance, in fact, it seems that Krause largely accepts this, despite her rhetorical flourishes implying that equal freedom might be used as a comprehensive political heuristic. Unlike Nozick, Waldron, and Kirshner, that is, she does not make direct political recommendations which rely upon some kind of categorical priority. Instead, she advocates for a self-consciously "plural" conception of freedom. If Krause's conception of freedom does not lead us astray with unsustainable claims of categorical priority, then, it is *only* because it does not function as a top-level heuristic. While useful for certain particular purposes, that is—like of all of the "less complete" theories she criticizes—it cannot help us decide *which* of these theories of freedom is useful *when*.

Radically constructive deliberative democracy

As a final case, then, we may return to the case of deliberative democracy. Because they do not accept any single conception of freedom as foundational, deliberative democrats do not locate the value of democracy in the freedom allowed to citizens, either to exercise their rational autonomy or to express their authentic identities. If the autonomous self of liberalism is just another construction, then it can have no inherent priority over other kinds of selves. Neither do the actual identities which exist at any moment in time necessarily deserve respect, as theorists of difference can sometimes

implicitly assume.[39] Rather than taking any particular conception of agents for granted, then, deliberative democrats advocate a focus on the discursive processes by which agents are created. Agents are rendered equal, in the ideal, not in any particular kind of freedom but in the authority they have over the construction of their shared social world.

Deliberative democrats acknowledge, of course, that it is impossible to satisfy everyone's pre-communicative desires at the same time. If we subject our preferences and even our identities to the logic of discourse by participating in communicative action, however, deliberativists maintain that we may come to agree on the norms with which to adjudicate competing claims. This means far more than simply taking a vote and declaring the majority to represent the collective will: it means sincere deliberation with at least the notional aim of agreement. Disagreement may never be overcome in practice, but it is nonetheless cause for concern: a sign that some are bound by rules they have not chosen.

There is a tension, then, between the philosophical justification of deliberative democracy, especially as it was formulated by Habermas, and its use as a top-level heuristic with practical implications.[40] On the one hand, the classical theory of deliberative democracy is not the most obvious way of articulating why existing deliberation is

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[39] Writing of Iris Marion Young, for instance, Alison Jaggar observes that "Young is certainly not oblivious to the heterogeneity and inequality that exist within most groups; on the contrary, it is precisely her awareness of these phenomena that leads her to warn against romanticized ideals of community. Given this awareness, it is ironic that the logic of Young's proposal for group representation seems to require an essentialist and naturalized conception of groups as internally homogeneous, clearly bounded, mutually exclusive, and maintaining specific determinate interests." Jaggar, "Multicltural Democracy," 314. See also the critique of "recognition" in Markell, *Bound by Recognition*; Povinelli, *The Cunning of Recognition*.
[40] I develop this argument at greater length in Bagg, "Can Deliberation Neutralise Power?" See also Medearis, "Social Movements and Deliberative Democratic Theory"; Medearis, *Why Democracy Is Oppositional*; Owen and Smith, "Survey Article."

valuable. Where ideal deliberation allows time for all to speak, real deliberation is always severely limited. Where ideal deliberation is undertaken sincerely, real deliberation is most often undertaken with an array of motives, including those which are straightforwardly "strategic" rather than "communicative" in nature.[41] Where the commitment of all to deliberative procedures is unfailing in the ideal, all real people are committed only intermittently or sporadically to deliberation. Where ideal deliberation is free of power, most generally, all real deliberation is infused with power relations of all kinds. Given all of these discrepancies, then, actual deliberation may not always have good effects, and actual deliberative institutions cannot be straightforwardly justified with reference to the classical theory. In fact, as many have pointed out, the norms of civility and "reasonableness" required by actual deliberative forums may serve to legitimize and further entrench the values and priorities of the most powerful.[42]

In other words, deliberative democracy faces precisely the same dilemma that all of our other ideals have faced. On the one hand, we could claim that it is comprehensive enough to be a reliable guide in most contemporary circumstances, in which case it could be considered usable as a top-level heuristic.[43] Such claims, however, are implausible given the critiques of deliberation we have considered. On the other hand, then, it can admit its

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[41] Markovits, "The Trouble with Being Earnest"; Schwartzman, "The Sincerity of Public Reason"; Kadlac, "Sincerity, Solidarity, and Deliberative Commitment"; Warren, "What Should and Should Not Be Said."
[42] Sanders, "Against Deliberation"; Young, "Activist Challenges to Deliberative Democracy"; Coole, "Experiencing Discourse."
[43] See, e.g., Fung, "Deliberation before the Revolution"; Mansbridge et al., "Place of Self-Interest."

limited scope, but only at the cost of giving up its claim to serve as a top-level heuristic or organizing principle for democratic thought.

3.5 ~ Rejecting equal agency

> *To say that the solution is not the abandonment of liberalism but the more perfect practice of it – which frames the problem as exclusively one of willpower – is to pretend that there is neat bifurcation between principles and practice. Baldwin resists this notion: our actions reveal the principles we live by (versus the principles we avow) and the principles we avow often camouflage the principles we live by. Given the complex relationship between lived and avowed principles, we cannot reform the former without transforming our understanding of the latter.*
> — *Jack Turner, writing about James Baldwin*[44]

In chapter one, I pointed out the interdependence of the ideals of freedom and equality. Freedom is unattractive as an ideal, at least to modern, liberal eyes, unless it is at least potentially universalizable. Meanwhile, many forms of equality would require too much conformity, and thinkers living in the wake of the modern turn to subjectivity have typically found equality attractive only if some form of freedom or agency is the equalisandum. Liberal ideals therefore understand political progress as the extension of certain freedoms to all human beings. They aim towards an implicit endpoint, in which all people will have attained the requisite form of agency, and any remaining conflicts between agents can be said to be irrelevant from a normative perspective, or at least of a categorically lower priority. From this perspective, expanding freedom and minimizing power or domination seem to be positive-sum games. That is, people can gain in freedom without corresponding losses for other people, by reducing the total amount of power being exercised.

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[44] Turner, *Awakening to Race*, 94.

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When it comes to specific freedoms and specific forms of domination, there is no doubt that this is true. We can, of course, extend various rights to groups that have not previously had them—like the right to vote—without thereby taking those particular rights away from others. We can expand the number of people who experience "recognition" by changing social norms around the toleration and affirmation of disempowered groups. This is the respect in which the logic of equal agency has been a force for good in the world: by extending such forms of "freedom" to previously disenfranchised groups in a way that appears to be a form of positive-sum "leveling up" rather than zero-sum redistribution. And of course, this has been the standard model for interpreting political progress in the modern era, from the achievement of universal suffrage throughout the 19th and 20th centuries to the extension of the privileges of marriage to gays and lesbians in the 21st.

However rhetorically effective it has been in previous struggles, however, there are also important drawbacks to this language of "leveling up." First, it obscures subtler ways in which power is still unequally distributed among groups and individuals. In every case of "leveling up," real victories are used to conceal the other ways in which "formerly" disenfranchised groups are still disempowered.[45] Radical theorists of power have long pointed to these dynamics. Socialists, for instance, pointed out that bourgeois liberalism purported to grant equal freedoms and rights to all, but that in practice, the selection of

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[45] Craig Haney once captured this insight with an article subtitled "Let Them Eat Due Process"; arguing, more specifically, that "that present Fourteenth Amendment jurisprudence ignores the realities of contemporary social life and serves up ineffective due process protections as poor substitutes for genuine or meaningful equal protection." See Haney, "The Fourteenth Amendment and Symbolic Legality." See also Stephanopoulos, "Political Powerlessness."

those rights and freedoms as the ones to be "equalized" advantaged a particular class of capitalists.[46] Feminists have pointed out the ways in which legal equality between men and women cannot dismantle the sociocultural structures which perpetuate patriarchy.[47] As the philosopher Falguni Sheth put it, "The political framework of liberalism, which promises equality and universal protection for 'all,' depends on people to believe those promises, so that racial discrimination, brutality, violence, dehumanization, can be written off as accidental, incidental, a problem with the application of liberal theory rather than part of the deep structure of liberalism."[48]

Indeed, as we have seen in our discussion of Reconstruction, race in the United States is a particularly dramatic example. Though emancipation from slavery was clearly a victory for blacks, were still disempowered relative to whites in nearly every respect—including in their possession of power resources such as coercive capacity, wealth, property, legal statuses, institutional roles, social position, prestige, knowledge, and social capital—as well as by less discrete features of the power structure such as the discourses and epistemes which produced both white and black subjects. A similar story could be told about the right to vote, the admission of blacks to educational and vocational opportunities which were previously closed to them, and the efforts to achieve civic and social equality through the civil rights movement—all the way down to the supposedly "post-racial" Obama era, in which the election of a black President was taken by some to mean that the last barrier had

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[46] The *locus classicus* for this critique, of course, is Marx, "The German Idealogy."
[47] See, e.g., Hirschmann, *Rethinking Obligation*.
[48] This quote comes from an interview with George Yancy, Sheth, "How Liberalism and Racism Are Wed.". See also her book *Toward a Political Philosophy of Race.*.

fallen, that equal opportunity had been achieved, and that there could therefore be "no more excuses" for struggling black communities.[49]

Perversely, in fact, the remaining inequalities in power which are obscured by the rhetoric of "leveling up" are likely to become *more* rather than less important as any power resources targeted for equalization actually approach parity. People whose advantages can be traced to those power resources, of course, will predictably respond by transferring their advantages to others.[50] Implementing universal public education, for example, is supposed to limit the advantages of the rich, who would otherwise be the only ones able to afford to educate their children. Obviously, however, rich people in states with universal public education retain a number of educational advantages, including private schools, exclusive public school districts, summer programs, and private tutors, as well as the less concretely specifiable advantages of fluency in the culture of power. Yet even if we abolished private schools, equalized funding for public school districts, implemented universal pre-K, and funded summer programs for everyone, each parent would—understandably, I should add—try to do the best for their own children. And inevitably, rich and otherwise powerful parents would be more effective in this endeavor, on average.

Generalizing from these examples, what we can predict is that as certain kinds of power are successfully targeted for equalization, those in power will inevitably find other ways to perpetuate it over time. When one channel for the reproduction of advantage is blocked,

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[49] Esposito and Finley, "Barack Obama, Racial Progress, and the Future of Race Relations in the United States"; Reed and Louis, "'No More Excuses.'"

[50] As we shall see in the next chapter, this need not be intentional; indeed, assigning "responsibility" for racial hierarchy is more often a distraction than a solution.

that is, others will reliably open up—or as Samuel Issacharoff and Pamela Karlan put it in describing the "hydraulics" of campaign finance, "every reform effort to constrain political actors produces a corresponding series of reactions by those with power to hold onto it."[51] Though Issacharoff and Karlan are referring of the particular context of 20th and 21st century welfare states, of course, Jeffrey Winters observes something similar on a world historical scale: across the scope of human civilization and a broad diversity of political systems, nearly all decently sized human societies have provided for the protection and expansion of large fortunes.[52] Those with wealth, in other words—whether in 1st century Rome, 18th century Appalachia, 20th century Indonesia, or the 21st century United States; whether through or in spite of the state—have always found ways of protecting it.

Of course, it is not true that regulations can only ever redirect the money flowing into politics, never reducing its quantity or effectiveness—as the analogy with hydraulics would suggest. Nor is it true that universal public education has no effect on the gap in opportunities available to rich and poor children. Yet there are clearly dynamics worth describing here, and as I will explore in the next chapter, an *evolutionary* model is more appropriate for capturing them.[53] New regulations can be said to create a new selective environment, and these differences may matter substantively, especially in the short term, before new strategies have been tested. However, we should always expect people to innovate, and to find new strategies which have some level of success. Whatever strategies

[51] Issacharoff and Karlan, "Hydraulics of Campaign Finance Reform."
[52] Winters, *Oligarchy*.
[53] See also Bagg, "When Will a Darwinian Approach Be Useful for the Study of Society?"

these are will be the ones which are adopted at higher and higher rates by those seeking power. More generally, then, we can expect concentrated power to perpetuate itself by whatever means are not targeted for equalization or regulation.

When private property was eliminated in communist states, for instance, power asymmetries did not vanish; *different* power resources such as access to the right knowledges and social networks simply took the place of wealth. Indeed, the "hydraulics" metaphor suggests, misleadingly, that power always remains in the same form. Much of the time, it is transmuted into different forms as a way of evading our critical vision—a process which, we have seen is masterfully documented by Foucault. In describing transitions from corporal punishment to "disciplinary power" and "panopticism"; the "repression" of sexuality to "authentic expression"; the blunt instruments of "sovereignty" to the individualized forms of control indicated by the concepts "biopower" and "governmentality"; Foucault's point, over and over, has been that power never disappears; it simply changes form. More than that, the new forms depend for their success on the assumption that the old forms are the only ones which must be guarded against.

This, then, is the lesson we must learn from Foucault's warning that "everything is dangerous." When certain forms of power are targeted for equalization, others will not simply remain as unimportant and irrelevant as they had been before this targeting. Even if there is only a small cost in comprehensiveness for excluding certain forms of power from concern at the beginning, in other words, the cost of this exclusion will inevitably grow larger with time. There is no type of power, therefore, that we should exclude from

suspicion; and correspondingly, no type of freedom or agency which, once achieved, will represent real equality between people.

3.6 ~ Anti-vanguardism without subjectivity; distribution without equality

The conclusion that we must reject equal agency as a unifying logic for political theory will be difficult to swallow. The liberal turn to subjectivity undoubtedly represents an advance over straightforwardly objective approaches which attempt to outline the goods appropriate for all human beings. Meanwhile, the demand for equality—which I have shown to be intertwined with that turn to subjectivity—is a touchstone for nearly every contemporary political philosophy.

What makes this conclusion tolerable is that we need not give up on *particular* ideals of freedom and equality; nor even particular logics of equal agency. All we must do is recognize equal agency's unsuitability to serve as a top-level heuristic; to understand our commitments as particular and limited, like the proposal for universal suffrage, rather than as a unifying logic for social and political inquiry. We even maintain the basic form taken by that logic—i.e., distributing capacities among agents, which we have called "anti-vanguardism." We switch only its components. Instead of agency, we adopt "power" as the object of distribution, and instead of "equality," we adopt "dispersion," the primary advantage of which is its imprecision.

As I highlighted in the introduction, there are two major reasons that we wanted a "top-level" heuristic in the first place: defending a set of liberal and democratic institutions against criticisms and competitors; and articulating a regulative ideal and critical standard by which to evaluate and improve those institutions. The task of the rest of the dissertation,

then is to demonstrate that the dispersion of power does better on both counts. We must

begin, however, by getting clearer on the concepts at stake.

Chapter Four: Power and Agency after the Search for the Subject

4.1 ~ Introduction

The task of this chapter is to develop a conception of power and its distribution among agents. Unlike many other conceptions of power and agency, however—including many of those examined in the first chapter—theses conceptions do not claim to be *correct* by any objective standard. Rather, I seek to develop the conceptions that will be most *useful* to those of us seeking to think democratically.

As noted in the introduction, this method reverses the standard derivative logic of political theory. Rather than deciding what to do based on our understanding of what "freedom" really is, that is, we make decisions about how to talk about "freedom" based on which conception will best inform our decisions about what to do. We might think of this activity as "conceptual engineering,"[1] though it is also a straightforward application of the "agent-relative approach" to the specific task of theorizing concepts. A similar method has been explicitly advocated by others before, of course—notably including Dewey and Wittgenstein—and practiced implicitly by many others.[2] What I am engineering, then, is a top-level heuristic which employs the wisdom of anti-vanguardism, distributing capacities among agents, while escaping the troublesome commitments of the logic of equal agency.

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[1] This phrase was, to my knowledge, coined by Elina Vessonen, who highlights the contrast between this method and the more commonplace philosophical method of "conceptual analysis."

[2] We could also think of it, for instance, as the positive, constructive version of Foucault's critical method. Foucault did not investigate the *truth* of notions of agency, subjectivity, power, and so on; he investigated what they *do* in the world. We can also do this in a constructive way, asking not only what concepts do in practice, but what would we *like* them to do, and how we can engineer them for this purpose.

I hope to articulate a heuristic that is more comprehensive, capturing more of our concerns and leading us astray less often, while nevertheless remaining usable.

Where the logic of equal agency goes wrong, I have argued, is in its demand for specificity about the object and principle of distribution—agency and equality, respectively—and the key advantage of the dispersion of power that I have articulated, by contrast, is its deliberate imprecision on both counts. Because the principle of equality is precise, it requires us to posit a particular form of agency that is to be equalized. It therefore encourages users of the logic of equal agency to ignore other ways in which power is unequally distributed, and ultimately leads them astray. As we have seen in the previous chapter, this is reinforced by its associated image of political progress as the extension of certain particular rights and freedoms to all, which neglects to account for the ways in which power may be a zero-sum game. Moreover, agents do not exist in a static social world but rather in a dynamic and evolving society. Thus, even if the ways in which certain forms of power are unequally distributed seem insignificant at the start, ignoring them categorically will only encourage them to *become* significant. Power, that is, will "evolve."

The only way to guarantee that we will not miss out on certain kinds of power, I have concluded, is to accept with Michel Foucault that "everything is dangerous," and therefore to reject a familiar series of dichotomies which position "power" and "freedom" (or "agency") as opposites—"freedom disappearing everywhere power is exercised,"[3] and vice versa. On the one side of this series of dichotomies, there is freedom, liberty, autonomy,

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[3] Foucault, "The Subject and Power," 292.

authenticity, reason, recognition, and a number of other concepts which are said to name the expression of an internal subject in the external world. On the other side, there is interference, domination, coercion, distortion, imposition, constraint, repression, and a number of ways of naming external barriers to that expression. Yet as we saw in chapter two, such dichotomies do not reflect natural boundaries, and as we saw in chapter three, they cannot plausibly be sustained on other grounds either—at least if the dichotomy is supposed to support a "top-level heuristic."

The trouble, of course, is that once we accept such an expansive conception of power, it becomes difficult to imagine what it might mean to "distribute" it among agents. Foucault, after all, conceived of power not as something which could be collected, stored, and used by agents, but as something which flowed through them without their knowledge; something possessed by systems and perpetuated by discourses. Agents, meanwhile, are *created* by power on his conception; they are its results, not its originators. How, then, can we develop a conception of *power* that can be distributed among *agents*, which is nevertheless so expansive that it does not exclude any considerations from the scope of political concern? How, conversely, can we develop a conception of power that is expansive in the way that we want, capturing all of the concerns we wish to address in politics, while nevertheless remaining usable? Solving these riddles is crucial to the project of integrating critical and practical realisms, and that is the task of this chapter.

4.2 ~ Power: An expansive, intersectional, "postmodern" view

Power and control

In theorizing the power structure, I have found two recent accounts particularly useful. The first is Frank Lovett's sensitive and detailed discussion throughout the first half of *A General Theory of Domination and Justice*.[4] Lovett claims that the most sophisticated recent literature on power has reached a sort of general "convergence" upon the definition first promulgated by Thomas Hobbes in 1651; that is, as the "present means, to obtain some future apparent good."[5] Lovett clarifies that the "good" is only apparent—it need not actually be good for anyone. It also need not reflect a selfish pursuit of any kind: apparent goods can be altruistic. Finally, the "means" need not actually be employed—one can have the power to obtain some good without exercising that power.

The second is Sean Ingham's concept of "control"—which also takes Lovett's account as its point of departure.[6] Ingham's basic idea, which I preserve here despite modifying his account in other respects, is that an agent has control over a variable to the extent that the variable is sensitive to the agent's preferences—where a "variable" can be anything from the position of one's limbs to the color of a wall to the effective interest rate to your uncle's beliefs about whether 9/11 was a conspiracy. The degree of an agent's control over these variables can vary, then, along a number of dimensions. To begin with, there is the range of "values" which an agent can induce the variable to take, and the precision within that

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[4] Lovett, *A General Theory of Domination and Justice*.
[5] Ibid., citing Hobbes, *Leviathan*.
[6] Ingham, "A Theory of Popular Control."

range they are capable of achieving. Athletes and ballet dancers, Ingham points out, typically have a greater degree of control over their bodies, being able to move them into a greater range of positions, and with far greater precision, than the average person. Meanwhile, the Fed chairman typically has more control over the effective interest rate than any other person, but she does not have complete control, since she would be overruled or removed from office if she tried to impose a decision which was beyond the scope of what is considered acceptable by her colleagues and the political class more broadly. Her control is effectively confined by these other agents to within a very limited range. Any time an agent shares control over a variable with other agents, more generally, her control will be limited. In such cases, her input may have some impact, shifting the final value of the variable by a small amount, even if it does not perfectly reflect her ideal point.

The degree of an agent's control over a variable can be approximated by considering all of the costs she would have to pay in order for her end to be achieved. Those who own their houses, for instance, typically have greater control over the color of their walls than those who rent. Both are capable, in an absolute sense, of painting their walls—in a way that most people are probably incapable of moving like ballerinas, no matter how hard they try. Nonetheless, there is a key difference: owners need only consider whether it is worth their time and money to choose a color, buy the paint, and spend the day painting; renters, by contrast, must also consider whether it is worth losing their security deposit. The costs they would have to pay in order to achieve their end—i.e., a change in the variable "wall color"—are higher, meaning that this variable is less sensitive to their preferences. Costs may be approximated by various objective quantities such as time or money, though none

is a perfect measure on its own. Achieving the same ends, for instance, will be less costly in relative terms for wealthier people, and as we shall see, this is part of what it means for them to have greater power. It is best, then, to think of cost as a subjective quantity, while acknowledging immediately that there is no way to determine this quantity precisely. Here as elsewhere, I prefer to accept and acknowledge sources of uncertainty rather than impose or assume a misleading level of precision.

On this conception, then, we can understand "power" as the set of conditions enabling control. If "attaining a future end" can be glossed as "causing a particular variable to take on a particular value," then we can say as well that the means which allow an agent to attain that end are the conditions rendering that variable sensitive to her preferences. I have a high degree of control over the color of my walls, for instance, when I own my apartment, live alone, and have surplus money and time. Those conditions constitute my present means for achieving that future end; in other words, they constitute my power over the color of my walls. All else equal, I have less power if I rent the house or live with a partner who has different preferences regarding the color of our walls, or if I do not have enough money to buy the paint, because all of these conditions reduce my control over the walls. Thus, more power always enables a greater degree of control over at least one variable.

While control is always conceived with respect to a particular variable, however, the power that enables this control—my ownership of the house, my possession of cash, and so on—may be used to achieve control over a number of different variables. The "means" represented by power are often useful for many different purposes, enabling tradeoffs between different types of control. I can trade my control over the city I live in, on the one

hand, for control over the color of my walls, on the other, because the conditions that allow both sorts of control mostly take the form of highly flexible resources like money, property, and time. By contrast, I cannot trade my control over the education of my own child for control over the education of another child, because the conditions which enable me to control the education of my own child are deeply embedded social norms and institutions which set the socio-legal rights and duties of children and parents—highly inflexible sources of power compared with the possession of money.

Power resources

The "means" which allow an agent to obtain a given end might take the form of physical resources such as weapons or wealth, therefore, but will often refer to more general social conditions. For example, when an agent is designated as the president of some organization, this gives her a certain degree of power over the organization, and we may intelligibly speak of this status interchangeably as a "means," a "power resource," a quantity of "power," and so on. All of these locutions have the same meaning: that her status as president grants her control over a number of variables, making it easier to achieve various ends of hers. Of course, the status is not a physical resource—it simply reflects the fact that a number of people will, within certain limits, do what she tells them to do.

Indeed, even when physical resources are the proximate means, their ability to serve as means is almost always conditional on social circumstances. For example, what counts as wealth is dependent upon what other people desire to have, as well as the nature of property rights enforcement; while the amount of power conferred by a particular weapon depends upon a number of social factors such as the presence or absence of a police force and the

weapons possessed by others. Therefore, it makes sense to refer to a quantity of money or a weapon as giving a particular person a particular quantity of power, even though we understand that what really gives them this power is the entire set of facts about the world and the social structure which makes it the case that money or weapons can be used as means to the agent's ends. The claim that a weapon or a quantity of money or an institutional position itself represents power is only shorthand for this more complex idea.

Power resources may also come in far less stable and well-defined configurations than institutional statuses and physical objects. For example, an agent may have persuasive power over a group of people if she can get them to do what she wants, but this power may be quite fleeting if she betrays their trust in some way, or if an even more persuasive person comes along. Nor is power always consciously possessed. For example, an agent's persuasive power may be a result of a butterfly landing on her shoulder, which, unbeknownst to her, has been interpreted as a sign of divine favor. She then has enhanced persuasive power even if she does not realize it. Many forms of what has come to be called "privilege" work precisely in this manner: people who have not intended to create an asymmetry in power, and may not even realize that it exists, nonetheless benefit from it. Similarly, agents can *perpetuate* power relations unintentionally and unconsciously, without intending to do anything at all, simply through our habitual behaviors, failures to act, and even our simple presence in the world. The *exercise* of power does require a limited form of intention, by contrast, but this need not be an intention *to exercise power*—an agent must simply attempt to achieve some end for which her power proves useful, whether or not she realizes it.

Relations of control fix the subjective cost an agent would have to pay in order to achieve some end, then, but in order to achieve that end, she must actually pay the cost. She must activate the relations of control, that is, which have previously existed only as potentialities—as facts about the world which enable her to trade a certain subjective cost for an outcome. This cost may be very minimal, but there will always be some cost. For example, an "absolute" monarch may be able to command his subjects to do a great number of things, but he must still communicate his commands to them somehow. Moreover, since he has a limited number of subjects with a limited number of resources, he must decide which of his ends he will prioritize. In the economist's words, there is no free lunch: actions always involve tradeoffs and opportunity costs of some kind. What it means to be powerful, then, is to face *fewer* of these tradeoffs—to be able to exert a greater degree of control over a greater number of variables. Powerful agents can achieve more of their ends simultaneously, because the subjective cost they pay to achieve each of them is lower: they need not sacrifice as much, in terms of their other ends, in order to achieve any given end.

Social power and control

One particularly important kind of control, then, is social control, which I define as control over another agent's dispositions to action. If A has social control over B, then at least some of B's dispositions are sensitive to A's ends, and the more social control A has, the more sensitive they are. Social power, then, is the set of conditions enabling this sort of social control, while asocial power refers to any kind of power—the present means to attain future ends, or, equivalently, the conditions enabling control of some variable—which does not enable any kind of social control. In practice, it is difficult to demonstrate

that a particular instance of power has no social effects whatsoever, and so it is better to think of most power as having both social and asocial *dimensions* rather than conceiving two entirely distinct *types* of power. In this way, we can distinguish between forms of power that are predominantly social—such as persuasive power—and those which are less social, if not *entirely* asocial—such as the possession of a piece of consumer technology.

This definition of social power, then, lines up very nicely with Foucault's definition of power, in later interviews, as "action upon an action" of another.[7] Our more specific formulation, however, as "control over dispositions to action," has a few advantages. By replacing the first "action" with "control," we clarify that action does not have to be intentional, as we have explored above. By replacing the second "action" with "dispositions to action," meanwhile, we clarify that an agent may exert some control over another without causing an obvious or direct change in their action, and even without changing their action at all, simply by changing the likelihood that they will respond in certain ways to certain stimuli. If a mob boss blackmails a prosecutor in an attempt to get her to drop charges against one of his henchmen, for instance, she may decide to prosecute anyway—this may indeed fail to change her *action* in any way. If it made her more *likely* to drop the charges, however, he should still be said to have exerted power over her, for it still changed her *dispositions* to action in a way that was favorable to his ends.

Some relations of social control are enabled by the "idiosyncratic" features of interpersonal relationships—such as those between friends, co-workers, and romantic

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[7] Foucault, "The Subject and Power," 340.

partners. Many, however, are more systematic, and even those which appear idiosyncratic also typically carry traces of systematic trends. The control a husband is able to exert over his wife's dispositions, for instance, is clearly structured by prevailing laws and norms, as are the forms of control she is able to exert over him. A law criminalizing domestic abuse, for example, may have a large effect on the balance of power between a husband and wife, as may norms governing the career and re-marriage prospects of divorced women, and even the cultural scripts available to them—the "hapless philanderer" or the "hen-pecked husband"; the "gold-digging temptress" or the "sexless mother figure." Social roles such as gender, then, are an important source of social power, and a similar story could be told about categories such as race, class, sexuality, ethnicity, religion, nationality, caste, and so on. Members of privileged categories, as we have said above, may or may not be aware of their enhanced power, but on average, they will have to pay lower subjective costs in order to achieve any particular end.

Clearly, however, an individual agent's roles and identities are not the only roots of her power. Her membership in these categories has a systematic impact on the relationships of social control that she develops throughout her lifetime, but so do many more individualized characteristics of her personality. She may be particularly persuasive, or intelligent, or beautiful, or gregarious, or manipulative; any of which could make other people more sensitive to her preferences and enabling her to attain her ends at lower subjective costs. Far more important for our purposes, however, are those especially versatile social power resources which can be accumulated by agents over the course of their lifetimes and in many cases transferred to others; including especially coercive

capacity, wealth, property, legal statuses, institutional roles, social position, prestige, knowledges, and access to networks.

The personality traits and group identities of agents clearly determine how likely agents are to accumulate these power resources within any given social context, as well as modulating their effectiveness once accumulated. Nevertheless, the most powerful agents are distinguished *not* by their personalities or identities, but the massive power resources that these characteristics have enabled them to accumulate—their "power profile,"[8] to employ Jeffrey Winters' useful term. Not all intelligent, persuasive, white, heterosexual, American men, after all, are as powerful as John Roberts or Bill Gates. Even when discussing *group* differences, it is often easiest to measure the power asymmetries which exist in terms of the quantity of flexible power resources collected by group members on average—think of the racial wealth gap in the US, for instance,[9] or the "glass" and "bamboo" ceilings in corporate life which deny top leadership posts, respectively, to women and Asian-Americans.

An agent's flexible power resources also give us the best estimate of the subjective costs that must be paid by a particular agent in order to achieve certain ends. While one cannot typically "spend" or "use up" identity characteristics or personality traits, there are many flexible "power resources" which are expended in achieving a particular end, and cannot be used again, and this is often a key component of the "cost" of any given action. With wealth and other forms of capital, for instance, we typically know how much we are

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[8] Winters, *Oligarchy*.
[9] Lui et al., *The Color of Wealth*.

spending and have a good idea of what we will get. Indeed, other forms of power which can be "collected" and "spent" in relatively straightforward ways are often compared to monetary wealth, such as "political capital" and other informal systems of favors and debts.[10] It is useful to talk about these power resources as capital precisely because there is significant agreement about the rules according to which it may be collected and spent. Those with more wealth and other expendable power resources, then, will pay a lower subjective cost to achieve their social ends.

Estimating precisely how much power is possessed by any individual at any time, of course, involves a great deal of uncertainty. It is relatively easy to tell what forms of control are enabled by the wealth and property an agent has, as well as the institutional roles she occupies. This is because the it is easy to predict the consequences of spending money in a particular way, or using a well-defined institutional role for a particular purpose. The consequences of exerting coercive power, however, are notoriously stochastic, regardless of the scale—from petty theft to bank-robbery to interstate conflict. Some such gambles will be extremely lucrative, and others disastrous. How much power is represented by a fixed amount of coercive capacity, then, is often very difficult to tell: it depends on what will happen if it is used.

Nevertheless, it is clearly not impossible to say something meaningful about the relative power possessed by various agents: in general, those with greater power resources have more control. As always, giving up on the goal of certainty or precision should not prevent

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[10] See, e.g. Ellickson, *Order Without Law*.

us from making judgments, so long as we acknowledge the uncertainty involved in making them. Estimating the total power held by each agent, then, yields a picture of the social power structure in its entirety: as a network of sorts, with agents as the nodes, each influencing and being influenced by other agents, and each endowed by these relations with a certain degree of concentrated power.

4.3 ~ Agents in the social power structure

There remains a puzzling feature of this account, which is the seemingly contradictory roles played by individual human beings. On the one hand, it treats people as active, independent forces, whose "ends" are taken as exogenous. In explaining control, I have claimed that whether or not they realize they are doing these things, people choose which relations of control to activate at any time, trading off forms of control against one another. In order to achieve their ends, they must actively pay the costs specified by the relations of control which afford them those possibilities. On the other hand, however, it also treats people as passive, dependent "recipients of action," whose behaviors are endogenous to the power structure. There is a tension, in other words, between agency and structure.

The puzzle of agency and structure

This puzzle is not unique to my account; indeed, as illustrated in previous chapters, it is perhaps the central tension which animates a great many theories of freedom and power—not to mention legitimacy, justice, equality, democracy, rights, and so on. As I have argued, most accounts influenced by the modern, "liberal" turn to subjectivity seek to carve out space within the power structure for the realization of individuals' *authentic*,

internal subjectivities in the external world, thereby defining a clear boundary between what counts as a subject's *true* desires, preferences, or will; and what can be discarded or hypothesized away as an effect of illegitimate power. On traditional accounts, then, agents are active, independent, and free to the extent that their authentic subjectivity is manifested in the world; to the extent that their behaviors result from external forces that have been imposed upon them, by contrast, they are passive, dependent recipients of the action of others. Traditional accounts resolve the tension between agency and structure—or in other words, between understanding people as free, independent actors, and as passive recipients of action—by dividing the social world into distinct realms of agency and structure.

Many recent commentators, of course, have rejected this strategy for resolving the tension between agency and structure; Foucault perhaps foremost among them. And as I have argued in chapter two, drawing on contemporary work in biology and cognitive science for additional support, Foucault is right. Humans are evolved for cultural plasticity, and the interactions between social and biological forces which create each unique subject are thus unfathomably complex. As a result, there is no neutral, natural, or otherwise universally valid way of separating what is properly "internal" from what is properly "external" to the subject—no way of deciding what represents a subject's authentic desires, and what represents constraint, interference, or imposition. Though we can and indeed must make pragmatic distinctions along these lines in response to practical political dilemmas, there is no reason that we must use the same distinction across all of these cases, as is required by any attempt to use the logic of equal agency as a top-level heuristic.

Those who accept this Foucauldian account, however, face a dilemma of their own. If everything about human subjects is a "power-effect," as Foucault insists, this might seem to lead to a sinister form of determinism, erasing agency from the picture entirely—and with it, perhaps, all aspirations for normative value and/or empirical truth. If power is everywhere, in other words, doesn't that mean that freedom is nowhere? Foucault rejects this implication, as I have shown, but he does not offer a convincing, systematic alternative. At times, he articulates the possibility of an ethical orientation towards "care for the self," or "self-creation," or "resistance to power,"[11] but he is not convincing that these notions escape his own devastating critique of subjectivist conceptions of agency. Despite his earlier protestations to the contrary, such concepts still seem to position freedom in opposition to some form of power. In any case, they do not seem to yield a systematic approach to the relationship between agency and structure in general; much less to the resolution of political conflicts. As we saw, other Foucauldians who have tried to theorize freedom—such as Clarissa Hayward—have also tended to flirt with forms of the subjectivism they explicitly reject.

What is unique to my account, then—though of course it builds upon many others—is my proposed reconciliation of this tension. Following Foucault's earlier suggestion that freedom and power are not opposites at all, I claim that we should understand freedom and power as different words, with different normative valences, for what is fundamentally the same empirical phenomenon. Going beyond the claim that structure and agency are

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[11] Foucault, "Ethics of Care of the Self."

separate but interdependent, in other words—i.e., that structure creates the conditions for the exercise of agency, while agency recreates and resignifies structure[12]—I claim that at it is best not to understand them as distinct, on any fundamental level, at all. To be free is to have power on this account, and to have power is to be free; both consist in having control over variables.

This is not to say that we can *never* use the two words to refer to different classes of actions. In certain contexts, for instance, it may be acceptable to use the word "power"—and especially its aliases such as "interference," "domination," "constraint," "repression," and "subjectification," whose valence is more obviously negative—to refer to "bad" uses of social power. Meanwhile, there may be certain contexts where it is acceptable to use words like "freedom," "agency," "authenticity," and "autonomy" to refer to "good" uses of social power. When and where such usages are justifiable, however, it will not be because they track natural categories. Our justification for using such normatively loaded terms, that is must not be grounded in naturalizing speculations about which forms of power reach deeper into the subject than others, or about which choices and desires are truly "authentic" as opposed to being "imposed" upon subjects, or about which institutions reflect the *true* subjective interests of individuals or the "general will" of the people. Instead of adopting the subjectivist strategy of respecting the pre-existing, authentic freedom of

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[12] This claim is perhaps most famously made by Giddens, *The Constitution of Society*. It has since been adopted by many others, including many whose projects are otherwise somewhat similar to this one, such as Medearis, *Why Democracy Is Oppositional*.

subjects, we should decide which strategies for defining and protecting freedom will best serve the broader normative goal of dispersing power.

Dispositions to action in agency and structure

The key concept which enables the dissolution of such familiar subjectivist dichotomies is "dispositions," which names an agent's propensities to act in response to any of the various circumstances it may encounter. We have already seen that social power acts on the dispositions of agents, as well as being partially constituted by those dispositions. The power conferred by the possession of a particular currency, for instance, depends on the willingness of other people to accept it as payment, while the power conferred by a good reputation depends upon the likelihood that others will respond to prestigious people in favorable ways, and the coercive capacity of a mob boss depends upon the cooperation of henchmen and crooked cops. In each of these cases, the relevant social power depends upon the dispositions of other agents as a pre-condition. If an agent successfully deploys the social power of money or prestige or coercion, meanwhile, he activates these relationships of control, trading off unrealized potentialities to achieve a particular end, and therefore alters the future shape of the power structure. The social power structure as a whole, in other words, is partly constituted by the dispositions of all relevant agents to act in response to all conceivable situations; and at the same time, these dispositions are also the target of all exercises of social power enabled by that structure. Dispositions are among both the *causes* and the *effects* of social power.

From the broader societal perspective, then, agents appear as nodes in a network: bottlenecks of unpredictability within power structures shaped by large-scale forces and

trends. Concentrated social power names a set of conditions in which changes in the preferences of one individual—whatever their "cause"—will have a disproportionate effect on the dispositions of many other people. For example, if the President of the United States decides that it would be advantageous to invade another country, this will have a dramatic effect on the dispositions of a great number of people, because the President of the United States has a great deal of concentrated social power. Similarly, if the president of a local choir decides that the next choir trip will be to San Jose, California, then this will have a disproportionate, if less dramatic, effect on the dispositions of the people in that choir. The difference between the two is that the US President has a much greater degree of control over the dispositions of a much greater number of agents.

By itself, of course, this description does not seem to resolve the determinism objection. In theory, at least, if we could perfectly describe the dispositions of any agent, we could predict what she would in any situation; and if we could describe the dispositions of all agents, we could derive both the future and the past development of the entire structure. The idea that this sort of speculative fiction has any bearing on real experience or political choices, however, has always struck me as slightly absurd. The process by which a human being arrives at a particular decision is so causally dense and complex that it is impossible to reach any adequate understanding of their behavior, much less a prediction, in terms of physical laws. The same applies, of course, to their biological drives, or the conditioning to which they have been subjected, or the pursuit of self-interest, or any of the simplistic theories that have sometimes promised to explain all human behavior. Thus, regardless of whether or not we accept a "deterministic" view of the physical universe in the abstract,

any *practical* form of determinism—be it physical, genetic, neurological, social, or economic—is severely misguided.

Even if we acknowledge that humans are ultimately the product of such forces, of course, each individual agent is an utterly *unique* combination thereof, and they interact with one another in unfathomably complex ways in that process of production. We observed above that this truth about human "nature" should lead us to regard most specific claims about its content with suspicion. Here it leads us to conclude that we cannot treat a human being as a simple physical object like a billiard ball, or as a system designed to achieve relatively fixed goals through relatively fixed means, like a plant or a machine.

Dispositions and the intentional stance

How is it, then, that we do successfully predict human behavior? Precisely by recognizing that, regardless of the philosophical status of determinism, treating human beings as determined systems is a hopeless endeavor. Instead, we do a much better job of navigating the social world if we accept a good deal of uncertainty about the precise *behaviors* we expect from others, assigning higher and lower probabilities to various actions based on what they might be *thinking*. We best predict other human beings, in other words, *by treating them as agents*, assuming most basically that they tend to pursue a set of relatively stable preferences in accordance with relatively stable beliefs. In Daniel Dennett's terms, we adopt the "intentional stance."[13]

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[13] Dennett, *The Intentional Stance*. See also Dennett, *Elbow Room*; Dennett, *Darwin's Dangerous Idea*; Dennett, *Freedom Evolves*; Zawidzki, *Dennett*.

The difference between agents and non-agents, on this view, depends not on the presence or absence of an essential internal subjectivity, or on their exemption from the causal structure of the universe, but rather on the best way of predicting and understanding their behaviors from the outside. We recognize that unlike with billiard balls, whose motions can be calculated exactly given positions and velocities, or plants, whose growth is quite predictable with relatively limited knowledge of nutrients and weather patterns, there is no tractable data set whose acquisition would allow us to predict the behavior of individual agents with anything approaching that level of precision. The knowledge we seek to acquire instead typically concerns their beliefs and desires—or in other words, the *reasons* they have for behaving the way that they do—which does not allow us to predict their behavior precisely, but does substantially narrow the range of actions we can expect. This is what it means to take the intentional stance towards them, as opposed to a "physical stance," which applies better to billiard balls, or a "design stance," which applies better to plants.

We can now begin to see how the concept of dispositions resolves the tension between agency and structure. An agent cannot see her own actions as the result of dispositions or "propensities," of course: she experiences herself as responsible for her decisions, and cannot help thinking through her options and choosing sincerely between them. Similarly, her acquaintances may not be able to predict the decision she will make in a particular set of circumstances, and these moments of unpredictability are of great importance to the individuals involved. We need not deny any of this, however, on a dispositional conception of agency, for the claim is not that agents are determined in any practically relevant sense,

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nor that they are precisely predictable. The claim, instead, is that we can considerably narrow the range of an agent's likely actions knowing very little about them, and the more we learn about them, the more we can narrow this range. In fact, agents must be *somewhat* predictable if they are to count as agents at all: complete unpredictability is a feature of randomness rather than agency.

The resolution depends on a willingness to consider the same event or situation from multiple perspectives. When considering any particular agent, her actions exhibit the structured unpredictability characteristic of agents—i.e., that which is best understood using the intentional stance. In other words, she can best be predicted and understood by ascribing to her various dispositions, including but not limited to beliefs and preferences. This still leaves quite a bit of room for unpredictability, which looms large at a local scale, but from the perspective of the broader social system, this local variability averages out, allowing us to paint a relatively accurate picture of the power relationships which structure our lives at any given moment. Aggregating the dispositions of all agents and considering them as a whole yields a tolerable model of the likely consequences of various possible actions—from the mundane assumptions which allow us to buy a candy bar in a convenience store, to the extraordinary calculations made by terrorists in order to successfully carry out their attacks without interference from the authorities. The long-term evolution of the power structure is by no means predictable, of course, and even in the short term, there is always an element of chance and uncertainty, due at least in part to "local" unpredictabilities as well as the impossibility of collecting information about the dispositions of all people whose actions bear on the outcome. Yet it is only a relatively

accurate grasp of the aggregated dispositions of agents that enables us to lead recognizably human lives in the first place.

Thus, from the perspective of any individual person or the people with whom she interacts, she is best understood as an active, independent force, and her volition is best treated as an exogneous variable. From the perspective of the broader social structure, however, she can also be treated as a passive, dependent, recipient of action, whose behaviors are endogenous to the power structure. From a pragmatic perspective, therefore, she is both. Agency and structure describe the same thing from different perspectives; the two concepts are simply useful in different circumstances.

A more plausible and practically relevant sort of "determinism" objection might focus on the danger of emphasizing the pervasiveness of power and structure when it comes to oppressed groups in particular. While we should not hold people responsible for their own oppression, of course, critics rightly observe that it only intensifies their oppression to disregard their capacity for resistance, depicting them as in need of rescue from dominant groups.[14] First, however, the power structure is by no means fixed; despite its relative predictability in the short term, in fact, it is subject to constantly fluctuating forces which truly are "exogenous" to the power structure; creating opportunities for intervention and redistribution by fortuitously situated agents, and making it largely unpredictable over the long term.

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[14] This critique is related to the concern that a Foucauldian approach to power leads to "conservatism" or "quietism," as described above. See, e.g., Taylor, "Foucault on Freedom and Truth"; Fraser, "Michel Foucault"; Benhabib et al., *Feminist Contentions*.

Moreover, because each agent is the product of an utterly unique set of influences interacting in unfathomably complex ways, individuals cannot be regarded as interchangeable with similarly situated agents, nor reduced to the influences that have acted upon them. Thus, while certain circumstances may be disempowering in general, they will not affect everyone in the same way, which is how certain supposedly "disempowered" agents can create the conditions necessary for redistributive collective action, or otherwise capitalize on the opportunities provided by exogenous shocks. Rather than conceiving of the difference between oppressors and oppressed as a deficit in the subjective autonomy or authenticity of the oppressed, therefore, it is seen to reflect the unequal distribution of power. Both oppressors and oppressed are equally agentic in the sense of having dispositions that are unpredictable. They are not, however, equally situated; each agent can be said to possess a different amount of power. This points the way forward for normative theory, and in the next chapter, we explore what it means to take the dispersion of power as our anchoring principle for thinking democratically. First, however, we may point out some advantages of power-based thinking that are already apparent.

4.4 ~ Three principles of power-based thinking

> *For each new law, a new way of circumventing it will arise.*
> *— Chinese proverb*[15]

At the beginning of the chapter, I emphasized that this is hardly the only plausible way one could think about power and agency. Rather than seeking to analyze or discover the

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[15] Cited in Elster, *Securities Against Misrule*, 171., who cites Needham, *Science and Civilization in China, Vol. 2*, 522.

correct conceptions, my purposes is to *engineer* conceptions of power and agency that are useful for those of us seeking to think democratically. In particular, the point is to develop an anti-vanguardist distributive principle that achieves greater comprehensiveness than equal agency, as a top-level heuristic, without sacrificing usability. What, then, are the practical and rhetorical commitments we take on when we think in terms of power instead of agency? We may summarize them as three principles of "power-based" as opposed to "agency-based" thinking: 1) power is everywhere; 2) power evolves; and 3) power is zero-sum. Each will be important in subsequent chapters, as we continue to develop the advantages of the dispersion of power over the logic of equal agency.

First principle: Power is everywhere

Consider first that the conception of power articulated here allows us to capture Foucauldian forms of productive power while maintaining the ability to talk about its distribution among agents. Many productive forms of power which act through subjectification, such as the discourses and epistemes which are preconditions of our subjectivity, do not seem to have a human owner, designer or perpetrator—instead, they take on a life of their own, and can "move through" individuals without their consent or knowledge. Individuals reproduce these power relations without having the intention to do so, or even the knowledge that they exist. As a result, some Foucauldians have asserted that power is not "possessed" and "used" by agents, as assumed by traditional theorists of

power (i.e., theorists of its first, second, and third "faces").[16] The distinction I have drawn between "power" and "control," however, resolves this tension.

In the terms I have proposed, of course, "power" is the set of conditions which enables "control," and is therefore not technically distributed among agents. Control, however, *can* be distributed among agents, and control is what most people mean when they talk about the sort of power that agents possess. Moreover, systemic forms of "productive" power which have no clear owner, designer, or perpetrator, nevertheless have the effect of distributing and redistributing control among agents, just like the legal structures and social norms which organize the distribution of "repressive" power. Foucauldians, in other words, are talking about the conditions which allocate control among agents, and the processes which alter that distribution over time; while traditional theorists of power typically discuss various forms of control more directly. In analyzing regimes of discursive power along Foucauldian lines, we may be unable to point to particular agents who control their direction, but we should be able to point to particular agents who are granted greater and lesser degrees of control by them.

The distinction between power and control, therefore, is a scaffold which may now be discarded. It has been useful for reconciling our commitment to capturing "postmodern" forms of power with our ambition to discuss the distribution of power among agents. When I discuss the "distribution of power" or the "dispersion of power" going forward, then, I shall mean "control" in the technical terms developed in this chapter. But we need not

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[16] Clarissa Hayward, for instance, argues that we must reject the assumption "that power wears the 'face' of agents who use and direct it." *De-Facing Power*, 10.

concern ourselves with this technicality any longer. In practice, there is no reason to change the way that we talk, and in fact, it is better to refer to all of these phenomena as power— for precisely the reasons that Foucault and others with "expansive" views of power have used the term in the first place: i.e., to disrupt "naturalized" normative categories.

To demonstrate that some social phenomenon has been created by "power" is to show that it is "artificial" rather than "natural"; that it is properly open to critique as well as potentially subject to political action. In such processes of "politicization" or "denaturalization," as discussed in chapter two, applying the term "power" to phenomena that have not normally deserved this label is a conscious, legitimate, and effective rhetorical strategy rather than a sloppy or malignant terminological slippage.[17] On this view, previous accounts of power are not *wrong,* per se; they are simply not expansive enough to be used as top-level heuristics. This, I have argued, is the key lesson we should take from Foucault. The point of his insistence that power is everywhere, and that everything is a power-effect, of course, is not that everything is bad, just that everything is dangerous. The point of his historical genealogies of contemporary power structures, similarly, is not to prove that things *should* be otherwise—much less to prescribe *how* they ought to be altered—but simply to remind us that they *could* be otherwise. Such denaturalizing work exposes power

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[17] For a typical statement of this critique, see Chambers, *Sex, Culture, and Justice*, 30.: "If, as Foucault maintains, power is everywhere, it loses its pejorative sense. If everything is power, there is no longer any distinction between a so-called free choice and a pleasure-endowed internalized norm; Foucault may refer to an action as the latter, but we might just as well refer to it as the former. It makes sense, so the criticism goes, to refer to acts that are not the product of conscious coercion by another individual as freely chosen because that reference distinguishes them from those which are. Differentiating the two enables us to see that the most important projects for a program of political liberty lie with identifiable, preventable, illegitimate constraints."

relations that had been difficult to see, allowing us to compare these relations with others that might be possible. Foucault did not often perform this latter task himself, but it is the one I take up throughout this dissertation, and especially in the chapters to come.

Second principle: Power evolves

In addition to reconciling "faced" and "de-faced" views, then, the conception of power articulated here also foregrounds the tendency of power to "adapt" and "perpetuate itself" over time, which is valuable not only in allowing us to capture a common way of speaking about power but also in clarifying the normative tasks ahead. Power, of course, is not an agent, and so it is only metaphorically that we can speak of "self"-perpetuation—power simply consists in the beliefs, expectations, and preferences of distributed individuals. However, the metaphor is often quite apt.

We may begin with the simplest example, whereby an individual agent "invests" existing social power to yield a "return" of greater social power in the future. An autocrat may use his discretionary police powers to kill off other leading public figures. A religious leader who possesses the trust of his congregation may begin to emphasize the exclusive value of his own teachings over those of other leaders, increasing their hostility to outsiders. A man initially empowered with a small asymmetry of control in relation to his wife, due to their relative socio-legal positions, may exploit this asymmetry to forbid her from taking employment outside the home, thereby rendering her more dependent on him and exacerbating that asymmetry. A tribal chief may use his influence or wealth to have gold adornments made for his face and body, both symbolizing and entrenching his power by inducing fear and admiration. An academic may use her reputation to advance the

careers of those who agree with her, thereby further advancing her own reputation as well. As this final example shows, such power-enhancing actions need not be motivated by greed for power. Indeed, people will typically have a wide variety of overlapping motivations, including those we would call sincerely altruistic. There is no need, therefore, to include intentionality as a requirement of the perpetuation of power.

Moving beyond the case of individual agents, then, power may also be perpetuated by *collective* agents—as when a court or legislature, for instance, votes to set precedents or make laws which expand the range of its discretion in the future. More broadly still, groups with aligned preferences can act *as if* they were collective agents, even in the absence of a coordinating mechanism, thanks to the cumulative effects of their uncoordinated "spontaneous" actions. Wealthy people, for example, often use political power to protect their wealth,[18] and members of dominant races, ethnicities, castes, genders, sexualities, and religious groups reliably defend their privilege in a similar way.

Not *all* "groups," however, do so. It is only when people share *ascriptive identities*, that is, and not in cases of shared *personal* traits such as persuasiveness or attractiveness, that we typically observe "categorical inequalities" or "asymmetries of power" between groups. We do not typically say that persuasive people have "concentrated power" relative to unpersuasive people, even if this may be true on average. The difference, then, is that

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[18] Their power as a class in the US is confirmed—on precisely the definition of control we have been developing—by recent studies showing that political outcomes are more sensitive to their preferences than to those of any other group. See, e.g., Gilens and Page, "Testing Theories of American Politics." For a more global and broadly historical perspective, see Winters, *Oligarchy*; Winters, "Wealth Defense and the Complicity of Liberal Democracy."

categories such as gender, race, class, sexuality, ethnicity, religion, nationality, caste, profession, and so on, describe groups who have significant *common interests*. And the reason for this difference is that these "ascriptive identities" can be used as the basis upon which to "hoard opportunities."[19] People are not definitively "persuasive" or "unpersuasive," "attractive" or "unattractive,"[20] and it is difficult therefore to condition treatment of others on their membership in such groups. As Charles Tilly observes, "durable" inequalities are almost always built on the basis of salient categorical differences, which enable this kind of opportunity hoarding.

Such groups *may* achieve such spontaneous coordination and opportunity hoarding because they consciously share an interest in defending their collective power resources. And of course, many wealthy people intentionally pursue policies which will benefit them. Yet it is worth noting that this need not be the case: many wealthy people may sincerely believe that tax cuts will "lift all boats," so to speak, and are therefore beneficial to all. Because of the phenomenon of motivated reasoning, discussed in chapter two, people will reliably favor interpretations of the facts that are conducive to their interests.[21] Even if they do not actively attempt to get more power, that is—even if they do not want it in the first place—their actions will (on average) tend to preserve their privileges. We observe this, for instance, when whites or heterosexuals perpetuate the asymmetrical power of their

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[19] Tilly, *Durable Inequality*.

[20] Categories of race, gender, ethnicity, sexuality, religion, and so on are also not discrete, but the function of white supremacy, patriarchy, heteronormativity, and so on, is to make them *appear* as binary or discrete traits, thereby making it easier to ascribe these identities to others.

[21] See, e.g., Kunda, "The Case for Motivated Reasoning"; Bartels, "Beyond the Running Tally"; Nyhan and Reifler, "When Corrections Fail"; Kahan, "Why We Are Poles Apart on Climate Change"; Lodge and Taber, *The Rationalizing Voter*.

respective identity groups, in subtle ways, without having ever considered their whiteness or sexuality as normative in the first place, much less endorsing that normativity.

Taken together, these reflections help to explain why it makes sense to talk of the "self-perpetuation" of capital or the "reproduction" of white supremacy and patriarchy, as if they had initiative of their own. Clearly, they do not. But the metaphor can be enlightening, as is demonstrated perhaps most famously by Marx's analysis of capital—especially as revised and clarified by Thomas Piketty's now-famous formula $r>g$.

Under capitalist legal structures, Marx observes, capital can be used to produce profit, which can in turn be used to purchase more capital. Given a widespread profit motive, then, capital tends to "perpetuate itself," accumulating in greater and greater concentrations under the ownership of those who possessed the initial endowments, creating ever-increasing inequality. Clearly, this process is far messier in practice than this outline suggests. In the first place, it depends on the actions of humans, who may or may not "play along" with the supposed "imperatives" of capital accumulation, such as reinvesting profits in those forms of capital with the highest rate of return. Individual capitalists who possess great concentrations of wealth may make bad investments, split their fortune between heirs, or simply give their money away, thereby dispersing wealth instead of continuing to concentrate it. Additionally, there are elements of chance and fortune, whereby some pools of capital may lose value faster than they can be replaced, as technological, demographic, and political conditions shift in idiosyncratic, unpredictable, and unintended ways. And finally, of course, countervailing sources of social power—notably states, but also social

movements, boycotts, and so on—can directly or indirectly break up or whittle away at great concentrations of capital.

On Piketty's view, however, few of these things would have had any significant impact on the overall tendency of capital to become concentrated in fewer and fewer hands—given certain capital-friendly legal frameworks—were it not for the two most destructive wars in world history. Whenever the rate of return on capital (r) exceeds the overall rate of expansion of the economy (g), Piketty observes—when r>g—differences in initial endowments will tend to grow, as greater quantities of capital accumulate in fewer hands. Piketty's argument, then, is that r>g is the general rule of capitalist society, from which the mid-20th century was a rare exception, owing largely to the aforementioned destruction. Regardless of whether we accept this argument, then, we should still do what we can to ensure that r does not exceed g.

The conception of power I have developed in this chapter enables us to apply this kind of reasoning to all kinds of social power—all of which, like capital, can be used to generate "return" on "investments" in similar ways. Just as not all owners of capital obey the logic of capital by reinvesting it where they find the highest rate of return, of course, not everyone with social control will "reinvest" it by attempting to further expand that control. Similarly, social power is constantly being redistributed through idiosyncratic, unpredictable shifts in material circumstances and other social conditions. And of course, countervailing sources of social power may always be used against it. Yet as in the case of capital, it is still a key normative imperative to resist any tendencies it has to become more concentrated in fewer hands. If we can expect power to evolve and to adapt, then we must adapt in response to

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it: techniques for dispersing power are always in an evolutionary arms race with concentrating tendencies. Aside from justifying certain locutions, then, the observation that "power is self-perpetuating" also clarifies the normative task ahead.

But here we have a puzzling conundrum, which is lacking in the case of capital. The countervailing forces that could weaken expanding concentrations of social power would also have to be concentrations of social power, which would then be subject to the same logic as that which is being contested. The typical way of avoiding this conundrum by imagining a source of social power which need not be countervailed: for many liberals, it is the power granted to legitimate states by the autonomous consent or authorization of citizens; for deliberative democrats, it is the power of norms that are the subject of a reasonable consensus; for Marxist-Leninists, it is power exercised by the proletariat, or the vanguard party which supposedly advances their interests.

The argument made here, by contrast, is that we should reject such attempts at legitimization, by which we open ourselves to exploitation from whatever source of power is declared to be fully legitimate. Accepting that everything is dangerous, we should grapple more honestly with the associated "paradox of power"—i.e., that fighting power requires using power—seeking to *minimize* danger by *managing* power, not to *eliminate* danger by *legitimizing* power. We will take up this challenge in the next chapter.

Third principle: Power is zero-sum

The final principle of power-based thinking is that it foregrounds the aspects of social life which are zero-sum, and therefore avoids the seductive promise of "leveling up" discussed in the previous chapter as endemic to the logic of equal agency. Where freedom

and other forms of agency appear universalizable without implying any losses for privileged or advantaged groups, social power on our definition is zero sum, meaning that for any gain in social power made by one agent or group, there must be a corresponding loss in social power by some other agent or group.

Asocial power, of course—power which does not enable social control—is not zero sum. I can gain more power over non-social variables like the color of my walls, for instance, without necessarily taking power away from anyone else. Technological innovation, more generally, is a reliable way of generating asocial power, since one agent having greater control over certain non-social variables doesn't necessarily increase their control over other human beings, and need not come at a cost to anyone else.

Social power, however, *does* have the characteristics of a zero-sum game, meaning that we can assume any gain in social power for one agent to be accompanied by a corresponding loss of power for another, and vice versa. If this doesn't seem intuitive, consider that as we have described them, each agent's dispositions are a joint product of biological and cultural influences, and that separating the precise contribution of each to any given disposition is not simply impossible, it is incoherent—relying as it does on a specious dichotomy between nature and culture. It makes no sense, therefore, to say that the proportion of an agent's dispositions which are influenced by social forces either rises or declines. Agents in general, then, can be said to be embedded in networks of social control to roughly the same degree over time, and it is safe to assume that within a given population, the overall level of social power is relatively constant.

One might think that increasing connection *between* social groups would increase the total level of social power, but this is not so. Increasing connection between more distant groups simply transfers social control from local to foreign agents. This may be worrying for many reasons: it opens the possibility, for instance, for power to be concentrated in fewer hands, and indeed, this is one of the major effects of the processes of globalization which began with European colonialism and accelerated with the expansion of industrial capitalism and global trade networks. Nevertheless, this is not an *inevitable* result of increasing connection between groups, and it is due to a *redistribution* of social power rather than an *increase* in its total level.

Processes we normally consider *reductions* in social power should also be understood, instead, as redistributions. Consider a stylized example: the transformation of a slave society into a democracy with universal political equality We are accustomed to seeing such transformations in terms of the universalization of freedoms once held by some, and correspondingly in terms of the reduction or even elimination of domination or illegitimate power. Depending on how we define freedom and domination, this may be true. Yet we should not allow ourselves to imagine that this universalization of *particular* freedoms, and the reduction or even elimination of *particular* forms of domination—which may represent tangible progress—can therefore be regarded as an endpoint or political utopia more generally. Nor can we imagine that it comes at no cost to formerly privileged classes, and we should not be surprised when they fight it. Power-based thinking renders this transformation—more honestly, in my view—as a redistribution of power from former masters to former slaves rather than as a simple extension of freedoms or a reduction in the

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total amount of power that is being exercised. We can still endorse this transformation, clearly, but in doing so, we should be wary of the complacency and inattention to dynamic power structures which comes with the "leveling up" logic of equal agency, which we examined at the close of the previous chapter.

In a somewhat subtler way, of course, this is precisely the point Foucault makes in his middle-period studies, which were discussed in chapter two. Where we tend to see the medicalization of mental health, prison reform, and the sexual revolution as "liberations" from power, which grant greater "freedom" to everyone, there is no way to spell out this liberation in terms of a more "authentic" expression of internal subjectivity.[22] It is thus more accurate to say that social power has been *redistributed*. As with the transformation of the slave society into a democracy, such movements can and indeed ought to be endorsed—as Foucault himself admits.[23] Nevertheless, we do well to remember that they have *not* rendered us truly equal in our authentic subjectivity.

The social power structure, then, can be treated as a zero-sum game, meaning that increases in social power for one agent can be assumed to come with a corresponding decrease in social power for others. This places social power in stark contrast to asocial power, which may often be positive-sum. Where the logic of equal agency tempts us to focus on the total *quantity* of power, here we focus on its *distribution*. In previous chapters, we rejected the moral binary between an intrinsically valuable conception of agency and a

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[22] Foucault, *Madness and Civilization*; Foucault, *Discipline and Punish*; Foucault, *History of Sexuality, Vol. 1*.

[23] See the passage discussed in chapter two above, from Foucault, "Space, Knowledge and Power," 359.

suspicious form of external power or domination, instead suggesting a conception of power, following Foucault, which is both ever-present and morally neutral. In this chapter, then, we rejected the related agency/structure dichotomy, arguing instead for a conception of social power which encompasses both. Now we can see how these insights support one another, and why my conception of social power represents a genuine alternative.

On the understanding outlined in the introduction, "power" is an expansive term, capturing all of the means that people use to achieve their ends, and "agency" refers to some subset of these terms, which is taken as the target for equalization among individuals when employing some version of the logic of "equal agency." It is, so to speak, "good power," which ought to be maximized, and is given a positively valenced label such as "freedom," "liberty," "autonomy," "rights," "recognition," and so on. The way in which this subset is identified as potentially equalizable, then, is by separating the forms of power necessary for individual agents to realize their authentic "subjective" interests in the world, from the constraining forms of "bad power" imposed upon them—often given some epithet such as "interference," "domination" or "oppression." Maximizing the former subset—agency or "good power"—is therefore equivalent to minimizing the latter, "bad power." Subjective freedom or agency thus appears, from within the logic of equal agency, as something which can be expanded indefinitely. This, however, is a fantasy. Focusing directly on the distribution of social power, as a zero-sum game, enables us to resist the temptation to imagine that we can simply "level up"; increasing the power of some without decreasing the power of others.

It is worth noting, however, that this sort of "leveling up" *is* possible with *asocial* power, and perhaps this is how we ought to understand Foucault's directive, cited in the introduction, to discover how "the growth of capabilities" may be "disconnected from the intensification of power relations."[24] If the growth of capabilities is the positive-sum growth in asocial power which may benefit all simultaneously, then the intensification of power relations may be seen as the further concentration of social power—especially that represented by the increasing interconnectedness of global capitalist society—and the corresponding erosion of the power held by most of humanity. Such are the challenges of the 21st century.

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[24] Foucault, "What Is Enlightenment?," 48.

Chapter Five: The Logic of the Dispersion of Power

5.1 ~ Introduction

> *Down with the power of the despot / Wherever his stronghold may be*
> —*Lincoln and Liberty (1860)*

The project of this dissertation is to advocate for the dispersion of power as an alternative to the widespread logic of equal agency. Both, of course, are rival versions of what I have variously called a "top-level heuristic" or "organizing principle" for thinking democratically. Whatever we call them, the basic virtue which must be possessed by candidates for this role is an optimal balance between comprehensiveness and usability.

In the first several chapters, I elucidated the logic of equal agency and criticized it on the grounds of its comprehensiveness. I argued, roughly, that a) classical liberal views incorporate only those concerns which can be framed in terms of present interference with free choice, while b) revisionist liberal views also incorporate concerns about the effects of past interferences on the structure of choices, and c) radical views incorporate concerns that cannot be formulated in terms of interference with choices at all—including, for example, the effects of "ideological" power upon preferences. Insofar as radical views are "modern" rather than "postmodern" in my terms, however, I argued that they still imagine an authentic capacity for subjective agency underneath the impositions of power, which could be recovered or approximated by eliminating, legitimizing, or minimizing power, and equalized between agents. In so doing, therefore, they necessarily exclude concerns about whatever inequalities in power are "left over," once the relevant form of subjective agency has been equalized.

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On the conception I outlined in the introduction and expanded in the previous chapter, "power" refers to any of the means which enable agents to achieve their ends. Many commonly used political concepts—including "freedom," "authenticity," and so on—refer to a subset of those means which are thought to realize the subjective agency of individuals, and equalizing them is often thought to represent truly equal treatment. This is what motivates the logic of equal agency. As I have shown, however, true equality is a forever-receding mirage. As a result, we should not accept any subset of the means by which agents achieve their ends as sufficient to count as equal treatment. Indeed, we should abjure the goal of equality altogether, for it leads inevitably to this misguided "search for the subject." Only postmodern radicals who reject the logic of equal agency rather than reformulating it, therefore, are able to account for the danger of concentrated power across all of its forms.

As I acknowledged in the introduction, of course, not all threats to human interests are traceable to concentrated power. This means that a dispersion of power heuristic will ultimately fail to be *fully* comprehensive. But the *maximally* comprehensive heuristic is an unreachable and possibly incoherent ideal; it is certainly unusable as a heuristic. Meanwhile, I argued, the concerns left out by confining our scope to the dangers represented by concentrated power are minimal, and can safely be ignored in the vast majority of 21st century circumstances. Both equal agency and the dispersion of power are "anti-vanguardist" logics which may be justified by this sort of calculation. Equal agency, however, takes the further step of demanding *equality* as the principle of distribution and, by implication, a *subset* of forms of power (which I have called "agency") as the object of distribution. The dispersion of power, which by contrast makes no such demands of

precision—and therefore evades the necessity of categorically excluding certain forms of power from concern—is by definition more comprehensive.

As a class, in other words, anti-vanguardist logics of distribution represent the best balance between comprehensiveness and usability; and of the members of that class, the dispersion of power is the more comprehensive. What remains to be shown, then, is that this advantage in comprehensiveness does not require unacceptable sacrifices in usability, and that the balance it enables us to achieve is therefore better than any that is achievable using the logic of equal agency. That, roughly, is the task of the rest of the dissertation.

5.2 ~ The challenge to be answered and the method to be used

> *So in all human affairs one notices, if one examines them closely, that it is impossible to remove one inconvenience without another emerging… Hence in all discussions one should consider which alternative involves fewer inconveniences and should adopt this as the better course; for one never finds any issue that is clear cut and not open to question.*
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> *— Niccolo Machiavelli*[1]

The most direct version of this challenge has been presented by Frank Lovett, whose conception of power was the starting place for my own in the previous chapter. Indeed, it is because I share so much with Lovett that his challenge to my argument appears to me the most clearly posed. In *A General Theory of Domination and Justice,* Lovett describes "imbalance of power" conceptions of domination as those which equate domination with a purely "quantitative" imbalance of power, associating them with Foucault's work and a

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[1] Machiavelli, *Discourses on Livy*, 121.

Foucauldian view of power.[2] Though he is sympathetic with such conceptions, Lovett surmises that in addition to their "quantitative" measures, we must ultimately account as well for some "qualitative" dimension of domination. Since some quantitative imbalances are justified, he argues, domination occurs only when those quantitative imbalances are *qualitatively* unjustified.

Lovett's argument in this regard relies on the strength of two illustrative examples. The first is that of a University librarian who forces a student to pay a library fine before receiving his degree. Lovett asserts that while it is clear that there is a great imbalance of power involved, there is not necessarily any injustice or domination at work. Second, Lovett claims that there is a clear normative difference between the criminal justice system in the United States and those of totalitarian dictatorships like the Soviet Union under Stalin or Romania under Ceausescu, which cannot be explained solely in terms of the relative imbalance of power inherent in those systems. If we accept the force of these examples, he says—and surely, similar examples could easily be multiplied—then it is clearly not enough to measure the quantitative imbalance of power; rather, the distinction between justified and unjustified imbalances of power must be qualitative.

Lovett's intuitions about the cases are hard to dispute. If Lovett is right about their implications, then the present project is in trouble. Qualitative or categorical distinctions between good power and bad power—or justified and unjustified imbalances of power—

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[2] Lovett, *A General Theory of Domination and Justice*, 82–85. I do not use the language of domination, because as I explain elsewhere, it perpetuates the idea of a binary between good and bad power. Just like Hayward, Lovett explicitly eschews this assumption, but endorses it implicitly by using the language of domination as an unambiguous evil.

are precisely the sort of thing I seek to challenge in conceptions relying on a logic of equal agency, and which I shall try to do without in articulating my alternative.

In inferring the necessity of qualitative distinctions, however, Lovett ignores the crucial possibility of using "quantitative" measures in a recursive or dynamic way. Once we take account of this possibility, I suggest, there *is* a difference between the Romanian justice system under Ceausescu and that of the United States, which can be understood as "quantitative" rather than qualitative. In the former, many asymmetries of power could be eliminated without producing greater asymmetries, while this is less often true in the latter.

It must be admitted from the beginning, of course, that we will not be able to reach satisfyingly precise, definitive answers to questions about the overall dispersion of power within a given social structure. This may appear frustrating if we are accustomed to typical approaches to normative theory—including Lovett's—which seek to produce conclusions of a cardinal nature about (for instance) how much freedom or domination can be found in a particular set of social relations. Indeed, the language of "quantitative" considerations seems to imply a cardinal value system, which ranks alternatives according to how closely they approximate some ideal. Yet on an agent-relative approach, we are always making judgments between particular alternative actions, and require only *ordinal* values. In order to make practical judgments on the basis of "quantitative" concerns about power asymmetries, that is, we need not determine the *absolute* size of those asymmetries; we need only assess the *relative* size of the asymmetries across various feasible outcomes. In order to fulfill its role as a top-level heuristic, therefore, the dispersion of power heuristic

needs not tell us exactly where we are going; it needs only to point us in the right direction. And at this, the dispersion of power excels.

Returning to the comparison of Ceausescu's Romania and the contemporary United States, for instance, consider that granting accused persons rights and the expectation of a fair trial can make it much more difficult for those with political power to assert their will—thereby reducing the concentration of power in the hands of political elites—and that doing so will not obviously result in a corresponding increase in concentrated power elsewhere. Implementing such rights where they do not exist, therefore, could relatively safely eliminate or at least reduce important asymmetries between those with and those without political power. Once accused persons already have such rights, however, it is much more difficult to further reduce the imbalance of power without corresponding increases in concentrated power elsewhere: if we make it too difficult to prosecute criminals, after all, it will be criminals who begin to gain concentrated power over their fellow citizens.

In a dynamic social world where power corrupts, there is no "ideal" or "perfect" solution: there will always be "false negatives" and "false positives." Whatever power we give to police and prosecutors, that is, will always be abused, and whatever rules we put in place to restrain them will always be exploited by criminals. Nevertheless, the institutions of a liberal criminal justice system are designed, in theory, at least, to strike a balance between the two, and the difference between the systems in Ceausescu's Romania and the contemporary United States is that the latter achieves a better balance in this respect. Clearly, the justice system in the United States could achieve a far *better* balance—it is not much of an achievement to outperform a totalitarian dictatorship. At the same time, we

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could *never* expect a *perfect* system which made no errors and yielded no exploitation. We must grapple, instead, with the fact that one needs power to fight power—that the means used to fight one kind of concentrated power, in other words, are always in danger of overwhelming their ends. The goal cannot be to fully *legitimize* power, as we noted in the previous chapter, but simply to *manage* the risks of its inevitable use. This is the central dynamic of the dispersion of power approach, and in the remainder of the chapter, I shall examine it in greater detail.

5.3 ~ *Navigating danger: Grappling with the paradox of power*

Power concedes nothing without a demand. It never did and it never will.
— Frederick Douglass[3]

The "paradox of power" refers to the fact that fighting power requires using power, and it sets the terms of the central dilemma facing actors seeking to apply the dispersion of power approach. When making the kinds of judgments we face in everyday life concerning which particular actions we ought to take, most obviously, those employing a dispersion of power logic may ask whether neutralizing a particular instance of concentrated power will imply the creation of an even greater, more dangerous concentration of power. I will demonstrate this method in the first subsection below.

Far more important for our purposes than these kinds of everyday judgments, however, are the more abstract questions typical of political theory, which compare dynamic social systems as a whole in order to decide which to support over the long term. These questions

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[3] Douglass, "The Significance of Emancipation in the West Indies (1857)."

may *appear* decontextualized, but they can always be re-interpreted in terms of some particular, situated judgment. We have already seen this at work above in discussing the justice systems of Ceausecu's Romania and the contemporary United States, but I will demonstrate this method in much greater detail in the rest of the chapter.

Friends, lovers, and experts: dispersing power in everyday life

In a dynamic social system, people are always forming relationships of asymmetrical power. In the context of romantic relationships, for instance, people develop quite extensive power over one another, which is sometimes asymmetrically distributed. Similarly, given that we learn most of what we know about the world from others, everyone in social life comes to trust certain people as "experts" in particular areas, leading to asymmetrical relations of power. The impulse of many political theorists is to ask whether such relationships are "legitimate," and if we ask that question, it might seem that the dispersion of power heuristic yields the wrong answer: i.e., that such relationships are always illegitimate. An agent-relative approach, however, shows this to be the wrong question. Rather than asking whether these relationships are "legitimate" in some abstract sense, devoid of context, the relevant question—the question which grapples appropriately with the "paradox of power"—is whether there is any way of undermining *existing* concentrated power without creating even *more* concentrated power.

Consider what it would take to undermine the asymmetrical power between friends or lovers. In most cases, someone would have to monitor their interactions and induce them to alter the power dynamics which structure their relationship. Because this mechanism functions by granting significant concentrated power to other agents, however, it is

unjustifiable in terms of the dispersion of power—the means used would overwhelm their ends. In general, then, we cannot try to undermine the asymmetrical power of romantic partners over one another without creating far more dangerous concentrations of power. If we must use the language of legitimacy, therefore, we can say that such relationships are at least provisionally legitimate. There are exceptions to this generalization, however, which prove the rule. Given that patriarchal power structures grant males, on average, more power than their female romantic partners, actions which weaken the norms and institutions which maintain patriarchy may in some cases be justified by their impact on the dispersion of power. (And whether or not this is so, of course, depends on how much concentrated power these power-dispersing actions require.)

In the case of experts, we see something similar: certain actions and interventions meant to undermine the power of experts are justifiable in the terms of the dispersion of power, and others are not. Consider two ways of undermining the power of a particular expert: showing that she is wrong on her own terms, and preventing her from speaking altogether. In the first case, we are not creating more concentrated power, because we are still leaving power largely dispersed in the hands of those who trust her, and can decide whether or not to keep trusting her based on what we have said. In the second case, however, we have created a capacity of intervention whose domain is far more general, and thereby represents a greater and more dangerous concentration of power. Whatever means have been used to silence her could presumably be used in many *other* ways as well, which is not the case with a capacity to intervene on her terms and within her sphere of supposed expertise.

Rather than asking whether the power of some expert is "legitimate" in some decontextualized sense, therefore, it is better to ask what it would take to *undermine* her power. Could she be exposed as a fraud simply by revealing the truth about the specific domain of her supposed expertise, or would it take a more domain-general, concentrated form of power to unseat her from her perch? If the latter, this is a clue that her expertise is deserved, and if the former, a clue that it is not.[4]

In both of these cases, the challenge is to balance the demands of the dispersion of power in the short-run against its demands over the (foreseeable) medium- to long-term, and the same is true when we turn to the judgments we must make about more systemic questions: i.e., judgments not about whether and how to undermine a particular asymmetry of power, but about how to structure the social and political system as a whole so that power is as dispersed as possible. A social ecology in which power is highly dispersed in a static sense can be quite dangerous from a dynamic perspective, for instance, if the system has no way of protecting itself from "invasive species" which could quickly acquire massively concentrated power. Yet the structures which could prevent such invasions are themselves likely to require at least a certain degree of concentrated power. Police forces can prevent power from accumulating in the hands of criminal organizations, in other words, but as we observed above, they can also become dangerous sources of concentrated power in their own right. Here as ever, then, we cannot expect a perfect solution. From an agent-relative perspective, we must grapple with the paradox of power as best as we can.

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[4] Needless to say, individual cases will be much more complicated than this schematic picture allows, but inquiring about the relative dispersion of power is a serviceable first cut at the problem.

Anarchist visions

Perhaps the most obvious systematic response to my call to disperse concentrated social power is to turn to some form of anarchism, which presents a potential challenge to my argument on two fronts. Anarchists themselves, on the one hand, may accept the goal of dispersing power, and argue that anarchism is its only logical consequence. Meanwhile, those like Lovett—for whom a state is obviously necessary—will agree with this assessment, using it as evidence that we need some additional "qualitative" standard for differentiating between justified and unjustified concentrations of power, in order to prevent the anarchists' conclusion. Given that I seek to defend a democratic state without such qualitative standards, then, it will be useful to address the anarchists' challenge.

One version of the anarchist challenge has dominated recent discussions of the subject in political theory and philosophy:[5] the "philosophical anarchism" perhaps most famously taken up by Robert Paul Wolff in *In Defense of Anarchism* and Robert Nozick in *Anarchy, State, and Utopia*.[6] Both authors understand the task of political philosophy as developing justifications in general terms, so the question they seek to answer is roughly the following: "if there were no state, would it be morally permissible to create one?"[7] And it is true that

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[5] In the Stanford Encyclopedia of Philosophy, for example, the term "anarchism" occurs (outside of biographical entries) most prominently in articles about political obligation, authority, legitimacy, autonomy, and libertarianism; and almost always in the context of this "philosophical" variety of anarchism, rather than the more "political" varieties which have animated anarchist theory and practice for most of its history, discussed below.

[6] See Wolff, *In Defense of Anarchism*; Nozick, *Anarchy, State, and Utopia*.

[7] Nozick, for instance, writes: "If the state did not exist would it be necessary to invent it?" *Anarchy, State, and Utopia*, 3.

if we ask that question, "yes" is not the only plausible answer. But in my view, of course, that is not the question we should be trying to answer.

First of all, that question conjures the image of a "state of nature" prior to the artificial "imposition" of culture in order to derive an answer about what these sorts of humans would do or desire, and given what we know about the plasticity of human "nature," it should be clear that this sort of device can only ever reflect the particular cultural biases and assumptions of those employing it. Second of all, an agent-relative approach presses us to focus on the dilemmas faced by particular agents in particular circumstances rather than asking ourselves how we would re-run history if we had the chance. Given plausible assumptions about the role of political argument in society and the self-reinforcing nature of the international state system, there is simply no way for a fully stateless alternative to replace that system in the reasonably foreseeable future. Any attempt to bring about such an alternative in the short term, moreover, would lead to disastrous results in terms of the dispersion of power.[8]

This "philosophical" version of the anarchist challenge, then—which offers a categorical opposition to modern states—is largely irrelevant from an agent-relative perspective. Much of the theory and practice of what we might call *political* anarchism, however, is at least potentially more useful. It is true, of course, that a particularly virulent strain of anarchism which rose to prominence in the late 19th and early 20th centuries

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[8] Where states may have many kinds of power over a vast array of people, the sort of warlords and military rulers who typically step in in cases of state failure have vastly more concentrated power relative to the people they do rule—their power is "tyrannical"; unrestricted and unpredictable. Modern liberal-democratic states, by contrast, are relatively restricted in the range of things they can force subjects to do.

demanded immediate violent action against the state, regardless of the consequences, and is at least partly responsible for developing the techniques of mass civilian murder adopted by modern terrorists. This strain was never a large part of anarchist movements, however, and it has since receded further into obscurity. Especially since the mid-20th century, "anarchism" has been much more likely to inform educational theory, prison reform, workplace democracy, and other means of dispersing power, than to dream up schemes for smashing the state.[9] The "anarchist cookbooks" sold by anarchist presses today contain "tasty vegan recipes" rather than instructions for making dynamite or TNT.[10] Contemporary anarchist theory, in other words, is oriented towards "process" rather than outcome.[11]

Few contemporary anarchists, therefore, have any illusions about the resilience of the international state system. In David Graeber's words, it is nothing but a straw man to imagine that anarchists advocate "a modern nation-state with the government somehow plucked away"—as if Canadians, for example, might suddenly reorganize into collectives—which he says would "obviously… never be allowed to happen" under current conditions.[12] Instead, Graeber says, anarchism is concerned primarily with questions such as the "ethics of opposing power" in everyday life, rather than plans for replacing the

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[9] See, e.g., Ward, *Anarchism*.
[10] McHenry and Bufe, *The Anarchist Cookbook*.
[11] Scott, *Two Cheers*, xii; Graeber, *Fragments*, 98.
[12] Graeber, *Fragments*, 39. He adds, wryly, that whenever such an alternative to the nation-state has arisen in the past, as in the Paris commune and the Spanish Civil War, "the politicians running pretty much every state in the vicinity have been willing to put their differences on hold until those trying to bring such a situation about had been rounded up and shot."

international state system.[13] While Marxism "has tended to be a theoretical or analytical discourse about revolutionary strategy," he points out, anarchism "has tended to be an ethical discourse about revolutionary practice."[14] In Graeber's view, anarchist practice includes "any collective action which rejects, and therefore confronts, some form of power or domination."[15] Even utopian forms of anarchism which do dream about replacing the state system are more likely to imagine "an endless variety of communities, associations, networks, projects, on every conceivable scale…,"[16] which evolve slowly alongside developments in technology and material conditions, perhaps eventually overtaking state institutions not through some "sudden revolutionary cataclysm"[17] but rather by gradually making existing forms of power obsolete.

James C. Scott, meanwhile, emphasizes the anarchist potential residing in "infrapolitical" actions such as "foot-dragging, poaching, pilfering, dissimulation, sabotage, desertion, absenteeism, squatting, and flight,"[18] building on a career devoted to documenting such practices among marginalized communities in Southeast Asia and around the world. Moreover, he recognizes that many important forms of concentrated power—including "huge disparities in wealth, property, and status"[19] —would be difficult to disperse without the forum for regularized and decisive collective action provided by the

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[13] Ibid., 6.
[14] Ibid.
[15] Ibid., 45.
[16] Ibid., 40..
[17] Ibid.
[18] Scott, *Two Cheers*, xx.
[19] Ibid., xiii.

state.[20] He concludes that "both theoretically and practically, the abolition of the state is not an option. We are stuck, alas, with Leviathan… and the challenge is to tame it."[21]

From an agent-relative perspective, then, the theory and practice of political anarchism may be useful. In particular, while the 20th century bore witness to the disastrous results of communists' naïve trust in the state as a means of dispersing power, anarchists have developed a keen awareness of the dialectic between means and ends which I have called the "paradox of power." Moreover, if we expand our time horizon far enough, we may even extend our political imagination beyond the international state system: who is so bold, after all, as to make predictions about the political world we will inhabit at the dawn of the next Millennium? The dangers of anarchism, then, are when the practical and the utopian imperatives are conflated: when eliminating the state comes to be seen as anything but an unimaginably distant idyll, or when weakening the state in the present takes categorical priority over developing the state's capacity to disperse other forms of power. The fact is that in the twenty-first century, the state sets the terms of political possibility, and any agent-relative political theory must treat it as both a tool and a danger, attempting not to destroy it but to restrain its excesses and turn it to good use. Adopting the dispersion of power as our long-term goal in a dynamic social system, in other words, means finding a *balance* of power in the short term.

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[20] Ibid., xvi.
[21] Ibid.

Madisonian democracy

A closer analogue in institutional terms, then, is the view associated with the *Federalist Papers* and especially with James Madison, which highlights the dangers of concentrated power and the necessity of institutional balance as a partial solution.[22] Moreover, because the Federalist Papers are targeted more explicitly than most canonical texts in political theory at convincing particular people to take a particular action in a particular situation of judgment, they are exceptionally good examples of the "agent-relative approach" I have advocated. Though he employs abstraction and generality in the course of his arguments, Madison does so in service of concrete judgments, not for its own sake: "you must first enable the government to controul the governed," he asserts without pausing to ask why, "and in the next place, oblige it to controul itself."[23] We are stuck, in other words, with Leviathan, and we might as well get about taming it—and though in this regard "a dependence on the people is no doubt the primary controul," he continues that "experience has taught mankind the necessity of auxiliary precautions" to prevent tyranny. It is from this need for "auxiliary precautions," finally, that Madison derives the system of "checks and balances" and "separation of powers"—by which "ambition [can] be made to counteract ambition" in the public interest—for which he is justly famous.

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[22] Citing Madison's *Federalist 10,* for instance, Levinson and Pildes write that "According to the political theory of the Framers, 'the great problem to be solved' was to design governance institutions that would afford 'practical security' against the excessive concentration of political power." Levinson and Pildes, "Separation of Parties, Not Powers," 2316.
[23] All quotes from Madison, "Federalist 51," 252.

Of course, Madison's view of democracy, and especially his defense of counter-majoritarian institutions as a "precaution" against "majority tyranny," have often been criticized as anti-democratic or even reactionary—perhaps most famously by Robert Dahl in *A Preface to Democratic Theory*.[24] From an agent-relative view, however, many of Dahl's criticisms are somewhat unfair, in ways that Dahl himself acknowledged at the time[25] and has reaffirmed in a number of subsequent essays.[26] In order to render Madison's arguments in the *Federalist Papers* as a coherent "democratic theory," Dahl presumed to interpret them as abstract, generalizable philosophical propositions, and as I have already highlighted, they were not intended as such: they were targeted, instead, at the much more specific goal of getting the Constitution ratified, which is precisely what makes them useful from an agent-relative perspective. Where Dahl argues that Madison devotes too little attention to the social preconditions of democratic governance, for instance, we may observe that his focus on formal constitutional questions is perfectly appropriate given the task at hand. Unlike the more general social conditions upon which democracy depends, "parchment barriers" can be created intentionally, and if endorsed by enough people, they can eventually *become* part of that broader fabric of society, either reinforcing or undermining democracy. While the question of which parchment barriers to adopt, in other words, is not the only question one must ask in seeking to foster democratic governance, it

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[24] Dahl, *A Preface to Democratic Theory*, 1956.

[25] "[I]t is a little unfair to treat Madison as a political theorist. He was writing and speaking for his time, not for the ages." Ibid., 5.

[26] See especially the Foreword and Afterword in Dahl, *A Preface to Democratic Theory*, 2006., originally published as Dahl, "Reflections on A Preface to Democratic Theory"; Dahl, "James Madison."

is far from inconsequential; and given Madison's circumstances, it was clearly the most pressing.

The point of emphasizing Madison's circumstances and goals in writing the Federalist papers, however, is neither to criticize Dahl nor to defend Madison as such. Indeed, Dahl can be vindicated on much the same agent-relative grounds: to the extent that his goal was to rebut a particularly prominent defense of counter-majoritarian institutions that has often claimed to draw support from Madison's logic in the *Federalist Papers*, his arguments were (and remain) quite persuasive. Meanwhile, even if that "Madisonian" defense of counter-majoritarian institutions cannot fairly be blamed on Madison—as Dahl has repeatedly acknowledged—there is plenty to criticize in Madison's unambiguous and unwavering positions, from his slave ownership to his exclusion of women from political consideration. The point is not, in other words, to revive any particular institutional proposal or substantive commitment of Madison's, nor even to defend counter-majoritarian institutions as a general answer to democratic dilemmas. What is worth recovering in the Madisonian view, rather, is his general approach to justifying democratic institutions, and I will highlight two elements of that approach in particular: the primary goal he posits for democratic institutions (i.e. preventing "tyrannical government"), and the predictive theoretical method he employs in pursuit of that goal.

First, rather than seeing democratic government as a way of achieving political equality and popular sovereignty—a "populistic" model which Dahl identifies as the primary

traditional alternative to Madisonianism[27]—Madison sees it as a necessary protection against the potential predations threatened by the concentrated power of a modern state. Elections are not, in other words, a means by which the people can be said to "authorize" laws made "in their name"; rather, they have the much more modest function of ensuring the "dependence" of government, in some imprecise sense, upon the people. And given that the more fundamental goal is to prevent tyrannical government, elections are only one of many means to that end: "auxiliary precautions," in other words, may be necessary.

Dahl focuses some of his criticism on this justificatory strategy, observing that Madison provides imprecise definitions of some of his key normative terms, such as "tyranny" and "natural rights."[28] On Dahl's reconstruction of Madison's argument as a set of formal hypotheses and definitions, indeed, it appears either hopelessly circular or obviously false. In assuming that precise definitions of key normative terms are necessary for political argument, however, and filling in his own more precise reconstructions as a substitute for Madison's terminology, Dahl has missed what is perhaps an unintentional advantage of Madison's argument, at least on an agent-relative approach. Given that his presumed audience had some pre-existing understanding of what "tyranny" and "natural rights" meant—however inchoate, intuitive, or undertheorized—Madison could make use of that shared understanding in his arguments without needing to specify it further or establish its foundations. In a similar way, we have seen, my normative method relies on the assumption of a broadly shared yet very imprecise commitment to thinking democratically.

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[27] Dahl, *A Preface to Democratic Theory*, 1956, 34ff.
[28] Ibid., 6–7.

The second feature of Madison's approach which I seek to salvage, then, is his embrace of context-sensitive, predictive methods. In seeking to answer the question of which means are most effective in reaching the goal of non-tyrannical government, he makes use of all the empirical and theoretical resources at his disposal, including his best theory of human psychology as well as his readings of the histories of previous republics, in order to make predictions about the effects of various alternative institutions. As Dahl points out, of course, some of these predictions turned out to be importantly wrong, and as a result, it seems to me that Dahl's primary substantive critique of what has become known as "Madisonian democracy" is largely correct. Where Madison thought that external checks would function primarily to prevent majority tyranny, Dahl correctly observes that they have more often had the effect of enabling a privileged elite to veto or delay progressive achievements.

Nevertheless, in an overall evaluation of Madison's approach, it is important to recognize that Madison did not have Dahl's advantage of hindsight. Even at the time, Madison did not support many of the most egregious counter-majoritarian institutions which have survived to the present day, such as equal representation of states in the Senate (which Madison opposed during the Convention and accepted only as a necessary compromise) and judicial review (which was not established until much later). Moreover, since his sources were not particularly robust—and because these questions are extremely difficult to answer even given the wealth of data we have now—it is unsurprising that some of his predictions turned out to be wrong. What is more remarkable is that Madison himself was able to recognize this during his lifetime, and actually changed his views in response,

adhering to his predictive method rather than the substantive conclusions with which his name is more often associated.

As the experience of American democracy generated more data, that is, Madison observed that counter-majoritarian institutions most often served to protect elite privileges and facilitate the concentration of power in the hands of the few, rather than preventing the abuse of concentrated power by the many, and as a result, he backed away from many of the counter-majoritarian positions he had expressed in the *Federalist Papers*, coming to a view which Dahl has since commended as "far more democratic."[29] He was ultimately more committed to the predictive approach, it seems, than he was to any particular counter-majoritarian institution,[30] prompting Dahl to imagine that a present-day Madison surveying the evidence of the past two and a quarter centuries "might well prove to be a vigorous contemporary critic of the Constitution he helped so much to create."[31]

In offering my own justification of democratic institutions in the chapters which follow, I will build on both features of Madison's approach. Clearly, I seek to avoid relying on foundational "natural rights," and I reformulate the goal of "preventing tyrannical government" as "resisting state capture." Moreover, I do not embrace counter-majoritarian

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[29] Dahl, "Afterword: Reevaluating Madisonian Democracy," 167. See also Shapiro, "On Non-Domination," 335. Shapiro writes: "His years in the rough and tumble of politics in Congress, as secretary of state, and as the fourth president of the United States convinced Madison that democratic competition is the best available guarantor of the values that republicans seek to protect. In 1833, three years before his death, he was unequivocal that 'if majority governments . . . be the worst of Governments those who think and say so cannot be within the pale of republican faith. They must either join the avowed disciples of aristocracy, oligarchy or monarchy, or look for a Utopia exhibiting a perfect homogeneousness of interests, opinions and feelings nowhere yet found in civilized communities.'" Citing Madison, "Majority Governments," 332.
[30] Dahl, "Foreword: Reflections on A Preface to Democratic Theory," xii–xvi.
[31] Dahl, "Afterword: Reevaluating Madisonian Democracy," 171.

institutions as eagerly as Madison does. I do, however, embrace the contextual (as opposed to universal) nature of what has become known as the "counter-majoritarian difficulty." Where many now see the legitimacy of counter-majoritarian institutions such as judicial review as a question of which rights are truly foundational for liberal democracy,[32] I shall claim that the question of which if any counter-majoritarian institutions are justified in any particular context is best resolved with predictive inquiry about the likelihood of "state capture" under different schemes. Particular counter-majoritarian institutions may be unjustifiable in particular contexts, in other words, but if we understand the broader purpose of democratic institutions as resisting state capture rather than realizing popular sovereignty, counter-majoritarian institutions are neither universally illegitimate nor inherently anti-democratic.

Nevertheless, the "dispersion of power" ideal is not simply a modified Madisonianism, distinguished only by its marginally improved predictive resources: there are some more serious foundational differences as well. Most obviously, not all human beings were included in Madison's conception of the agents among whom power ought to be distributed. It did not seem to matter much to him, for instance, that women and nonwhites were systematically disempowered by the American political system. This difference is already captured by the basic normative assumptions I am able to take for granted in my audience—i.e., the commitments involved in a desire to "think democratically." Another fundamental difference, however, I have found it necessary to defend in the first several

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[32] See the debate between Waldron and Dworkin, discussed in chapter three. Waldron, *Law and Disagreement*; Waldron, "The Core of the Case against Judicial Review"; Dworkin, *Freedom's Law*.

chapters, as it is not shared by many of my contemporaries. Where Madison's "checks and balances" are aimed primarily at the balance and dispersion of *political* power, I target a much broader range of social, cultural, and economic forms of power for dispersion.[33]

Given these significant and rather obvious differences, we might wonder why we should celebrate the Madisonian heritage of the "dispersion of power" ideal in the first place. Several things may be said in response. First, highlighting both the similarities and the differences between the Madisonian ideal and the dispersion of power enhances the latter's *intelligibility*. We turned to Madison as a kind of argumentative shortcut; a way of explaining what sorts of institutions might be recommended by a dispersion of power logic, so that we did not have to start from scratch. Though they clearly do not align perfectly, therefore, the comparison helps us with this task. Second, highlighting the Madisonian heritage is important for the *plausibility* of the dispersion of power ideal as well. Political ideals must possess rhetorical power and salience in order to be useful, and a Madisonian heritage helps on both counts.

Rather than abandoning the Madisonian heritage altogether, therefore, we can appropriate it, thinking of the "dispersion of power" ideal as a blend of Madisonian goals and methods with expanded predictive resources, more egalitarian assumptions about the agents deserving of political consideration, and a fuller understanding of the kinds of power that must be distributed among them. As a simplified metaphor for the integrated view's

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[33] Though this is less widely accepted than the first difference from Madison, it is related, since the expansive conception of power I advocate enables us to account for the intersectional forms of power by which women and nonwhites are still categorically disempowered now that they are formally equal in most legal and political respects.

basic commitments, we can christen it with the tagline "Madison meets Foucault," where Madison represents a "practical" approach to constructive theory and a basic set of political institutions, and Foucault represents a "critical" attentiveness to a broad range of power relations and a refusal to pose agency and power as opposites.

The problem we have been trying to solve, of course, is how to provide a practically useful heuristic for organizing our commitments to liberal and democratic institutions that is compatible with a critical, "postmodern" view of human nature and agency. While Foucault was essential in pushing us towards that view, then, he neglects to provide a workable alternative political ideal. Madison, meanwhile, clearly did not hold a postmodern view of human nature and agency himself. Yet unlike the accounts of democracy offered by contemporary "analytical liberals," which nearly always rely on some version of the logic of equal agency, the basics of Madison's approach are *compatible* with such a view. It is in integrating these "critical" and "practical" approaches, then, which enables us to build a comprehensive, "realist" account of the value of liberal and democratic institutions.

In this section, I have sought to provide a general overview of how the dispersion of power ideal might be used, first illustrating its strategy for negotiating the "paradox of power" in evaluating particular concentrations of power; then giving a rough sketch of its broader structural priorities through comparisons with political anarchism and Madisonian democracy, yielding the tagline "Madison meets Foucault." These efforts have vindicated a very general endorsement of liberal and democratic institutions, but the specifics of the institutional picture are, as of yet, quite fuzzy. In the next section, then, we may zoom in a

little further to consider what sort of response is offered by the dispersion of power ideal to several common debates within liberal and democratic theory. In particular, we have circled around a particularly thorny issue several times, and it will be productive at this point to address it directly: the wisdom of centralizing institutional political power.

5.4 ~ Dilemmas of centralization and decentralization

The key problem here is that most of us have very strong intuitions linking the *centralization* of institutional political power to the *concentration* of power in a more general sense, and it can therefore be difficult for us to imagine that political centralization might be a way of *dispersing* power. Yet especially in the American context, calls for decentralization have a rather abysmal track record, from the historical invocation of "states' rights" in defense of African slavery and Jim Crow, to the use of local property taxes as the major source of public school funding which continues to entrench myriad forms of categorical inequality into the present. Moreover, Madison's central goal in writing the *Federalist Papers* was to defend a Constitution which greatly centralized political power relative to its predecessor. If centralization of institutional political power is largely coextensive with the concentration of power overall, then, it makes little sense to defend a broadly Madisonian approach in terms of the *dispersion* of power.

In my view, however, quite the opposite is the case: not only can the imperative of dispersing power account for the frequent necessity of centralized political power; it is a far better heuristic for negotiating the complex dilemmas of centralization and decentralization than ideals grounded in "equal agency." In particular, there are two central reasons that dispersing power will often entail centralization rather than decentralization

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of political power. We have touched on both already in our discussions of examples, but it will be useful at this point to make them even more explicit here, and to associate each with one of the two figures in the schematic description "Madison meets Foucault."

First, what appears to be a dispersion of power in the short term can turn out to be dangerous in a dynamic and evolving society, yielding greater concentrations of power over the long term. As we saw in answering Lovett's objection, dispersing power clearly entails limiting the concentrated power of police and prosecutors in a criminal justice system, but some amount of concentrated police power is necessary to prevent criminals from gaining concentrated power instead. Since we cannot fully eliminate or legitimize concentrated power, therefore, our only option is to strive for an optimal balance. As we saw in discussing the possibility of anarchism, then, similar considerations apply to government more generally. Though there is no reason to think the state form is inherent to the human condition or always worthy of support, for now it is both impractical and unwise to undermine state power in any generalized sense. If we are concerned with the long-term, dynamic dispersion of power, we ought to develop relatively robust governmental capacities and disperse control over those capacities, rather than eliminating governments altogether or weakening them to the point of ineffectiveness. As Madison himself put it, "you must first enable the government to controul the governed, and in the next place, oblige it to controul itself."

That is why it made sense for Madison to argue for the centralizing Constitution over the decentralized Articles of Confederation, or some other anti-Federalist alternative, given a commitment to something like the dispersion of power. While it might appear from a

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static perspective that leaving power with the states would be better for the dispersion of power, from a dynamic perspective in which British recolonization threatened to destroy the nascent American republic (and thereby concentrate power in a number of ways), a strong national government capable of coordinating effective defense was widely regarded as a safer bet, and is at least plausibly justifiable in the terms of the dispersion of power. For this and many other reasons, Madison—like most attendees of the Convention—simply assumed that a stronger federal government was necessary. At the Convention, therefore, he devoted himself to ensuring that this strengthened government did not become tyrannical—i.e., "obliging the government to controul itself"—and in writing the Federalist papers, he was primarily concerned to demonstrate that he and the other delegates had succeeded in this task. Schematically, then, the name of Madison can fairly stand in for a general reminder that the dispersion of power heuristic must be interpreted in a dynamic, recursive sense, which explains its focus on "balance" in the short term in order to achieve dispersion over the long term.

Unlike national defense, the ability of the federal government to undermine categorical power asymmetries was not a major motivation for the Constitutional framers to adopt a strong national government. In the lead-up to the Civil War, however, the discourse of state versus federal power in relation to categorical inequalities emerged as a primary axis of political disagreement. Given that advocates of decentralization were clearly on the wrong side of history, then, this might seem to raise further worries about the dispersion of power framework. Once we take into account an expanded view of what counts as power,

however—once our schematic "Madison" meets our schematic "Foucault," that is[34]—the case for political centralization in terms of the dispersion of power is obvious. As noted above, institutional power concentrated in individual agents is hardly the only kind of power that must be dispersed. While institutional power is clearly important, we ought to be concerned as well with the power enabled by extra-institutional coercion, wealth, social status, cultural capital, persuasive capacity, and so on. Moreover, power can be concentrated in groups and categories of people as well as individuals, and concerns about these varieties of concentrated power must be taken into consideration as well.

Clearly, the categorical power asymmetries between Southern whites and enslaved blacks in the antebellum era were immense in every imaginable respect, and though emancipation was surely an improvement over enslavement, the asymmetries between whites and blacks under the subsequent system of sharecropping, racial violence, and Jim Crow laws were not substantially smaller. In any political decision, of course, there are tradeoffs, and it is one of the advantages of the dispersion of power framework that it more adeptly captures the contours of those tradeoffs. We may freely admit, for instance, that as Southerners claimed, federal interventions in racial politics in the South from Reconstruction to the Voting Rights Act of 1965 represented *centralizations* of political power. Indeed, they can even be said to have increased the *concentration* of power in the federal government, at the expense of the states. Yet the level of increased concentration

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[34] Though the name of Foucault is not as obvious a metonym for the point which follows, it has some relationship to his critique of liberalism's emphasis on "sovereign," "juridical," and "repressive" power to the exclusion of more "productive" and "disciplinary" forms.

was so miniscule compared to the massively concentrated power which was partially undermined by such interventions that their *overall* effect was clearly dispersive. The federal government did not take all powers away from states, it just transferred power over a few kinds of laws from decentralized state governments to the centralized federal system. Doing so, meanwhile, made it much more difficult for millions of whites to exert certain kinds of power over millions of blacks, thereby having an immense dispersive impact on the distribution of power.

A similar logic can be used concerning the issue of centralization and decentralization in metropolitan areas, where the question at stake is whether we should favor local control for different municipalities within a broad metro area, or greater control for the regional metropolitan government. There is clearly a reason, using the logic of dispersing power, to favor decentralization and local control in such a case. But there are also reasons to favor centralization, given that decentralization has notoriously unequal consequences for disadvantaged socioeconomic and racial groups.[35] Decentralization at the municipal level, it seems, most often serves to lock in diverse and intersecting forms of categorical inequality, not least through the funding of schools through municipal property taxes. Though the case is not quite as clear as it is in the case of "states' rights," therefore, the arguments in favor of centralization here are also, in my view, dispositive: if institutional decentralization allows an advantaged class to perpetuate its concentrated power in this way, centralization is often necessary in the name of dispersing power overall.

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[35] Anderson, *The Imperative of Integration*.

At this point, we should no longer be surprised by this recommendation. It simply reflects the fundamental paradox of power with which we have concerned ourselves throughout this chapter: i.e., that *fighting* concentrated power requires *using* concentrated power. It also accords with the robust finding, from comparative politics, that state capacity is a necessary precondition of democratization. In Charles Tilly's account, for instance, democratization is crucially associated with both the integration of "trust networks" into public politics and the elimination of autonomous power centers outside of the state.[36] If public politics as mediated by state institutions is not the universally accepted method of resolving disagreements, this uncertainty enables exploitation by those in control of autonomous power centers; and while a state with high capacity represents a greater centralization of power than a low-capacity state, it is also susceptible to democratic accountability or "consultation," in Tilly's words, in a way that low-capacity states are not.[37] Overall and in the long-term, therefore, high-capacity democratic states tend to achieve a greater dispersion of power than low-capacity non-democratic states. Here as always, I argue, an important part of any solution to the peculiar problems of modernity is to disperse control over centralized power structures rather than disassembling or decentralizing those power structures altogether.

At the same time, we should not imagine that it could ever stand alone. The dilemma of centralization and decentralization, in other words, is still rightly regarded as a dilemma, and the dispersion of power approach should not be thought to recommend centralization

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[36] Tilly, *Democracy*.
[37] In this regard, see especially Knight and Johnson, *The Priority of Democracy*.

in *every* case. Though I have recommended centralization in each case here, this is only because it is so easy to assume the opposite—i.e., that the dispersion of power requires *decentralization* in every case—and I have been concerned to correct this misconception.

Finally, then, we can consider a related dilemma in which the concerns on both sides are more apparent: striking the proper balance between the enforcement of property rights and the redistribution of wealth. On the one hand, individual property rights can be an important check against the concentration of power. If states reliably protect property rights, this means that people cannot easily use concentrated coercive power to acquire wealth. Under the international state system, of course, the means of coercion are highly concentrated in the hands of state actors, and so states are far more likely to expropriate wealth from individuals than any other individual actor. Property rights, that is, are at least as important in protecting people against the predations of state actors.

At the same time, of course, the dispersion of power also straightforwardly recommends the redistribution of wealth, resources, and capacities. If wealth and other forms of power accumulate in the hands of particular individuals or categories of people, these concentrations of power become dangerous, and ought to be targeted for dispersion. And more generally, the more dispersed such material resources are, the better. Yet we cannot deny that the actions necessary to disperse material resources are dangerous: redistributing wealth simply requires that we empower the state to tax people, exert eminent domain, redefine legal rights, and so on. And once we empower the state in these ways, this power will inevitably be abused.

As with the criminal justice system or the existence of states more generally, there is no perfect or general solution; no way to fight the dangers of one kind of power without creating countervailing power that can also become dangerous. Our inquiry must therefore be contextual, predictive, and fundamentally conscious of its own uncertainty. We must ask in each individual case, that is, whether empowering the state to violate property rights in a particular way is likely to create more concentrated power than it undermines. This does not mean that relatively clear guidelines cannot be inferred from sustained reflection and the consideration of many cases. Some use of redistribution is clearly justifiable on a dispersion of power framework, on the one hand, yet the experience of communist states suggests that, among other disadvantages, eliminating private property altogether clears the path to the metastasization of state power. Closer to home, the state's power of eminent domain is often used to perpetuate rather than to undermine categorical inequalities, and in particular, the extremely permissive standard set by *Kelo vs. New London* is widely decried as a blank check for states to exploit vulnerable populations.[38] Some form of eminent domain is required for the purposes of redistributing resources, therefore, but not necessarily a power as expansive as that defined by *Kelo.* The conflicting demands of protecting property rights and redistributing wealth must be balanced.

More generally, indeed, we can derive few if any fully generalizable answers from the dispersion of power ideal. It recommends centralization in some cases and decentralization in others; protection of property in some cases, and redistribution of resources in others.

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[38] Somin, *The Grasping Hand*.

We must make this evaluation in particular circumstances, using real empirical inquiry into the power relations at stake. The dispersion of power heuristic does not yield precise answers, therefore, but it does point our attention in particular directions. Chapter eight, for instance, presents an unconditional basic income (UBI) as an optimal solution to the dilemma we have just discussed, pitting property rights against redistribution. Meanwhile, as I have emphasized throughout, the imprecision of the logic of dispersing power, relative to the precision suggested by a logic of equal agency, is one of its key virtues.

5.5 ~ *Finding an appropriate level of precision*

> *We must be content if, in dealing with subjects and starting from premises thus uncertain, we succeed in presenting a broad outline of the truth: when our subjects and our premises are merely generalities, it is enough if we arrive at generally valid conclusions. Accordingly, we may ask the student also to accept the various views we put forward in the same spirit; for it is the mark of an educated mind to expect that amount of exactness in each kind which the nature of the particular subject admits. It is equally unreasonable to accept merely probable conclusions from a mathematician and to demand strict demonstration from an orator.*
>
> — *Aristotle, NE I.3.4*

Though equal agency and the dispersion of power are both ideals concerning the distribution of capacities among agents, there are two fundamental differences between them: the object and the principle of distribution. In the case of equal agency, as we have seen, the object and principle of distribution imply one another. The demand for *equality* induces us to find a specific equalisandum, and this in turn motivates the search for some version of authentic subjective *agency*. Since we do not wish to make everyone equal in every respect—and since doing so would clearly be impossible anyway—striving for equality necessitates targeting specific capacities for equalization (and, by implication,

ignoring any remaining inequalities). In order to make it plausible that agents whose capacities are equalized are truly being treated as equals in all politically important respects, then, we turn to subjectivity: if each subject can be truly or autonomously or authentically reflected in the world, then perhaps they can be considered to have been treated equally, even if other inequalities remain. As a result, equal agency ideals lead us to naturalize some form of subjective agency as that which truly reflects the individual, and enables us to understand other inequalities as categorically less important.

As demonstrated in the second chapter, however, this sort of naturalization is always illegitimate, and the changes marked by a transition from the logic of equal agency to that of the dispersion of power work together to avoid it. Where agency is something that seemingly admits of equalization, power is not. Conversely, where the principle of equality demands precision, the principle of dispersion does not, and it therefore relieves us of the temptation to define precisely what will be distributed—i.e., the need to naturalize some kind of subjective agency as the object of distribution. As a distributional principle, in sum, equality strives for an unachievable precision and certainty—driving the search for the subject—while dispersion embraces the reality of its own uncertainty.

To the extent that the logic of equal agency is more usable than that of dispersing power, then, it is unjustifiably so. While we cannot avoid acting altogether, we would do better to retain an awareness of the uncertainty we face in doing so, and the dispersion of power logic facilitates this awareness, thereby completing the project of humility inaugurated by the modern turn to subjectivity. The logic of equal agency relying on subjectivity recognizes uncertainty about objective interests as well as the difficulty of

predicting the future, and responds by adopting an anti-vanguardist principle of distribution as a top-level heuristic. In positing a precise principle and object of distribution, however— equality and subjective agency, respectively—it clings to a final vestige of certainty. As a result, we are tempted away from the empirical inquiry required to make responsible judgments.

There are no institutions, norms, practices, or actions that a dispersion of power heuristic recommends for all people in all situations. This is as it should be. We proceed instead by *using* the logic of the dispersion of power as it is meant to be used: i.e., to respond to specific problems and answer specific questions in the particular circumstances of political life in the 21st century. The final three chapters are devoted to this project.

Chapter Six: Responding to the Crisis of Democracy

6.1 ~ Introduction

Equal agency and the dispersion of power are top-level heuristics, offering rival ways of organizing the normative commitments shared loosely by those seeking to think democratically. More specifically, they serve two crucial functions: providing a justification of the existing norms and institutions of (liberal) democracy; and providing a critical standard to guide our action in seeking to improve those norms and institutions. In the previous chapters, I have argued in general terms that the dispersion of power achieves greater comprehensiveness without unacceptable sacrifices in usability. It is in serving these functions, however, that the rubber meets the road for this claim, and in this chapter, I begin to consider those functions more directly.

Even ten or fifteen years ago, of course, it might not have seemed obvious that democracy needed defending. Few today, sadly, would pose that objection. After the retreat of democracy's "third wave," the failure of the "Arab Spring," and the economic success of authoritarian China, the increasingly democratic future which appeared almost inevitable after the fall of the Soviet Union now seems less secure. Meanwhile, waves of right-wing populism pose ever-more-serious threats to the best-established democratic orders, and neoliberal globalization quietly erodes the institutions of local and national sovereignty upon which they are premised. With confidence in popular rule on the wane around the globe, democrats face tough questions about the wisdom and purpose of democracy. What responses are available to us? What arguments should we offer to those in non-democratic or partially democratic countries who seek the best lives for themselves

and others, and are skeptical of the benefits offered by democracy? Which reforms to existing democracies are most pressing in the face of these challenges?

As I shall demonstrate in the first section below, most commonsense responses to such questions rely on a logic of equal agency. As many others have observed, however, these commonsense responses fail to offer a convincing defense of democracy, and the aim of this chapter is to demonstrate that the dispersion of power provides a better one. If people thought about the nature and value of democratic institutions in terms of the dispersion of power rather than equal agency, I argue, we would be better able to respond to what can fairly be called the contemporary crisis of democracy. First, I survey a few of the well-known problems with commonsense views about the value of democracy. Second, I elaborate some concrete circumstances in which relying on such commonsense views can be dangerous. Finally, I show that the response offered by the dispersion of power improves in a number of ways upon alternative responses available within democratic theory as a defense of democratic institutions.

Before I move on to these tasks, however, it will be important to head off two major objections. First, as I have demonstrated in the first chapter and throughout, the logic of equal agency motivates an astonishingly diverse set of political ideals, from libertarianism to republicanism to socialism to the politics of recognition. Clearly, not all uses of the logic of equal agency are primarily concerned with democracy. Some are concerned instead with justice, or freedom, or pluralism, or the distribution of wealth. The point of this chapter is not to prove that all of these uses of the logic of equal agency are invalid. I have consistently acknowledged, on the one hand, that the logic of equal agency may be useful in particular,

limited circumstances. Meanwhile, my arguments against equal agency as a more general organizing principle have been made in previous chapters, and it is now time to turn to a different set of arguments. In the final three chapters, then, I consider equal agency and the dispersion of power not as heuristics for negotiating between conflicting demands but as responses to specific questions, beginning in this chapter with the question: why are existing democratic institutions valuable?

Second, and relatedly, many democratic theorists—whether or not they endorse the logic of equal agency—acknowledge the deficits of commonsense ideals of democracy with which I shall be concerned in the first half of this chapter. Many, in particular, have made similar criticisms to the ones I will make, and indeed, I support many of their solutions as partial responses to the failures of democratic institutions in the world: greater deliberation, for instance, as I discussed at the close of the previous chapter. Where we differ, then, is in how we diagnose the deficits and what we prioritize in responding to them. For theorists of equal agency, the deficits of contemporary democracies represent deficits in whatever form of agency they have chosen to target for equalization. Thus, they will respond by trying to bring everyone up to the requisite level of agency. In my view, however, each of these ways of diagnosing the deficits is too narrow on its own, and each of the proposed responses is therefore likely to misfire; prioritizing one kind of democratic action at the expense of others. It therefore fails to offer the most reliable guidance to those of us seeking to improve our democracies. I pursue this argument further in the second half of the chapter, but having at least acknowledged (and hopefully somewhat defanged) these objections, we may now turn to the crisis of democracy.

6.2 ~ *The crisis of democracy*

> *Our aspirations determine the nature of the failures amid which we have to live.*
>
> *— Danielle Allen*[1]

Commonsense views of democracy

We may begin by observing that most commonsense views of democracy rely in some way on the logic of equal agency. In particular, when most democratic citizens are asked why democracy is valuable, they will likely offer some form of the answer that everyone deserves a say in the decisions that affect their lives[2]—an intuition that has been formalized as the "all-affected principle."[3] Even if we cannot participate in every decision, the general principle is widely accepted that governments serve the people and should be responsive to their demands. Policy should generally reflect their considered preferences, that is, and politicians should be held accountable to the popular will. While real democracies clearly fail to exhibit *full* responsiveness, whatever limit responsiveness does exist is both a) what makes those governments *democratic*, and b) what makes them *good* (or, at least, better than autocratic alternatives). Meanwhile, rectifying such discrepancies—and thereby making society more democratic—is understood as a top priority.

Joseph Schumpeter famously labeled this intuitive understanding of democracy the "classical doctrine," according to which democracy is an "institutional arrangement for

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[1] Allen, *Talking to Strangers*, 156.

[2] Alexander Kirshner, for instance, writes that "by *democratically legitimate* I mean consistent with the ideal that individuals should have a say in the decisions that affect them." *A Theory of Militant Democracy*, 20.

[3] According to Luke Bretherton, the "convention of consent was derived from the principle of Roman law *Quod omnes similiter tangit ab omnibus comprobetur* (Justinian's Code VI.59.5.2): in summary, what touches all ought to be tested by all." Bretherton, *Resurrecting Democracy*, 231.

arriving at political decisions which realizes the common good by making the people itself decide issues through the election of individuals who are to assemble in order to carry out its will."[4] More recently, Jeffrey Green has described the "vocal model" of democracy, which holds "that the object of popular power is law (defined broadly as the statutes and norms shaping public life), that the organ of popular power is the decision (expressive determinations, like voting and public opinion, that pertain to what a polity should do), and that the critical ideal of democracy is therefore autonomy (the People's ability to live under laws it has helped to author)."[5] Following Jane Mansbridge and others,[6] Lisa Disch discusses the "bedrock norm" of representation, according to which "representatives in a democratic regime should take citizen preferences as the 'bedrock for social choice.'"[7]

Both as a description of actually existing democratic institutions, however, and as an ideal to strive for, this widespread understanding of the nature and value of democratic institutions has long been criticized as inadequate. Yet commonsense views persist—a disconnect between theory and practice which Green labels "the scandal of modern democratic thought."[8] Christopher Achen and Larry Bartels offer an even stronger indictment, remarking that "democratic theory has sailed along as if no iceberg had struck," and comparing its practitioners to the hapless officers of a sinking ship in the last moments

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[4] Schumpeter, *Capitalism, Socialism, and Democracy*, 250.
[5] Green, The Eyes of the People, 8.
[6] Mansbridge, "Rethinking Representation."
[7] Disch, "Toward a Mobilization Conception of Democratic Representation." The phrase "bedrock for social choice" is quoted from Page and Shapiro, *The Rational Public*, 354.
[8] Green, *The Eyes of the People*, 68.. Emphasis in the original.

before its demise.[9] In their view, "all of the conventional defenses of democratic government are at odds with demonstrable, centrally important facts of political life."[10]

Summarizing more than a century of research in political science, Achen and Bartels' recent book seeks to dispense with two forms of what they call the "folk theory of democracy": both a "populist" version similar to that criticized by Schumpeter, and a "leadership selection" ideal which builds on his supposedly more realistic alternative. To begin with, they observe, correspondence between voter preferences and policy in real democracies rarely lives up to "Fourth of July rhetoric" glorifying a sovereign "will of the people."[11] Neither are the discrepancies merely coincidental: there are structural reasons, inherent in the logic of social choice procedures, for their persistence.[12] To make matters worse, most democratic citizens have no opinion whatsoever regarding the vast majority of political issues,[13] and when people do exhibit stable and coherent preferences, these tend to track pre-rational group identities with uncanny accuracy.[14] Ordinary citizens seem to lack even the most basic knowledge of policy—not to mention the forms of reasonable reflection and deliberation which would seem necessary in order for "the people" to exert meaningful, salutary control over their leaders. Come election time, democratic populations are thus more likely to punish their elected leaders for natural disasters and other random events than for policy choices or personal behavior.[15] What passes for

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[9] Achen and Bartels, *Democracy for Realists*, 20.
[10] Ibid., 306.
[11] Ibid., 3, 45–49.
[12] Ibid., 23–30.
[13] Ibid., 31–45.
[14] Ibid., 213–96.
[15] Ibid., 116–76.

electoral "accountability" more accurately reflects mass delusion—or, perhaps, a game of "musical chairs"—rather than meaningful self-rule.[16]

Any and all of these empirical claims can, of course, be qualified or contested. Even if true, moreover, they are explicitly targeted at undermining a particular "folk theory" of democracy that uncritically adopts some form of "responsiveness" as its primary aim. They might therefore be thought irrelevant to the sophisticated democratic ideals articulated by normative theorists, which are often highly critical of the "status quo" described by Achen and Bartels. Few contemporary democratic theorists, indeed, would object to the claim that their ideals are "at odds with" reality: as Andrew Sabl forcefully argues, that is precisely the point of normative ideals.[17] As Sabl also points out, however, this hardly means that empirical reality is irrelevant to democratic theory. The fact that normative theorists attempt to articulate goals for the future rather than descriptions of the present does not absolve them, for instance, of the duty to assess the relative feasibility of their proposals. Nor does it eliminate the need to preserve and defend those democratic institutions which do exist—i.e., the much-reviled "status quo"—from the challenges presented by democracy's opponents. That, of course, is the task of this chapter and the next. Meanwhile, it is difficult to deny that something like the "folk theory" motivates much popular understanding of, support for, and enthusiasm about "democracy."

Regardless of whether we accept Achen and Bartels' rather strong conclusions, therefore, the evidence they review ought to be troubling to supporters of democracy on its

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[16] Ibid., 147.
[17] Sabl, "The Two Cultures of Democratic Theory."

own terms. The need to grapple with such evidence is especially pressing now, moreover, as it is increasingly deployed by those who seek to undermine the privileged status enjoyed around the world by democratic ideals. Some, for instance, argue that it justifies tighter constraints on the power of centralized majoritarian institutions, so that decentralized markets can work out more efficient solutions to social problems.[18] Others, more radically, argue that we should consider abandoning democracy altogether, and that a form of political meritocracy or "epistocracy" might be a more effective and harmonious alternative to the partisan gridlock and ethnocentric populism plaguing many contemporary democracies.[19] In this section, therefore, I review some of the most important empirical findings about democracy that have troubled even its allies, and then describe some of the most pressing challenges by those who are not so sympathetic, before turning in the next section to evaluate the responses offered by more "sophisticated" democratic theories.

Incoherence: Is democracy impossible?

One feature of modern democracies which, at a first pass, seems out of step with commonsense ideals of democracy, is their reliance on massive and often opaque bureaucracies. In modern administrative states, millions if not billions of decisions are made by representatives of "the state." Yet clearly, nobody could know enough to make judgments about the wisdom of even a fraction of these decisions—nobody, in Walter

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[18] Caplan, *The Myth of the Rational Voter*; Somin, *Democracy and Political Ignorance*; DeCanio, "Democracy, the Market, and the Logic of Social Choice."
[19] Brennan, *Against Democracy*; Bell, *The China Model*.

Lippman's words, can come close to the ideal of the "omnicompetent citizen."[20] Instead, citizens are condemned never even to be *aware* of the vast majority of what is done "in their name," much less develop a coherent opinion about it. In light of this, any claim that the decisions of an administrative state are or ought to be "democratically authorized," clearly representing "self-rule" by average citizens, must stretch these concepts in ways that only a philosopher could abide. Yet precisely this kind of claim is often used—especially in systems with politically-appointed bureaucrats—to defend controversial administrative decisions as reflecting "the will of the people." While such claims are not always accepted, of course, they do have significant rhetorical power.

Legislatures, meanwhile, are often regarded as more thoroughly democratic than bureaucracies—owing to their closer connection to "the will of the people" through regular elections—and so it might be suggested that the solution to the "problem" of ever-expanding bureaucratic discretion is to give more control or oversight to legislators. This suggestion, however, would likely yield perverse results: despite their more direct "dependence" on "the people," legislators are in many respects *more* vulnerable to capture by elite interests than career civil servants.

Consider: with a limited number of parties to choose from (and fewer with a significant chance of victory), there is no way for any individual, no matter how competent, to make her vote contingent on more than a handful of issues. Even if we group the millions of decisions made by the administrative state under a much smaller number of policy

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[20] Lippmann, *Public Opinion*.

"dimensions" to be pursued by legislatures in making laws and exercising control over the bureaucracy—such as "foreign policy," "taxes," "welfare," "health care," "education," "civil liberties," "immigration," and so on—there are still far too many issues at stake in any given election for voters to send a clear signal about their preferences regarding all of these issues simultaneously. If immigration is the most important issue to a particular voter, for instance, it may be "rational" to vote for a candidate even though she disagrees with him about everything else. Voters in collective choice situations must vote strategically in order to achieve their most important priorities, meaning that their preferences about other issues might as well not exist.

Generalizing from such problems, social choice theorists have argued that the very idea of popular rule is simply incoherent. Though many democratic theorists regard their results as mathematical curiosities with little practical relevance, my view is quite the opposite: when combined with even a rudimentary account of power relations, these results yield penetrating insights into some of the most fundamental and widely-acknowledged problems with contemporary democracies. Among their many insights, for instance, is that in a multi-dimensional issue space, there are typically several possible "majority" coalitions, such that at any given time, there is likely to be at least one potential majority which prefers some alternative to the status quo.[21] There is, in other words, no "true" majority policy on any complex issue, only a number of potential majorities—and the more dimensions there are to the issue(s) at stake, the more potential majorities there are likely

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[21] See, most famously, Riker, *Liberalism Against Populism*.

to be. In a representative system characterized by parties—i.e., in all contemporary democracies—what is at stake in any given election is the entire policy platform. Needless to say, this "issue" has many, many dimensions.

These results are consistent, in theory, with what is called "random cycling" between majorities, which would not seem to favor any particular group. In practice, however, the high cost of assembling new coalitions prevents such realignments except under extreme circumstances, and what most often results instead is strategic manipulation of outcomes by those with the ability to set the agenda. Given the difficulty of coordinating on alternatives, even well-informed voters will be loath to hold representatives accountable for anything but the most serious infractions, leaving those "representatives" with a very long leash for diverging from the preferences of constituents on less salient issues. Meanwhile, small but well-organized and well-resourced groups can credibly make their support of politicians contingent upon particular floor votes or legislative actions. Whether or not it is made explicit, indeed, the threat that such interest groups will withdraw their support is often far more salient to politicians than the vague possibility that ordinary voters with little stake in the matter will defect.[22] Wealthy actors have such an easy time enacting legislation or regulatory regimes which are favorable to their interests, indeed, that money spent on "rent-seeking" lobbying activity can, under some circumstances, earn a much higher return than any of a firm's other investments.[23] In the absence of the direct vote-

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[22] The "group size paradox" articulated by Mancur Olson may also play a role here, but the problem is only intensified if the small group in question is wealthy. Olson, *The Logic of Collective Action*.

[23] This is not true across the board, but it can be true in particular industries. Universities, for instance, tend to see a return on lobbying investments, as do firms in industries which are regulated. See Lockard and

buying and clientelism which characterizes democracies with higher levels of poverty and inequality, therefore, mechanisms such as agenda control and regulatory capture ensure that wealth has a profound influence on political outcomes even in the richest and most equal democracies.[24]

Incompetence: Are the people wise rulers?

Those seeking to defend the ideal of popular sovereignty from claims of incoherence often point out that if we take these considerations seriously, we end up with some rather drastic predictions: either we should see majority cycling or massive misalignments between citizen preferences and state policy. In practice, however, we observe neither. On the one hand, we rarely if ever observe "majority cycling."[25] Yet state policy often reflects citizen preferences far better than we would expect if this stability were produced by elite manipulation of the agenda.[26] How is this possible?

The predictions of social choice theory depend on the assumption that because the policy "issue space" is multi-dimensional, people's views will generally vary along a number of dimensions as well. Miraculously, however, individuals' preference structures are very often aligned with one another, in general conformity with party platforms and

Tullock, *Efficient Rent-Seeking*; Tullock, *Rent-Seeking Society, The*; de Figueiredo and Silverman, "Academic Earmarks and the Returns to Lobbying"; Hill et al., "Determinants and Effects of Corporate Lobbying"; Hadani and Schuler, "In Search of El Dorado."

[24] See, e.g., Winters, *Oligarchy*; Bartels, *Unequal Democracy*; Gilens, *Affluence and Influence*; Piketty, *Capital in the Twenty-First Century*; Teachout, *Corruption in America*; Lessig, *Republic, Lost*.

[25] Knight and Johnson, "Aggregation and Deliberation"; Mackie, *Democracy Defended*; Ingham, "A Theory of Popular Control."

[26] Jacobs and Shapiro, *Politicians Don't Pander*; Burstein, "Why Estimates of the Impact of Public Opinion on Public Policy Are Too High"; Brooks and Manza, "Social Policy Responsiveness in Developed Democracies."

ideology groups, along a single left-right issue space. It just so happens, in other words, that people who are against abortion tend to be in favor of lower taxes and more aggressive foreign policy as well. These alignments are of course far from perfect, and secondary or even tertiary dimensions do occasionally play an important role in electoral politics, especially in multiparty systems. Nonetheless, given the vast multi-dimensionality of the available "issue space" in contemporary politics—extending at the limit to the millions of administrative decisions made by state bureaucracies—the degree to which citizen preferences *do* line up along a single dimension is nothing short of astonishing.

What is it that causes this miraculous alignment, then, which restores the possibility of relatively responsive government—and with it, some have claimed, the possibility of popular sovereignty? Perhaps it results from processes of communication and deliberation, and is therefore to be celebrated.[27] Comprehensive research on public opinion, partisanship, and motivated reasoning suggests, however, that the main driving forces behind this process are quite a bit less palatable: i.e., the creation of coalitions among elites; the development of partisan and more broadly cultural identities around these coalitions; and the deployment of those identities to structure citizens' habits of knowledge-gathering and opinion formation. Though this "structured" disagreement featuring unidimensional "single-peaked preferences" does facilitate greater sensitivity of state policy to the preferences of citizens, the processes by which it was created cast doubt on the value of sensitivity to preferences in the first place.[28] Rather than saving the ideal of popular

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[27] Knight and Johnson, "Aggregation and Deliberation."
[28] Bagg, "Can Deliberation Neutralise Power?"

sovereignty, in other words, this response simply clarifies the shape of an even more devastating challenge to it.

As a wealth of political science research has demonstrated, for instance, public opinion is notoriously uninformed, fickle, and self-contradictory. Popular understanding of basic facts about the world is astoundingly poor,[29] and the "opinions" of citizens about specific issues are often constructed on the spot, more reflective of the method being used to "measure" them than of any authentic, underlying will.[30] Even if they can be expressed with some degree of stability over time, moreover, this is no guarantee that any individual's beliefs, opinions, and values are internally consistent. As a general rule, in fact, people tend to want lower taxes *and* better services; more civil liberties *and* greater security. On the vast majority of important political issues, in other words, few citizens have any meaningful preferences whatsoever.

Second, even when citizens exhibit opinions which appear stable, coherent, and relatively well-informed, this does not necessarily make them any more *reliable*. There is good evidence, in fact, that the explanations people give for their political views are most often post-hoc rationalizations for views which are better explained by pre-existing

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[29] See, e.g., Caplan, *The Myth of the Rational Voter*; Somin, *Democracy and Political Ignorance*.
[30] This view was famously articulated by Phillip Converse, "The Nature of Belief Systems in Mass Public," in *Ideology and Its Discontents*, ed. David Apter (New York: Free Press of Glencoe, 1964). It has been confirmed in various ways since: see, e.g., Christopher H. Achen, ""Mass Political Attitudes and the Survey Response," *American Political Science Review* 69, no. 04 (December 1975): 1218–31, doi:10.2307/1955282; W. Russell Neuman, *The Paradox of Mass Politics: Knowledge and Opinion in the American Electorate* (Harvard University Press, 1986); Gillian Dean and Thomas Moran, "Measuring Mass Political Attitudes: Change and Uncertainty,"" *Political Methodology* 4 (1977): 383–424; John Zaller, *The Nature and Origins of Mass Opinion* (New York: Cambridge University Press, 1992). See the discussion in Green, *The Eyes of the People*, 44–49.

identity-driven commitments.[31] Exercises in either deliberative or introspective reasoning help us explain to ourselves why we support the views to which we are already affectively committed—and which are predicted by our social identities with alarming reliability—but are unlikely to change our views.[32] The resulting preferences are therefore unlikely to be worthier of our confidence than preferences which *are* simply created on the spot. As a wealth of evidence about "motivated reasoning" in politics has shown, being well-informed simply leads people to become more confident in the opinions which they would probably have held anyway, and less likely to change their minds.[33]

What this means is that even a perfect correlation between preferences and policy is no evidence of the causal relationship leading from preferences to policy that is necessary for a meaningful, attractive form of popular sovereignty—the kind which is suggested by metaphors of policy "responsiveness" to a "bedrock" of citizen preferences. As Achen and Bartels point out, it is far more likely that the causal relationship linking the preferences of popular majorities and the policy implemented by majority parties runs in precisely the opposite direction. Most people choose to vote for a particular party for reasons of identity, or at best because they agree with the party's platform on a few salient issues. Then, if they

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[31] For comprehensive treatments of the evidence about these claims, see Lodge and Taber, *The Rationalizing Voter*; Haidt, *The Righteous Mind*; Greene, *Moral Tribes*.

[32] Bartels, "Beyond the Running Tally." I have given this a more thorough treatment in Bagg, "Can Deliberation Neutralise Power?"

[33] Kahan and Braman, "More Statistics, Less Persuasion"; Kahan, "Why We Are Poles Apart on Climate Change"; Kahan and Braman, "Cultural Cognition and Public Policy"; Nyhan and Reifler, "When Corrections Fail"; Nyhan, Reifler, and Ubel, "The Hazards of Correcting Myths about Health Care Reform"; Nyhan et al., "Effective Messages in Vaccine Promotion"; Gollust, Lantz, and Ubel, "The Polarizing Effect of News Media Messages About the Social Determinants of Health"; McKee and Stuckler, "How Cognitive Biases Affect Our Interpretation of Political Messages"; Westen et al., "Neural Bases of Motivated Reasoning."

form genuine preferences on other issues at all, they come to adopt those of their chosen party. When that party wins a majority of the vote, of course, it gets to implement its preferred policies, thereby ensuring a correlation between preferences and policy. But the causal relationship is the opposite of that suggested by metaphors of "responsiveness"—at the extreme, it represents a form of "manufactured consent" rather than true popular sovereignty.[34]

Many political scientists respond to these concerns by weakening their definition of popular sovereignty; rejecting versions of the folk theory which require a coherent popular will and accepting instead some version of the "leadership selection" model most famously expressed by Joseph Schumpeter—who also pioneered many of the critiques we have already considered.[35] On this model, citizens may not actively rule themselves, but they do meaningfully choose which elites will rule; they "throw the bums out" as punishment for serious infractions. Empirically, however, this model fares little better than versions of the "folk theory" which are supposedly more naïve. As Achen and Bartels demonstrate, citizens occasionally punish incumbents during elections, but when they do it is most often for random events, like shark attacks, which are largely if not entirely out of the politicians' control.[36] It represents mass delusion—a game of "musical chairs" favoring whoever happens to be in the right seat when the economic music stops on election day—rather than meaningful popular control of elites.

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[34] Lippmann, *Public Opinion*.
[35] Schumpeter, *Capitalism, Socialism, and Democracy*.
[36] Achen and Bartels, *Democracy for Realists*, 116–76. The most important of these in practice, of course, is short-term economic growth in the months leading up to an election.

Boundary problems: Who is democracy for?

All of this suggests the troubling conclusion that even where citizen preferences do line up with outcomes, this is an artifact of suspiciously aligned preferences and is no less likely to be a result of manipulation. If preferences do not exhibit this partisan structure, the votes of individual citizen are essentially meaningless; if they do, however, this does not necessarily mean that ordinary citizens have *more* control over the actions of the state, because this relationship of correlation is endogenous to elite manipulation and is not robust to exogenous changes in citizens' preferences structure. In the terms of control outlined in chapter four, it is not sensitive to citizens' preferences.

Of course, if the influence of *citizens* of contemporary democracies is attenuated relative to the grand ideals of democratic rhetoric, surely it is still greater than that exercised by *non*-citizens. Yet the actions of contemporary democratic states clearly affect the lives of non-citizens as well, including those within and beyond their borders. No contemporary democracy, in other words, comes even close to hearing the voices of *all* the people affected by its policies. The logic of equal agency, and the version of it we have called the "all-affected principle," lose much of their simplicity and attractiveness if we must add this nationalistic, territorial qualification. (Consider: "everyone deserves a say in the decisions which affect their lives, so long as they were born in the right place.") Yet this is precisely what is implied by "popular" sovereignty.

Democratic theorists have long grappled with various related "paradoxes."[37] The "boundary problem," for instance, observes that all democracies which enable "the people" to rule must first delimit membership in "the people," but cannot do so without first deciding who gets to participate in that prior decision.[38] As noted by those writing about the "counter-majoritarian difficulty" and the problem of "militant democracy," meanwhile, it often becomes necessary to treat anti-democrats in ways that seem to contradict the very principles of democracy being defended.[39] As if we needed a reminder, the recent wave of right-wing populism across the Western world has demonstrated yet again that "popular rule" is ever capable of undermining its own foundations.

The "paradox," however, is not confined to moments of founding or crisis; indeed, it pervades every aspect of contemporary global politics, and if one accepts some version of the commonsense democratic ideal grounded in a logic of equal agency, it should immediately appear among the most flagrant hypocrisies of modern life. If the basic idea of democracy is that everyone deserves a say in the rules that affect their lives, a polity whose actions have widespread effects around the world yet restricts voting rights to those born within its borders is obviously in severe violation of that ideal. A similar hypocrisy practiced by "democracies" which restricted voting rights to certain *classes* of citizens, of course, was eventually exposed as such, and largely overcome throughout the democratic

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[37] Wollheim, "A Paradox in the Theory of Democracy"; Honig, *Emergency Politics*; Mouffe, *The Democratic Paradox*; Heyd, *Toleration*.

[38] For a comprehensive review of treatments of this issue, see Donahue and Espejo, "The analytical–Continental Divide."

[39] Friedman, "History of the Countermajoritarian Difficulty, Part One"; Waldron, "The Core of the Case against Judicial Review"; Kirshner, *A Theory of Militant Democracy*.

world—though not, of course, without immense and enduring legacies of disempowerment for formerly disenfranchised populations, which we have discussed in previous chapters. Meanwhile, the devastating global inequalities facilitated by borders continue to accumulate, yet the principle of national sovereignty within territorial borders remains largely unquestioned except by a few cosmopolitan intellectuals.[40]

It seems, then, that the way ordinary citizens most often think about democracy is seriously flawed. Contemporary democracies do not actually give everyone an equal say over the rules which govern their lives, and it is not even clear that real democracies come *closer* to this ideal than alternative institutions. Given the mismatch between the vastness of the administrative state and the extreme limitations on voting as a mechanism of expressing one's preferences, the sense in which an individual citizen's vote counts as a "say" of any kind over the laws to which she is subject is so negligible as to be meaningless. And this is not even to contemplate the hypocrisy entailed by restricting the vote to citizens in the first place. As a result, commonsense ideals invoking popular sovereignty or the all-affected principle, and thereby relying on the logic of equal agency, do not offer a viable defense of existing institutions.

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[40] Among cosmopolitan intellectuals, of course, there is a pronounced anxiety about the legitimacy of borders, given that if they cannot be defended, this would seem to throw the rest of what I have called "liberal" theory—which, we have seen, is focused on legitimizing the coercive power of states states—into chaos. Some of these have boldly declared, for instance, that states are morally unjustifiable, and others have offered strained defenses in terms of equal agency. For those in the former category, see Carens, *The Ethics of Immigration*; Song, "Why Does the State Have the Right to Control Immigration?"; Resnik, "Bordering by Law."; For those in the latter category, see Miller, *On Nationality*; Miller, *Citizenship and National Identity*; Ypi, "What's Wrong with Colonialism"; Stilz, "Legitimacy and the International State System"; Moore, *A Political Theory of Territory.*.

Dilemmas of democratization: How should we increase popular control?

Neither, however, does the agenda for improvement offered by commonsense ideals represent a useful and effective platform. The problems of incoherence and lack of responsiveness, we have seen, can be mitigated, but only by casting serious doubt on the reasons for valuing popular sovereignty in the first place. Given what we know about the tribal behavior of citizens who vote based on astoundingly poor information, why should we try to give them *more* input? Why should we want everyone have equal control over outcomes in the first place, that is, when some people are clearly more knowledgeable or reasonable than others? Why should we think, to put it ever more strongly, that white supremacists deserve any say whatsoever over the lives of black Americans?

The practical consequences of this agenda can be observed in the role played by commonsense ideals of democracy in inspiring populist reform. On the one hand, populist movements employ the rhetoric of popular sovereignty in an effort to challenge elite domination of various social and political institutions and grant "the people" more direct control. Given commonsense views of democracy, of course, these are straightforwardly democratic goals, and therefore also straightforwardly valuable. On the other hand, clearly, not all real-world populist movements are salutary. Contemporary populist movements are quite often enmeshed with ethnocentrism and xenophobia—some would claim necessarily[41]—and in the extreme can undermine key democratic institutions. In situations where elites are the ones maintaining cosmopolitan, liberal, egalitarian values, should we

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[41] McKean, "Toward an Inclusive Populism?"; Müller, *What Is Populism?*

consider populist movements rejecting such elites to be "democratic," so long as they represent a majority of people? On commonsense views of what "democracy" means, it is hard to answer in the negative.

Consider the rise of Donald Trump, which we will return to in the next chapter. The most striking difference between Trump and previous Republican nominees is that Trump had virtually no elite support whatsoever, and was in fact bitterly opposed by a significant number of conservative elites, even after it became clear that he would be the Republican nominee. He was supported by "the people" alone, who managed to subvert the status quo of substantial elite control over the nomination process. Thanks to "democratizing" reforms of primaries, of course, contemporary elites had, in the last few decades, exercised this control almost entirely through indirect mechanisms such as donations, endorsements, and media coverage, rather than the vote—mechanisms which Trump, with his massive wealth and media presence, was almost uniquely qualified to circumvent. If enabling "the people" to have more direct input into political choices is democratic—as commonsense ideals maintain—then Trump's rise represents the triumphant march of democratization.[42]

As a second example, then, consider the role of commonsense ideals in the stalling or reversal of democratization in many newer and poorer democracies—including the American-led attempt to impose democracy by force in Iraq and Afghanistan, as well as the indigenously generated "Arab Spring" which followed on its heels. Clearly, any monocausal explanation is bound to be specious, but it is not implausible to suppose that

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[42] See, e.g., Sullivan, "America Has Never Been So Ripe for Tyranny."

an emphasis on commonsense ideals of democracy grounded in a logic of equal agency was among the contributing factors to the spectacular failure of all of these efforts at "democratization."[43] It has long been understood among scholars and other experts, of course, that elections alone cannot guarantee democratic governance, but the rhetorical attraction of popular sovereignty remains, and given its prominence in popular and elite understanding of democracy, it is no wonder that both local and international advocates of democracy prioritized representative elections, assuming that if everyone were guaranteed an equal say, the rest would work itself out.

Successful democratization, it seems, combines free and fair elections with a relatively high-capacity state, the rule of law, the integration of trust networks into the state, and the open flourishing of nonviolent forms of contentious, oppositional politics.[44] The question of which of these ought to be prioritized in any given situation is incredibly difficult, requiring sophisticated comparative investigation as well as a great deal of attention to the relevant context. I make no claims, therefore, to know better than those who have tried and failed to implement democracies in their own countries which sequence of reforms would have optimized their chances at success. What I can say with somewhat more confidence, however, is that commonsense ideals relying on equal agency do not help us to understand the complex ecology of norms, practices, and institutions which are still emerging as pieces of the democratization puzzle. In fact, their emphasis on the rule of the people facilitates

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[43] See also Jonathan Katz's analysis of Haiti in *The Big Truck That Went By*, 245–61.
[44] See, e.g., Tilly, *Democracy*; Tilly and Tarrow, *Contentious Politics*; Przeworski, *Democracy and the Limits of Self-Government*.

the rise of demagogues and strongmen grounded in claims to popular sovereignty, which links the two concerns we have raised in this section.

The basic problem in both cases is not that commonsense ideals grounded in equal agency are completely wrong. Elections are obviously essential to any efforts at democratization. Meanwhile, elite domination is one of the central problems facing advanced democracies, and any efforts to further "democratize" such societies must attempt to reduce it. The problem with commonsense ideals, then, is that they fail to focus our ameliorative attention in the right places. They offer incomplete or otherwise unhelpful diagnoses of the problems, and a set of recommendations that are unlikely to solve them.

On commonsense ideals, diagnoses center on lack of responsiveness. And this can, of course, be a major problem. But on the one hand, it is not *always* a problem. If state policy does not respond to the weak, unconsidered preferences of people who are misinformed, racist, or have otherwise unsavory preferences, it should not be too controversial to suggest that we celebrate this "democratic deficit" rather than mourning it. Even when responsiveness is a problem, on the other hand—that is, when perfect responsiveness would lead to better outcomes—it is not always the most *important* problem. Consider the situation of blacks under Jim Crow. Part of the problem was that blacks were barred from voting, and so state policy was not responsive to their preferences. But if enough whites favored their subordination in areas where blacks were minorities, at least, even perfect responsiveness which gave a truly "equal say" to blacks would not have solved the problem. The commonsense ideal focuses our attention on lack of responsiveness instead of the underlying problem of racism.

Finally, even when a lack of responsiveness *is* the most important issue—that is, when perfect responsiveness would *fully* resolve the problem—responses aimed directly at improving responsiveness are not always the most *effective*. As Achen and Bartels point out, for instance, the reforms achieved by the original Populist movement in the US—reforms aimed at "democratizing" political parties, for instance—have had effects that are neither unqualifiedly good nor even, over the long run, at least, unqualifiedly populist. Despite these reforms, for instance—and despite Trump's exceptional example—party nominations in the US are still largely orchestrated by a small group of elites, and there is comparative evidence from Europe that more "inclusive" procedures actually make parties less representative of voters in substantive terms.[45] Contemporary populist movements, as we have seen, present an even starker portrait of the dangers of the commonsense ideal.

Epistocratic alternatives

Given all of these challenges, it is perhaps unsurprising that some have begun to doubt the wisdom of popular rule, and the intuitive principle on which it seems to be founded: i.e., that each person deserves a say in the decisions that affect their lives. In the postwar era and especially after the fall of the Soviet Union—when the countries deemed most democratic were also generally the wealthiest and most successful—such democratic platitudes were easy to abide. Yet many newer democracies have failed in the intervening decades, and populist revolt now roils even those thought to be steadfast. During the same

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[45] See Achen and Bartels, *Democracy for Realists*, 66–68. Citing Spies and Kaiser, "Does the Mode of Candidate Selection Affect the Representativeness of Parties?"; Hazan and Rahat, *Democracy within Parties*.

period, meanwhile, autocratic China has managed to lift half a billion people out of poverty. It still lags behind the most advanced democracies in many respects, of course, but perhaps a fairer comparison in historical terms might be that of India—which, despite outperforming most other post-colonial democracies, has made far slower progress than China against the challenges of corruption, poverty, and endemic religious violence. In such circumstances, the claims of democracy to self-evident superiority—especially when they rely on commonsense views steeped in the logic of equal agency—have begun to appear less persuasive.

For many years, of course, the most salient alternatives to democratic government were fascism and communism, both of which employed the rhetoric of popular sovereignty to justify vanguardism and eventually totalitarianism.[46] Since the Second World War, then, the most that contemporary critics of democracy in the West have typically dared to suggest is that democratic impulses must be curtailed in some way; not that democracy itself must be abandoned. Libertarians, for instance, have long supported strong constitutional limitations on the power of majorities in the name of "limited government," and their arguments have been bolstered in recent years by work in the "public choice" tradition of economics and political science.[47] Recently, however, a few Western authors have begun to voice more full-throated criticisms of majoritarianism itself. Jason Brennan, for instance,

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[46] Fascism, of course, is typically grounded in the rejection of certain human beings' interests as worthy of any respect whatsoever. Communism, however, at least purported to adopt this aim.

[47] Buchanan and Tullock, *The Calculus of Consent*; Buchanan, *The Limits of Liberty*; Tullock, *Rent-Seeking Society, The*; Buchanan and Tollison, *Theory of Public Choice*; Tullock, Seldon, and Brady, *Government Failure*; Shleifer and Vishny, *The Grabbing Hand*; Keech and Munger, "The Anatomy of Government Failure."

argues that if people have a right to competent government, there is no good reason to leave decisions in the hands of the "ignorant, irrational, misinformed nationalists" who make up most national electorates,[48] while Daniel A. Bell draws on similar arguments in his surprisingly compelling case for a political meritocracy grounded in Confucian values and modeled on the examples of contemporary Singapore and China.[49]

Elite worries about the masses' tendency to be swayed by demagogues and make rash decisions with devastating consequences, of course, date back at least to Plato and Thucydides. They are no less prevalent today: the "epistemic" deficits of democracy can be interpreted in a wide variety of ways, and it is tempting to define one's own form of expertise or wisdom as that which "the people" are missing. Where libertarians emphasize the ignorance of majorities about complex economic policy, for instance, liberal egalitarians worry about the willingness of popular majorities to thwart fundamental civil and human rights (especially but not always when motivated by racism and xenophobia)—and both groups argue for limitations on the power of majorities for these reasons. Environmentalists, meanwhile, worry about the impact of short-sighted democratic choices on the global climate. And in a different key, of course, socialists and communists have long worried that bourgeois ideology prevents the working classes from understanding their true interests, leading them to continue endorsing their own oppression at the ballot box—a concern which ultimately led some to lose faith in democracy. Meanwhile,

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[48] Brennan, *Against Democracy*, 23.
[49] Bell, *The China Model*; Bell, *Beyond Liberal Democracy*.

feminists, anti-racists, anti-colonialists, and deep ecologists often treat democracy as an obstacle to radical goals in a similar way, even if they stop short of Leninist vanguardism.

If democracy is conceived as giving *everyone* a say over the decisions made by governments, then we can understand the alternative, in general terms, as *limiting* membership in the selectorate or political class which has a say over those decisions. The democratic theorist David Estlund has given this generalized alternative the name of "epistocracy"[50]—rule of the knowers—because it highlights what most critics with broadly egalitarian normative sympathies have seen as the key weakness of democracy: the ignorance and depravity of ordinary democratic citizens. Estlund himself ultimately supports democracy over epistocratic alternatives, but he takes such alternatives seriously, and critics of democracy have embraced this term as a description of their view. Though Brennan accepts the possibility that democracy might be the least bad option in practice, for instance, he suggests a number of "epistocratic" alternatives which could plausibly do better, including restricted suffrage, plural voting, an epistocratic veto, and Claudio López-Guerra's proposal for an "enfranchisement lottery."[51] At the very least, Brennan argues, we have a responsibility to give such alternatives a try.[52]

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[50] Estlund, *Democratic Authority: A Philosophical Framework*.

[51] López-Guerra, *Democracy and Disenfranchisement*.

[52] Unlike other reasons for questioning the wisdom of democracy—on Nietzschean grounds, for instance—each of these challenges can be articulated from within the basic normative assumptions I have laid out in the Introduction. They do not require disrespect, in other words, for the interests of certain classes of human beings. Institutionally, clearly, they depart from majoritarian institutions, but that is often the only way in which they depart from the general set of commitments which characterize a general desire to think democratically.

Where Brennan's critiques grow out of libertarian concerns, and he irresponsibly shrugs off the implication of his proposals that they would disproportionately disenfranchise disempowered racial and socioeconomic groups, Daniel A. Bell's critique encompasses a wider array of normative perspectives, appealing to those with neoliberal and left-liberal sensibilities as well as the libertarians appealed to by Brennan, and the radical leftists who are already skeptical of liberal democracy. In addition, Bell draws on millennia of East Asian political and intellectual history in seeking to push contemporary Chinese institutions in a more perfectly meritocratic direction. Though those institutions are clearly flawed at present, they have the advantage of actually existing, unlike the imaginary sketches of Brennan and López-Guerra. Especially from an agent-relative perspective, then, Bell's vision is the more salient and promising "epistocratic" alternative to actually-existing democracies, and we will henceforth take Bell's work as the exemplar of the contemporary epistemic critique.

Democracy in a Chinese mirror: Daniel A. Bell's *China Model*

Bell's criticisms of democracy draw on many of the observations we have made above, grouped under four kinds of "tyranny." Under the banner of the "tyranny of the majority," for instance, Bell hammers on the ignorance, irrationality, bigotry, parochialism, and presentism of ordinary voters—a fact which is not less concerning in the era of Donald Trump than it was in the Athens of Plato and Thucydides.[53] Similarly, the "tyranny of the minority" refers to the accumulating evidence that "well-funded and organized minority

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[53] Bell, *The China Model*, 22–36.

interests can and do get their way against relatively powerless majorities" in democratic politics,[54] contributing to spectacular inequalities in the US and throughout the democratic world; while the spectacle of electoral competition merely provides ordinary people with "an element of illusory control" over policy.[55]

Discussing the "tyranny of the voting community," then, Bell points out the practical consequences of the "boundary problem" in democratic theory: i.e., that "democratization tends to strengthen the political salience of national identity," and that long-established democracies have a disheartening "track record of committing harm against nonvoters" within their own lands, from the slaves of Athens and the American South to Palestinians in Israel and migrant workers around the contemporary Western world.[56] Moreover, global capitalism affords the citizens of contemporary democracies their relatively affluent lifestyle thanks only to a brutal history of colonialism and exploitation which have effectively "outsourced" poverty and violence to foreigners.[57] Even more significant in the long term, Bell argues, is the harm outsourced to future generations—especially through climate change.[58] Finally, citing the "tyranny of competitive individualists," Bell points out that electoral democracy "can exacerbate rather than alleviate social conflict," generating "'identity politics' in which voting for a certain party becomes something akin

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[54] Ibid., 37.
[55] Ibid., 40.
[56] Ibid., 46–47.
[57] Ibid., 47, 212fn.124. By this logic, the correlation between national wealth and democratic institutions is not just unstable as an argument *for* democracy—because it may turn out to have been a coincidence—but should actually count an argument *against* democracy.
[58] Ibid., 49.

to a tribal identity… polarizing society to the point of endangering the polity's survival."[59]

We need few reminders of this danger in the age of Trump, Marine Le Pen, Geert Wilders, Benjamin Netanyahu, and Narendra Modi.

Bell fully acknowledges, of course, that Chinese society suffers from various pathologies—including the inequality, ethnic prejudice, and environmental degradation for which he is especially critical of contemporary democracies—but in each case he pushes us to ask the question: "which system is [more] likely to improve?"[60] Even if it seems obvious that Western-style democracies have outperformed East Asian meritocracies on most conceivable metrics so far, this future-oriented question is worth a serious answer. First, he argues, it is unfair to allow the comparison between contemporary China and the US to stand in for the possibilities afforded by meritocracy and democracy in general. China reached $5000 GDP per capita—a milestone the US likely passed in the notoriously corrupt "Gilded Age" of the late 19th century—only in 2005. It will not take nearly as long for China to close the rest of the gap, but the playing field is still far from even. Second, as noted above, the world is changing rapidly, and at least some of the challenges we will face in the twenty-first century are importantly different than those we have faced before. The management of threats such as capital accumulation,[61] disruptive technology facilitating accelerating inequality,[62] and massive environmental degradation—not to mention the sort

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[59] Ibid., 54.
[60] Ibid., 45.
[61] Piketty, *Capital in the Twenty-First Century*; Mattli and Buthe, *The New Global Rulers*; Winters, *Oligarchy*.
[62] Cowen, *Average Is Over*.

of "existential risks" which have recently gained notice in philosophical circles[63]—requires sophisticated technical knowledge which will always be inaccessible to average citizens.

Most importantly, the variety of political meritocracy Bell proposes is one which has learned from and coopted some of the advantages of its rivals, including democracy. It is well known, of course, that the Chinese state has very successfully fostered Western-style markets in certain sectors since the 1980s. Less famously but equally significantly, Bell notes, have been parallel efforts to foster particular forms of *democratic* engagement on a local level. Bell endorses both of these trends, and proposes that they be scaled up. Indeed, he draws freely upon the values of open deliberation and political participation; which, he demonstrates, have no inherent connection to the principle of majoritarian elections at the national level. Even if open-ended deliberation among diverse groups can be shown to produce better decisions, for example, such deliberation could easily take place among manageable groups of randomly selected citizens without necessitating full enfranchisement. China is already experimenting with using such deliberative bodies to improve their services to citizens, and preliminary evidence shows it may be working.[64]

In fact, it is at least conceivable that certain democratic values can be better instantiated in the context of a centralized political meritocracy, without the distortions and inconveniences of electoral competition. For example, deliberative democrats have proposed "deliberative polls" as a way of mitigating or circumventing certain pathologies

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[63] Bostrom and Cirkovic, *Global Catastrophic Risks*.
[64] Chandra and Rudra, "Reassessing the Links between Regime Type and Economic Performance"; Tsai, *Accountability without Democracy*.

of majoritarian electoral democracy, on the theory that they are able to discern or create a more reflective and deliberate popular will. [65] Regardless of whether they succeed in this goal, however, their hard-won conclusions have often been ignored—perhaps unsurprisingly—by popular majorities which have not undergone the relevant deliberative transformations. On commonsense views of democracy's value, in fact, that is to be celebrated: if the decisions of a mini-public differ from the considered judgments of the people as a whole, why should we trust the mini-public over the rest of the citizens? [66] A meritocratic system avoids this contradiction, both in theory and in practice. If the findings of deliberative polls truly reflect enlightened popular judgment, then a meritocratic state will be able to put that judgment into practice more reliably than an electoral democracy, and will thus better achieve the deliberative, epistemic, and even representative virtues of mini-publics.[67]

More generally, Bell claims, meritocratic political institutions are better able to make use of the supposedly democratic principle of experimentalism. Perhaps most strikingly, the CCP has been informed by John Dewey in implementing social and institutional experimentation across the many provinces and districts of China.[68] *Pace* Dewey and his many democratic disciples, Bell argues that experimentation with local institutions is most effective if it is carried out in the context of a hierarchical meritocracy. After all,

[65] Fishkin, *Democracy and Deliberation: New Directions for Democratic Reform*; Luskin, Fishkin, and Jowell, "Considered Opinions"; Fishkin and Luskin, "Experimenting with a Democratic Ideal."
[66] Lafont, "Deliberation, Participation, and Democratic Legitimacy."
[67] Bell, *The China Model*, 190.
[68] Ibid., 182–85.

meritocracy drives the progress of experimental science, which requires informed and coherent decisions about which experiments have been successful.[69] Hierarchical institutions also have greater capacity than fully democratic systems to generalize successful experiments across the board. Thus, it seems, whatever advantages experimentation may have, they can be deployed to greater effect by centralized meritocracies. Indeed, the effectiveness of democratic bureaucracies is routinely stymied by the melodrama of electoral politics. As many a frustrated public servant has likely considered, perhaps we would be better served by relinquishing that inconvenient constraint. How, then, can democrats respond to such critiques?

6.3 ~ Theoretical responses to the crisis of democracy

> *Anyone who could discover the means by which men could be justly judged and reasonably chosen would, at a stroke, establish a perfect form of commonwealth.*
>
> — *Michel de Montaigne*[70]

In the remainder of this chapter, we shall test the mettle of various theories of democracy by considering them as responses to the crisis of democracy, as encapsulated by Bell's compelling critique. In doing so, therefore, we are clearly focused on the first of the two practical "tasks" we have given to anchoring principles: i.e., defending existing democratic institutions, and setting an agenda for their improvement. Before turning to examine particular theories, however, we should remind ourselves that these two tasks are not as distinct as it might initially seem, and that indeed, successful ideals must strike a

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[69] Ibid., 191.
[70] Montaigne, *The Complete Essays*, 1057. Cited from Elster, *Securities Against Misrule*, 5.

balance between the two. Some versions of the democratic ideal, it seems, prove too little. If they are plausible as descriptions of the value of actually existing institutions, it is only because they fail to offer a useful critical standard. Others, by contrast, prove too much. If they provide a plausible critical standard, in other words, it is only because they fail to offer a compelling defense of democratic institutions as they exist. Comprehensive democratic ideals must be able to do both: they must be able to defend the status quo against pathological alternatives *without* thereby rendering democrats complacent. Or, to reverse the formula, democratic ideals must enable a critical perspective on contemporary democracies *without* implying that they are worthless and thereby tempting followers into authoritarian populism or technocratic elitism.

With this in mind, the rest of this chapter will consider three basic categories of democratic theory: intrinsic accounts, of which "commonsense" views are a simplistic variety; instrumental accounts, which eschew intrinsic concerns in favor of a focus on consequences; and epistemic views, which offer a compromise between the two by emphasizing the formal epistemic superiority of democratic procedures. More sophisticated intrinsic views, I admit, may improve upon the agenda for democratic reform suggested by commonsense ideals, which threatens to drive us into the strong arms of populist demagogues. When it comes to defending existing democratic institutions, however, they are ultimately vulnerable to the same criticisms as less sophisticated "commonsense" views, thanks to their reliance on a common logic of equal agency. Meanwhile, accounts that foreground instrumental concerns instead of intrinsic values fail to offer a defense which is robust to historical variation, while "epistemic" accounts that

seek to remedy this failure by grounding the instrumental superiority in formal features of democratic procedures fail to show that these features characterize actual democracies. At the end, finally, I show that the dispersion of power logic offers a way out of this dilemma.

Intrinsic accounts of democracy

We may begin, then, by noting that the commonsense ideals of democracy discussed above belong to a broader category of "intrinsic" accounts of the value of democracy. Among such theorists, collective authorship of law is understood as the only legitimate way of reconciling conflicting claims, and majoritarian elections—even when substantially flawed—are therefore thought to have intrinsic, inherent, categorical, or universal value.[71] Without stretching the definition of "collective authorship of law" too much, this category may be expanded to include Habermas' *deliberative* proceduralism; on more generous interpretations it may even include certain forms of "participatory," "radical, or "fugitive" democracy.[72] To be a free, self-determining agent equal to others, on such views, is to have some active role in shaping the conditions of one's life. As a result, democracy is a clear, direct requirement of equal agency.

On intrinsic accounts, responding to epistocratic alternatives such as Bell's "China Model" is simple. The concerns raised in the first half of this chapter may be troubling— and different intrinsic accounts offer a variety of sophisticated proposals for responding to

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[71] Waldron, *Law and Disagreement*; Brighouse, "Egalitarianism and Equal Availability of Political Influence."

[72] Arendt, *On Revolution*; Pateman, *Participation and Democratic Theory*; Barber, *Strong Democracy*; Wolin, "Fugitive Democracy"; Frank, *Constituent Moments*.

them, far beyond the simplistic turn to populism which seems to follow from the commonsense ideal. Nevertheless, such accounts must hold that instrumental concerns are irrelevant to the more fundamental question of political legitimacy, on which there can be no compromise. From the perspective of intrinsic theories, critiques of democracy on "instrumental" grounds simply miss the point. Everyone is entitled to a say over the rules that govern their lives, that is, no matter whether or not they are competent, and so majoritarian elections with universal suffrage are justified regardless of anything we have said in the first half of this chapter.

Certain liberal theories of justice and legitimacy, meanwhile, which draw on some form of "contractualism" or "hypothetical consent" or "public reason," straddle these two categories. They do not rely *directly* on the logic of popular sovereignty, nor any other form of the intuition that everyone simply deserves an equal say. Yet they *derive* a right to an equal say—and with it, the intrinsic value of democracy—from their conceptions of justice or legitimacy. In Alexander Kirshner's words, "the motivating conception of justice cannot feasibly be achieved without democratic institutions."[73] On such views, democracy is intrinsically justified because only a system which allows everyone to vote passes the relevant tests of universalizability. Only a democracy, that is, could be agreed upon by agents who are placed behind a veil of ignorance or constrained to use only "public" reasons.

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[73] Kirshner, *A Theory of Militant Democracy*, 35.

Where advocates of more directly intrinsic theories focused on democratic procedures appear as democrats first and liberals second (if at all), liberal theories of justice and legitimacy focus on more "substantive" issues, appearing as liberals first and democrats second. Thus, in contrast to directly intrinsic theories, liberal theories of justice and legitimacy can be said to focus more on the "ends" of political action. Nevertheless, they still treat democracy as universally or categorically justified. When compared to unabashedly instrumental theories, therefore, this variety of liberal theory appears more focused on means and procedures.

For our purposes, however, the similarities between "directly" and "indirectly" intrinsic accounts are more significant than their differences. On such views, politics is not fundamentally about achieving some definite good, but rather creating just or legitimate conditions within which each individual can fairly pursue her or his own conception of the good.[74] These conditions include electoral democracy, and are understood to be intrinsically valuable: as requirements of justice or legitimacy, they are normatively prior to the direct pursuit of substantive human interests. Discussion about the ends of human life is certainly vital on such views—which may be called "deontological," "neutralist," "anti-perfectionist," or "proceduralist," among other labels—but it is meant to take place on fair or neutral terms or within a just or legitimate framework. Humans are treated as equals in such frameworks not because of the equal *worth* of their lives—as might be the

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[74] Rawls, *Political Liberalism*; Galston, *Liberal Pluralism*; Larmore, *The Morals of Modernity*; Larmore, "Political Liberalism"; Quong, *Liberalism Without Perfection*; Gaus, *The Order of Public Reason*.

case on instrumentalist views—but because of the equal *authority* they are granted over precisely these questions of *what is worthy*.[75]

Intrinsic accounts, however, do not offer a sufficiently plausible response to the challenge of epistocracy. Despite substantial variety among intrinsic views of democracy, first, all rely on some form of equal agency.[76] Luke Bretherton, for instance, writes:

> Many accounts of democracy conceive of self-rule as an extension of individual autonomy. A form of political order is democratic to the extent that it enables individual liberty and curtails forms of domination that limit the choices individuals may make within the context of personal and circumstantial constraints. Popular sovereignty is derived from the sovereignty of the individual and is considered indivisible and singular. Democratic legitimacy is premised on each individual having an equal say in the decisions that affect everyone. This 'say' can be organized in a variety of ways, hence debates about different ways of organizing collective self-rule. The adjectives 'representative,' 'deliberative,'' and 'direct' placed before the term 'democracy'' denote different forms of organizing collective self-rule and constituting individuals into a people. For example, deliberative democracy constitutes a people by generating a consensus through processes of rational deliberation to which all may contribute, the consensus itself being the basis of the collective self-rule. Each form of organization is given priority according to different ideological and normative accounts of what the nature and form of self-rule should be under certain conditions and within particular contexts.[77]

Jeffrey Green recognizes a similar phenomenon:

> Democratic theorists may disagree about how everyday citizens achieve representation—whether it comes through voting and the polling done by representatives who must face reelection, or by the groups and voluntary associations that share power in a polyarchic order, or by deliberative processes that produce results which have a presumption of rationality and fairness—but all these models afford dignity to the ordinary citizen by affirming that the legislative output of a representative system be considered

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[75] I take the distinction between "equal worth" and "equal authority" from Kirby, "Two Concepts of Basic Equality.".
[76] The reverse, however, is not true, as we shall explore below.
[77] Bretherton, *Resurrecting Democracy*, 239.

as something with which the represented can identify as a coauthor and colegislator.[78]

It is this claim to make citizens co-authors and co-legislators of the laws by which they are governed, then, upon which intrinsic conceptions of democracy rest their defense of actually existing democratic institutions. It is also precisely this claim, of course, which (as we have seen) is incompatible with a realistic understanding of those institutions.

Sophisticated intrinsic accounts differ from simpler versions of the "commonsense" ideal of popular sovereignty, of course, in a number of ways. Such differences, however, typically bear only on the *second* of the two primary tasks of democratic theory: i.e., providing an agenda for reform. While they avoid making authoritarian populism seem attractive, as a closer approximation of the will of the people, that is, their defense of *existing* institutions relies on implausible claims that majoritarian elections actually do respect the agency of each individual better than alternatives. The intrinsic response holds that people are entitled to a vote, because a vote is connected inherently, either directly or indirectly, to the right conception of equal agency. We must give each person a vote simply because everyone deserves a say over the rules that govern their lives. Elections, of course, do grant people a particular form of "agency" in the form of an equal vote, which they would lack in other systems. But given the considerations we have developed, on the one hand, it is implausible that this extremely attenuated form of agency ought to outweigh all concerns about other concrete goods and even other forms of agency. On the other hand,

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[78] Green, *The Eyes of the People*, 43.

many of these other goods and other forms of agency may be more easily achieved by epistocratic alternatives—indeed, that is precisely the claim made by Brennan, Bell, and others, to which intrinsic views offer no response.

To expand on these points in reverse order, consider first that Brennan's epistocracy and Bell's meritocracy incorporate a number of other goals that are familiar on the democratic worldview, arguing not for radical inegalitarianism but for better achievement of both instrumental goals like social harmony and economic growth, as well as other forms of agency such as rights and "recognition." Bell observes, for instance, that most cadres of the Chinese Communist Party (CCP) accept the necessity of many traditionally liberal-democratic principles like the rule of law (or in other words, *equality* before the law). Bell goes further in encouraging the separation of powers and more robust freedom of speech, but he sees these goals as within reach as well.[79] As they are imagined by Brennan and Bell, that is, epistocracy can be designed so that it will achieve many benefits traditionally associated with liberal democracy without the difficulties generated by competitive elections with universal suffrage. Whether or not he is right about this is, of course, an open question, but intrinsic approaches simply refuse to engage at this level.

Either way, we should not simply rule out the possibility altogether. Though the concept of "meritocracy" has become a favored rhetorical tool in the justification of rampant inequality and the erasure of pervasive legacies of injustice, Thomas Piketty's invocations of the rentier society of Austen and Balzac should serve to remind us that it

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[79] Bell, *The China Model*, 134, 174.

was originally a radical idea, which found a place alongside liberalism and democracy as one of the most important strategies for weakening the power of wealthy elites.[80] In theory, at least, distributing office according to merit is precisely what *prevents* elite domination, and this idea still has currency today. We expect judicial and executive appointees, for example, to be qualified in some verifiably non-partisan way, as a barrier to patronage, hyper-partisanship, and oligarchy. As a result, the question at hand is not whether to have democratic institutions or meritocratic ones. The question is how they ought to be prioritized, and the key point of difference between contemporary democracies and the epistocratic alternatives imagined by Brennan and Bell is the presence of competitive elections with universal suffrage at the national level.

Recall, then, the points we have made above about how attenuated any democratic control will inevitably be. The number of decisions made, policies enacted, and actions taken by modern administrative states is too vast for any individual even to comprehend, much less form intelligent opinions about. Meanwhile, the dynamics of social choice are such that it would be impossible under any collective choice mechanism for citizens—even imaginary "omnicompetent" citizens—to register their preferences on more than a few issues at a time. These problems are compounded by the dynamics of electoral politics with a very limited number of competitive parties and elections which occur only periodically. In a world of disagreement, simply put, it is impossible for all people to "authorize" state power simultaneously, and therefore simply inevitable that state power will devolve to a

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[80] Piketty, *Capital in the Twenty-First Century*.

limited class of people. In this light, the difference between an epistocracy and a democracy begins to seem quite a bit less significant: if the vote gives people such a dramatically limited say over the rules that govern their lives, then, the vital importance of giving that miniscule "say" to everyone seems to dissipate.

We can now state succinctly the dilemma facing intrinsic approaches in their defense of existing majoritarian institutions. On one horn of the dilemma, we allow that other goods and forms of agency might deserve priority over the vote. This, however, opens the door to the objection that epistocratic alternatives could do a better job of achieving those goods. If we take the other horn of the dilemma, however, prioritizing the vote at the cost of all other goods and forms of agency in order to close off this objection, it simply declines to respond to the epistocrats' objection altogether. It technically succeeds in defeating the epistocrat's concerns, since it is true by definition that no epistocratic alternative could outperform democracy: universal suffrage is both the key distinguishing feature of democracy and the key normative difference-maker. In pragmatic terms, however, what this means is that truly intrinsic theories will likely convince few if any who are not already persuaded of democracy's inherent superiority. Meanwhile, those who do find this premise compelling still face the hypocrisy of justifying democracy within a nation's borders at the expense of those on the outside.

Democrats ignore such challenges at their peril: for many people around the world, it is not simply self-evident that equal political status deserves absolute priority in justifying political authority, especially if it conflicts with more tangible goods like physical safety, economic security, wealth distribution, and the health of the planet. Democrats cannot

simply cede such terrain to our opponents. Meanwhile, the "boundary problem" is not going away, and as global wealth inequalities continue to expand, it is getting more and more difficult to justify the right of certain "peoples" to exploit others, so long as the choice to do so was made by elected representatives. While eschewing discredited assumptions about policy responsiveness and retrospective accountability, we must offer an account of the value of actually existing democratic institutions in instrumental terms. As we shall see, however, this task is more difficult than it might seem.

Instrumentalist responses

Instrumentalist responses understand democratic procedures not as ends in themselves, but as means to other ends, and therefore offer a more direct and potentially compelling response to epistocratic alternatives like that presented by Bell. Sometimes, these "ends" of politics can be understood as a form of equal agency—such as equal liberal rights, for instance, or equal economic opportunities, or equal self-determination in a positive sense— and in such cases, "instrumentalist" views may be said to rely on that logic. There is no *inherent* connection between democratic procedures and equal agency on such accounts, but there may be a very strong *contingent* connection. Other instrumental theories, meanwhile, refer to goods like peace and prosperity, which are not best rendered in terms of equal agency.

The key instrumentalist move in responding to epistocratic alternatives is to shift the focus from individual to collective competence. Perhaps people are more competent than they seem on a micro-level, instrumentalist defenders of democracy observe, and perhaps they are not. Either way, however, they *must* be competent, on a macro-level, in the

aggregate, because there is clearly a connection in practice between universal suffrage and goals such as liberal rights and economic growth. The strongest evidence in favor of democracy, in other words, is to be found in the history of the 20th century.

This is plausible, of course, as far as it goes. But in most cases, this very recent historical experience is practically all the evidence we have: there is little logical or theoretical connection between universal suffrage and equal rights or economic growth, and as Bell points out, the world is changing fast. In many cases, in fact, all the micro-level signs seem to point in the other direction, and it is unclear why these local incompetences would not have perverse aggregate effects. If people are indeed incompetent in the ways we have seen, why should we think that they would capably defend liberal rights or promote wise economic policy? Wouldn't careful legal experts be better qualified to defend them against populist demagogues? Wouldn't experts about macroeconomics be better qualified to promote growth? Indeed, that is precisely the justification given for judicial review and central bank independence, even within democracies. Especially in light of China's impressive and sustained economic growth, then, one could be forgiven for wondering whether the historical connection between universal suffrage and these other goals is simply an accident.

Even if we suppose that this connection is *not* an accident, moreover, there is still the question of whether achieving those specific goals is worth the *costs* of allowing people to vote—i.e., the "tyrannies" mentioned by Bell. Are the goals of liberal rights and superior economic growth, for instance, worth risking racist exclusion, environmental degradation, and the creation of a class of oligarchs? Many would say yes, but this answer will not be

obvious to everyone. What arguments can we use for making and defending this judgment? If the primacy of rights or growth is simply self-evident, then establishing a robust empirical connection between them and universal suffrage would be a sound argument in favor of the latter. But if there are legitimate costs to weigh, traditional instrumental accounts of democracy do not offer us a way of grappling honestly with those costs.

For those who object to universal suffrage, in sum, two concerns rise to the fore: first, that incompetent voters will put bad policies in place; and second, that whatever goods are gained by allowing incompetent people to vote are not worth the costs—both within and outside the country. Traditional instrumentalist responses, however, do not address either. They simply gesture towards the historical connection between universal suffrage and certain favored outcomes, and decline to consider any tradeoffs. Meanwhile, they balk in the face of accusations that the supposedly robust connection between democracy and good outcomes may be an artifact of where the first democracies developed, and will sooner or later prove to have been a relatively brief historical anomaly. Perhaps this explains why many supporters of democracy have sought to defend the central intuition of commonsense views by elaborating more sophisticated intrinsic accounts of democracy's value, rather than abandoning commonsense intuitions altogether in favor of instrumentalist alternatives; which, it often appears, "are not fundamentally concerned with democracy."[81] The feeling is that we are safer, given the *prima facie* strength of epistocratic challenges, if democracy turns out to be sacred.

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[81] Kirshner, *A Theory of Militant Democracy*, 35.

Finally, instrumentalist defenses of democracy do not face the full force of the *logical* paradox presented for intrinsic approaches by the boundary problem—i.e., the justification of democracy within limited borders on the basis of granting everyone an equal say. Nevertheless, a *practical* problem remains which must be addressed. Even supposing that the instrumental benefits of universal suffrage within a country are robust to historical variation, and even supposing that these benefits outweigh whatever costs it incurs within that country, there is still the task of showing that achieving these benefits for the citizens of *one* country is worth whatever costs it might have to people *outside* of that country.

As Bell points out, this is no idle concern: while democracies do not generally go to war with one another, they do go to war with non-democracies, and even when they are not at war, they may "outsource" their less savory national security goals to others. Whether we understand capitalism in neoliberal or leftist terms, meanwhile, the effects of the economic policies of democratic countries on the rest of the world can be devastating. On the first approach, populist protectionism—which makes a certain sense from the perspective of national labor forces—robs poor countries of the benefits of free trade. On the second approach, meanwhile, liberal democracies reliably defend their own interests, on the blatantly hypocritical grounds of "fairness," at the expense of the nations they have spent centuries expropriating—for instance, by enforcing exploitative debt repayments, protecting the international property of corporations based in democratic countries, and undermining or overthrowing governments which threaten to challenge this status quo.

Given these challenges, it is implausible that national sovereignty is, in the abstract, the best way of organizing the global system. Even if one adopts an "agent-relative" approach,

however, on which the international state system is taken for granted as our starting place, it is difficult to say why democracy is the best way of *organizing* national states. If the goal is to turn the international state system to best effect for the global poor, then again it likely makes sense to have cosmopolitan experts at the helm; experts who may be accountable to the interests of all mankind once they are freed from their dependence on nationalist, xenophobic, and narrow-minded populations. From an agent-relative perspective, then, it makes sense to defend the prerogative of such experts where it exists, and increase their independence where possible—perhaps, Bell and Brennan suggest, even to the point of disenfranchising popular majorities.

Epistemic responses

Considering all of these problems with prevalent instrumental approaches, perhaps the most direct and promising response to epistocratic concerns is the "epistemic" defense of democracy that has recently become popular.[82] Seeing that the typical "intrinsic" justifications of democracy will fall on deaf ears if meritocratic institutions truly possess a substantial epistemic advantage, many democrats have begun to defend democracy on precisely the epistemic grounds favored by its opponents. They admit that democratic procedures may be less wise or knowledgeable in certain instances, but claim that on the whole they are more reliable—citing, among other things, formal models which demonstrate the benefits of deliberation among diverse individuals, and a number of

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[82] Cohen, "An Epistemic Conception of Democracy"; Estlund, "Making Truth Safe for Democracy"; Estlund, *Democratic Authority: A Philosophical Framework*; Landemore, *Democratic Reason*; Anderson, "The Epistemology of Democracy"; Knight and Johnson, *The Priority of Democracy*.

"miracles of aggregation" which supposedly display the "wisdom of the multitude." Like the scientific method in the natural world, democratic procedures are said to be always best equipped to discover moral and political truth over the long run, regardless of what that truth turns out to be. Epistemic democrats therefore combine the instrumentalists' focus on substantive outcomes with a seemingly universal commitment to democratic procedures characteristic of intrinsic justifications.

At least in its present formulation, however, this attractive reconciliation of procedural and substantive concerns is too good to be true. Accepting the "epistemic" frame favored by democracy's opponents simply stacks the deck in their favor. The appearance of citizen ignorance upon which they have capitalized is *not* deceptive, and it cannot be made to vanish by "miracles of aggregation."[83] It is telling, for instance, that David Estlund— perhaps the foremost advocate of "epistemic democracy" in contemporary democratic theory—does not even *try* to make the argument that democratic institutions are epistemically superior to all conceivable alternatives.[84] Instead, he admits right away that there are surely forms of "epistocracy" that could outperform democracy at discovering truth – whether they employ a fully hierarchical structure, or simply exclude certain classes of citizens from the franchise. His "epistemic" argument for democracy, then, turns out to rely heavily on a broadly Rawlsian "public justification" requirement which rules out nearly all forms of government except democracy on *intrinsic* grounds. The only burden

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[83] For an excellent exploration of why such arguments fail, with particular attention to the prominent account of Helene Landemore, see Ancell, "Democracy Isn't That Smart."
[84] Estlund, *Democratic Authority: A Philosophical Framework*.

left to be carried by the appeal to epistemic concerns is to show that democratic institutions are more accurate than random decisions. Helene Landemore does not posit such a public justification requirement, but her argument relies heavily, instead, upon formal results demonstrating that cognitive diversity improves decision-making under a wide array of restrictions.[85]

Others have demonstrated—conclusively, in my view—the irrelevance to real democracies of the formal theorems upon which Landemore relies.[86] Yet we need not rely on these demonstrations to make our point here. Given that most epistemic approaches adopt one of the two strategies exemplified by Estlund and Landemore, we can show that they face a dilemma precisely parallel to that faced by intrinsic approaches. Estlund rules out epistocratic alternatives on intrinsic grounds (i.e., by invoking his intuitions about the counterfactual choices of hypothetical agents) which are not obviously more persuasive than the more basic commonsense intuition that everyone deserves a say over the decisions that affect their lives. While those who accept the normative structure of his argument have reasons to support democracy, therefore, he fails to respond directly to epistocratic challenges in a way that might convince those who are not already persuaded. Landemore, meanwhile, places us in the other horn of the dilemma, addressing the challenge directly but only by opening herself to the objection that the supposed benefits of democracy may be achieved by alternative systems. Whatever benefits are claimed for diversity,

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[85] Landemore, *Democratic Reason*.
[86] Ancell, "Democracy Isn't That Smart"; Van Hees, "The Limits of Epistemic Democracy"; Ingham, "Disagreement and Epistemic Arguments for Democracy"; Thompson, "Does Diversity Trump Ability?"

deliberation, and participation, that is, Bell's point is that they can plausibly be appropriated by meritocratic institutions—just as China has successfully appropriated certain elements of capitalist markets to facilitate massive and sustained economic growth while retaining significant state control over the economy.

This is not to say that we cannot learn something from epistemic accounts of democracy. Indeed, I admire their attempt to synthesize "procedural" and "substantive" concerns, even if each view ultimately fails to transcend the flaws attendant to one or the other. Landemore is right, for instance, that the reason to admire democratic institutions is that they produce the best outcomes; and she is right as well to want to be more specific about why that is, in order to develop justifications of democracy that are more robust to historical and cultural variation. I agree, in other words, that if we are to improve upon traditional instrumental justifications of democracy, we must posit a "middle term" which explains why the historical connection between the means of majoritarian elections with universal suffrage, and valuable ends like liberal rights, social equality, and economic growth, is not simply coincidental. The explanation she offers, however—i.e. formal results demonstrating that under certain restrictive conditions, greater diversity in decision-making tends to yield better decisions—is unpersuasive as applied to real democratic institutions. In my view, it is simply undeniable that some subset of the population could, *theoretically*, make better decisions than the entire population. The problem, of course, is deciding *which* subset to empower.

This concern, it turns out, is central to Estlund's argument against epistocracy, and he is right to raise it. However, he interprets it as a *theoretical* problem, arguing that no elite

or vanguard could be *justified* to all people in ways they could reasonably accept. As I understand it, by contrast, the *practical* problems raised by the task of deciding which "epistemic" elite to empower are far more important than this theoretical problem of justification. In short, my argument is that any system which grants significant political power to people on the basis of the assessment of "knowledge" or "merit" will, in practice, be both too attractive and too easy a subject of "capture" for elites who seek to entrench their power. A meritocracy without democratic checks, in other words, will not long remain a true meritocracy. Below and in the next chapter, I generalize this insight, presenting it as the answer suggested by a dispersion of power logic to the question of why democratic institutions are valuable: i.e., because they enhance resistance to "state capture."

The dispersion of power as a solution

Before moving to a detailed discussion of this argument, we should note, in closing, that its use of the "dispersion of power" heuristic enables us to transcend the difficulties endemic to intrinsic, instrumental, and epistemic accounts of democracy—including those which rely on a logic of equal agency as well as those which do not. Democracy turns out to be valuable, on this conception, *partly* because it gives each person a say over the decisions that affect their lives, but not because each person inherently *deserves* a say. Instead, it is good to give each person a say because it is one means, among many, of preventing certain forms of concentrated power which have turned out to be especially dangerous in the past. More specifically, majoritarian elections with universal suffrage are valuable because they make it more difficult for actors to hoard power for themselves by determining who can participate in official decision-making procedures about state policy.

It thereby provides one line of defense against the "capture" of the state by individuals or groups with factional, limited interests.

Like all instrumentalist accounts, this (broadly Madisonian) logic is available to those who do not already accept the intrinsic value of universal suffrage. Compared to other instrumentalist responses, meanwhile, it is both more general *and* more specific. It is more general, first, because it highlights many of the beneficial consequences which other instrumentalists have claimed to follow from universal suffrage—such as a more effective defense of liberal rights—without pinning the value of democracy on any one of these in particular. It is therefore better able to resist the suggestion that democracy may be abandoned as soon as any of these consequences—the rule of law, for instance, or governmental accountability, or even liberal rights themselves—is shown to be compatible with some epistocratic alternative.[87]

At the same time, this approach also enables greater *specificity* about the mechanisms by which the means of majoritarian elections with universal suffrage bring about such beneficial ends. This is because it focuses our attention on the power *denied* to power-seeking agents and groups by the principle of universal suffrage, rather than the power it *grants* to incompetent agents—thereby adopting a "negative" orientation highlighting the prevention of evils rather than a "positive" or "utopian" orientation highlighting the achievement of goods.[88] The only assumption it requires is that the concentration of power

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[87] As we shall see in the next chapter, this also allows us to weigh such demands against one another when they come into conflict, which is itself a significant advantage.

[88] This is a common strategy throughout the history of political theory, associated with anti-vanguardist liberalism and especially with its more explicitly "realist" versions—from Hobbes' "summum malum" of

in the hands of a single person, group, or faction—what Madison would call a "tyranny"—is especially likely to pose threats to the desirable ends in question.

We shall go into this argument in greater detail in the next chapter, but it is worth demonstrating here that each step is both clear and plausible. Though not all groups with access to state power will do so, of course, some may seek to privilege group members at the expense of non-members, for example by weakening the rights protection offered to others, or redistributing social and economic resources towards members. If such groups are not accountable in some way to all citizens or residents of a territory, they are more likely to be successful in these attempts, and so they are likely to use whatever means are at their disposal to narrow the range of groups to whom they are accountable. Anyone who is given the power to select voters, then, or even to set the criteria by which voters are selected, could easily and effectively use this power to that end, thereby making it easier for them to get away with weakening the rights and social position of disfavored groups. Subjecting political leaders to majoritarian elections with guaranteed universal suffrage does not, of course, prevent them from doing this altogether. It simply removes this particularly dangerous tool from their arsenal.

This defense of majoritarian elections with universal suffrage allows us to admit the arguments of "epistocrats" that seem blindingly obvious—i.e., that better-informed people

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violent death to Judith Shklar's emphasis on cruelty as liberalism's primary enemy, which has been adopted by figures as diverse as Richard Rorty, Bernard Williams, and Jacob Levy. See Shklar, "The Liberalism of Fear"; Shklar, *The Faces of Injustice*; Rorty, *Contingency, Irony, and Solidarity*; Williams, "The Liberalism of Fear"; Levy, *The Multiculturalism of Fear*. As Frank Lovett observes, such views exploit an "asymmetry" in the specificity of our intuitions about evils and bads, as opposed to the vagueness of our intuitions about goods. Lovett, *A General Theory of Domination and Justice*, 9–10, 164.

make better decisions—while providing sound, historically robust, broadly convincing reasons for unwavering support of universal suffrage. Where it is *conceivable* that epistocrats could achieve any of these goals better than the universal suffrage, this defense emphasizes that it is exceedingly *unlikely* that they would resist the temptation to restrict rights or increase inequality over a sustained period of time. The goal of enhancing resistance to state capture thus provides the missing "middle term" connecting democratic procedures and the substantive ends often claimed by instrumentalists to follow from them.

It also allows us to admit the serious normative problems with limiting citizenship to those residing within a state's territorial borders, while nevertheless defending the use of democratic institutions among this limited class. On democratic theories grounded in equal agency, we have seen, the failure to grant a voice to all people can appear only as rank hypocrisy, potentially undermining the justification for democracy.[89] An epistocracy, therefore, may suggest itself as an attractive alternative. In an epistocracy, after all, one needs only convince only a limited number of epistocrats to follow cosmopolitan policies; while in a democracy, one must convince a majority of the entire population. If epistocrats are indeed more knowledgeable, meritorious, or otherwise virtuous, then the former would seem to be an easier task. The danger with setting up epistocratic institutions, of course, is precisely that they will *not* be more knowledgeable, meritorious, and virtuous. By highlighting the negative rather than the positive function of universal suffrage, the

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[89] Consider that on the logic of equal agency, the particular form of freedom which is supposedly granted by the franchise may appear unattractive unless it can be granted to all in equal measure. Granting this privilege, unequally, to *some,* might therefore be seen as worse than granting it to *nobody*.

approach developed here does not deny the injustice of borders; however, it eliminates any sense that these injustices are especially problematic for *democrats*, thereby reversing the burden of proof and providing a more consistent defense of universal suffrage.

6.4 ~ Towards a more robust defense of democracy

Returning to the broader scope of this dissertation's argument, then, recall that we are discussing the suitability of equal agency and the dispersion of power as anchoring principles. In previous chapters, we have focused most carefully on the role of anchoring principles as top-level heuristics for balancing the demands of lower-level heuristics. Anchoring principles also have two key *practical* functions: defending existing democratic institutions and guiding improvements in those institutions. My overall aim in this chapter, then, has been to suggest that the dispersion of power performs better than equal agency at the first task. I demonstrated first that "commonsense" ideals—which posit the intrinsic value of democratic institutions on the grounds of equal agency—are incapable of responding to key "epistocratic" challenges. I then considered and rejected several other responses, including more sophisticated versions of the "intrinsic" account of democracy's value, as well as a range of "instrumental" and "epistemic" alternatives. Compared to all of these options, I concluded, the dispersion of power offers supporters of democracy the most plausible and robust response to the challenges facing democracy in the 21st century.

Two major worries about this approach, however, can be raised, corresponding to what David Estlund has called the "oh yeah?" and "so what?" objections.[90] The first protests:

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[90] Estlund, "Human Nature."

"oh yeah?" If we want to disperse power, don't we need to avoid what Bell calls the "tyrannies" of the majority, minority, and voting community? Given that our goal is dispersing power, more generally, couldn't experts in *dispersing power* do a better job of it than the population at large, with all of its pathologies? The second, then, asks: "so what?" Perhaps the logic of equal agency does not capture the value of existing democratic institutions, but that is only one of the two major tasks of anchoring principles. The other task—and ultimately the more important—is providing a critical standard by which to evaluate and improve those institutions. And on this point, it could be objected, equal agency outperforms the dispersion of power. The final two chapters respond to these charges.

Chapter Seven: A Realistic Defense of Democratic Institutions

7.1 ~ Introduction

As we saw in previous chapters, collective authorship of law is commonly understood as the only way of reconciling conflicting claims which is truly fair, just, or legitimate—i.e., as respecting the "equal agency" of individuals—and some form of popular sovereignty is therefore thought to have intrinsic value. As I demonstrated, however, such "intrinsic" accounts of democracy's value are unfit to defend actual democratic institutions from increasingly pressing practical challenges. Meanwhile, many existing instrumental alternatives fail to provide a response that is both plausible and robust to historical variation. The alternative articulated here, which is inspired by the dispersion of power rather than the mirage of equal agency, provides democracy with a more robust defense; one whose necessity becomes more obvious every day.

"Democracy," of course, is a deeply contested concept, and this dissertation is a contribution to that contestation, arguing that we ought to think of its nature and value in terms of the dispersion of power rather than popular sovereignty or any other form of equal agency. As I have insisted throughout, however, my goal is not to establish the one true definition of democracy or any other political concept. Rather, I seek the definition which will best allow us to achieve our purposes. Moreover, given that our purposes vary across circumstances, different conceptions of democracy may be appropriate at different times.

We do have one purpose, however, which looms particularly large at present, and that is to answer the challenges presented in the previous chapter. The task of this chapter, therefore, is to defend a particular set of institutions—a familiar ecology of liberal and

constitutional protections, anchored by majoritarian elections with universal suffrage—in a way that is more broadly plausible and realistic than "intrinsic" views grounded in equal agency, and more robust than alternative "instrumental" accounts. The defense I offer, of course, proceeds from the logic I have been defending throughout this dissertation: the dispersion of power. And since many in my audience already accept the value of these institutions, this is perhaps the more important argument: not that democratic institutions *are* valuable, but that they are valuable *because they disperse power*.

The argument of this chapter can therefore be understood as multi-directional. Most straightforwardly, it presents an argument in favor of the set of democratic institutions just enumerated, assuming a goal of dispersing power, such that the justificatory arrow seems to flow from the dispersion of power (as the more general principle) to the set of democratic institutions, which appear as the application of this principle to contemporary circumstances. In terms of the broader argument of my dissertation, however, the justificatory arrow runs in the opposite direction: the point, after all, is to advocate for the dispersion of power as an organizing principle. The role this chapter plays in that broader argument, then, is to show that if offering a defense of democratic institutions is an important task of organizing principles, the dispersion of power performs it very adeptly.

Though acknowledging this bi-directionality is unconventional, it is an implicit feature of much democratic theory. Rather than demonstrating a vicious circularity, the argument can be understood simply to have different goals for different audiences. For those already persuaded by a "dispersion of power" approach, it seeks to establish the priority of democratic institutions. For those still skeptical of this approach but broadly sympathetic

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to democratic institutions, it provides another reason to accept the dispersion of power as an anchoring principle. For those not convinced of either, it paints a picture which, on the whole, might render both more convincing.

The chapter proceeds in several sections, reflecting these multiple goals. First, I introduce the central claim—that democratic institutions are more resilient to state capture than viable alternatives—clarifying these terms and the relationship of this claim to the logic of dispersing power. Second, I demonstrate why the two most prominent alternatives to democratic institutions render the state more susceptible to "capture" by elites and other factional interests—focusing in particular on competitive majoritarian elections with universal suffrage, given that it is the only feature which cannot plausibly be replicated by those alternatives. I show that despite all of the flaws with democratic institutions we have reviewed in the previous chapter, democratic institutions still provide better protection against state capture. Finally, I show that "resistance to state capture" offers not only a minimalist defense of democratic institutions, but also provides a critical standard for evaluating them and negotiating their demands.

7.2 ~ Preliminaries: State capture and the dispersion of power

> *Man's inclination to justice makes democracy possible; but man's capacity*
> *for injustice makes it necessary.*
> *— Reinhold Niebuhr*[1]

This chapter presents an answer to the following question: what is valuable about democratic institutions? As we saw in the previous chapter, the most common answers to

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[1] Niebuhr, *The Children of Light and the Children of Darkness*, xi.

this question rely on the logic of equal agency, and more specifically on the intuition that everyone deserves a say in the decisions that affect their lives. Democratic institutions are valuable, that is, because the realize some form of popular sovereignty. The answer I offer in this chapter, of course, is inspired by the dispersion of power instead. In short, my claim is that democratic institutions are the least dangerous way of selecting political leaders in the 21st century. More specifically, I claim, competitive majoritarian elections with universal suffrage offer the best protection against path-dependent, self-reinforcing "capture" of state institutions by elites and other factional interests. The ideal of "enhancing resistance to state capture" thus plays a similar role within the broader dispersion of power framework to the role played by the ideal of "popular sovereignty" within the framework of equal agency, offering both a defense of existing institutions and a critical standard for evaluating and improving them. As we shall see, it performs better on both counts.

What this means is that "resisting state capture" names a subset of strategies for "dispersing power." The former is necessarily less comprehensive than the latter—there are certainly political problems which cannot be understood in terms of "state capture"— yet this sacrifice enables significant gains in usability. This tradeoff is appropriate given the scale of the questions at hand. Where the dispersion of power answers the most general question of political life—i.e., how can we best respect the interests of others?—the ideal of resisting state capture is addressed more specifically to the organization of state institutions. Given that states will continue to exist in more or less the same form in the foreseeable future, I conclude, people who seek to respect the interests of others ought to

support the enactment and preservation of competitive majoritarian elections with universal suffrage under almost any contemporary circumstances.

From an agent-relative perspective, therefore, there are in fact *three* relevant heuristics in play: "support democratic institutions," "enhance resistance to state capture," and "disperse power." All are connected in a web of normativity, where "support democratic institutions" is the most usable but least comprehensive, and "disperse power" is the most comprehensive and least usable in relative terms. "Enhance resistance to state capture," then—as we began to show in the previous chapter—provides a "middle term," helping us to understand the connection between democratic means and instrumental ends. Though it is often implicitly assumed that more specific heuristics must be "derived" from more abstract, higher-level heuristics, we explicitly reject this assumption here. Instead, the plausibility of each heuristic is connected to the plausibility of all, with each commitment reinforcing the others.

The first step in the argument, then, is to assume broad agreement about the badness of particular outcomes, which can all be understood as varieties of "state capture." Very roughly, state capture refers to any situation in which a particular class, group, or individual manages to gain enough asymmetrical control over state institutions that they are able to use those institutions to advance their interests at the expense of others. Like the definitions of "human interests" and "the dispersion of power," of course, this definition is imprecise, and deliberately so. Instead of seeking a more precise definition, then, we should think of it as a "family resemblance" concept and get a sense of what is intended through examples—beginning, perhaps, with those that are most severe and recognizable. In such

cases, a single individual or small group manages to control the entire state apparatus, including the means of coercion as well as any of its judicial, executive, and legislative functions. In relatively high-capacity states, this manifests as totalitarianism—as in Nazi Germany, Soviet Russia, and Maoist China—and in lower-capacity regimes as cronyism, often founded upon resource extraction. But such complete forms of state capture may also be achieved by larger groups as well—for example, whites in apartheid South Africa or the antebellum US South. As these examples suggest, many of the greatest threats to human interests in modern history have materialized when the vast power of the state was "captured" in such a self-reinforcing and path-dependent manner that it was difficult or impossible to shift course without a great deal of violence.

If a class, group, or individual manages to control only *part* of the state apparatus, but is still able to use this institutional power for their own benefit at the expense of others, this also counts as capture—and if such incomplete forms of capture are less obviously dystopian, they are nonetheless quite dangerous as well. Depending on the character of their use of power, it might be best understood as straightforward "corruption"—as when the head of a state railway system uses his position to generate vast wealth for himself and his family through bribes and contracts. But it may also manifest itself as legal forms of "rent-seeking"—for example, when an industry lobbies Congress or installs its own representatives as regulators in order to achieve legislation which profits their industry at the expense of other industries or consumers. Finally, using the state to perpetuate categorical inequalities of religion, race, ethnicity, gender, and so on—as whites have done,

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for example, in post-apartheid South Africa and the United States since the civil war—also counts as an incomplete form of state capture.

Thanks to the vast power of modern states, in other words, their capture is extremely dangerous to human interests. Anyone who seeks to respect human interests, therefore, ought to work to prevent it. The argument of this chapter, then, is that in almost any contemporary circumstances, resisting state capture means supporting democratic institutions. They cannot prevent capture altogether, of course, but they do better than their rivals at preventing its onset and recovering once it occurs. Democratic institutions are valuable not because they actualize the sovereign will of the people, therefore, or because they make policy responsive to popular preferences, but instead because they reliably thwart certain mechanisms by which extremely concentrated power is often acquired.

The theory thus offers agent-relative action guidance that is highly usable despite being quite general. It is not, however, *universal*: I have said that people in *almost* any contemporary circumstances ought to support democratic institutions, but unlike theories which claim universality, the theory presented here acknowledges two "failure conditions" from the start. On the one hand, it might be the case in rare circumstances that enacting or preserving majoritarian elections with universal suffrage is *not* the best way of preventing state capture. And on the other hand, even if it *is* the best way of enhancing resistance to state capture, there might be other goals which are more important. This admission of failure conditions might seem to weaken the theory, but this is in fact one of its greatest strengths: as I show in the final section of this chapter, acknowledging these possibilities

improves our ability to evaluate whether and when such conditions might exist, as well as our ability to respond to them.

Nevertheless, our reasons for supporting democratic institutions are quite robust. State capture in the modern world *is* a particularly dangerous outcome, and majoritarian elections with universal suffrage *do* offer the best protection available against this outcome in the vast majority of cases. And before we can grapple with their failure conditions, we must first demonstrate why they are successful: why elections, that is, are more effective at resisting path-dependent, self-reinforcing forms of state capture than alternative mechanisms for choosing and empowering leaders. The best way to demonstrate this, then, is to take a brief look at the most promising alternatives which are actually available to us.

7.3 ~ Democratic institutions in comparative perspective

> *[Objection.] Taken in the aggregate, the people neither do any where possess, nor are capable of being made to possess, appropriate knowledge sufficient, nor thence appropriate judgment sufficient, to qualify them, respectively each of them, for contributing by his vote to the location of a Member of the supreme operative body, in which provision shall be made for the promotion of his (the Elector 's) share in the universal interest.*

> *Answer. The objection applies not, unless the case be, that in some other quarter indication has been given [of] a person or set of persons in whom there has [sic] place appropriate intellectual aptitude to a greater degree, in conjunction with appropriate moral aptitude in an equal degree: or at any rate in so high a degree superior in appropriate intellectual aptitude, and in so low a degree inferior [in] appropriate moral aptitude, as to be superior in the aggregate of appropriate aptitude. Of no such person or set of persons can indication have been or can be ever made.*

> — *Jeremy Bentham*[2]

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[2] Bentham, *First Principles Preparatory to Constitutional Code*, 142. Cited from Elster, *Securities Against Misrule*, 142.

State capture and political meritocracy

In the previous chapter, we noted that we already accept a number of "epistocratic" institutions as politically legitimate and indeed necessary for the proper functioning of democracy. Daniel A. Bell, in particular, calls upon our intuitions about expertise in science and bureaucratic administration as support for the suggestion that perhaps experts would also do a better job at achieving key liberal, egalitarian, and cosmopolitan commitments, from the rule of law to reducing income inequality to protecting the environment. Moreover, the four "tyrannies" he cites as flaws with democracy are quite similar to the forms of "state capture" that I have outlined. We must consider the possibility, then, that such an epistocracy or political meritocracy could better achieve resistance to state capture.

Far from demonstrating the plausibility of political meritocracy, however, comparisons with scientific institutions and contemporary democratic bureaucracies serve to illustrate the particularly toxic nature of a *political* meritocracy *without* democratic oversight. The combination of a self-perpetuating meritocracy and a centralized apparatus of distributional politics, I argue, is a recipe for extremely dangerous, path-dependent forms of state capture, and considering the reasons why can help to illuminate the real advantages of democracy.

Consider first the contrast with science. Elite scientists replace themselves, meaning that whatever systematic biases they possess will be passed on to the next generation. The predominance of male researchers in various fields, for example, has been shown to lead to a number of systematic biases, both as to which questions are asked, and as to how they

are answered.[3] Even more egregious in this regard is the treatment of nonwhite subjects by the "anthropologists" and "psychologists" of the late 19th and early 20th centuries. Nevertheless, because scientific institutions are decentralized, dissenting voices were able to find a home, and eventually to gain power. Despite widespread capture of particular scientific fields by particular classes, therefore, science has always retained some capacity for self-correction.

Perhaps more importantly, most scientific institutions are not attractive targets for capture in the first place, because most scientific questions do not have significant implications for the distribution of power. There are exceptions, of course, including the study of racial and gender differences as well as fields like climate science and pharmacology. Indeed, fossil fuel and pharmaceutical companies have predictably flooded these disciplines with cash in an attempt to generate profitable results. Nevertheless, the vast majority of scientific questions have no direct distributive implications, and this fact is essential for the methodical resolution of disagreements in "normal science," which proceeds according to a thick and carefully policed set of assumptions. Indeed, it is only the vast cultural influence exercised by the methods of normal science which (sometimes, at least) prevents powerful corporate interests from capturing the disciplines relevant to their profit margins.

By contrast, there is no comparably "normal" politics, at least in part because politics is centrally if not constitutively concerned with questions whose answers have distributive

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[3] Fricker, *Epistemic Injustice*; Fausto-Sterling, *Myths Of Gender*; Schiebinger, *Nature's Body*; Pinto-Correia, *The Ovary of Eve*; Hubbard, *The Politics of Women's Biology*.

implications. This prevents us not only from methodically resolving our political disagreements, but even from agreeing on the terms within which to conduct the debate.[4] The sort of non-epistemic power struggles which throw into question the epistemic trustworthiness of a few scattered scientific disciplines—such as racist anthropology, sexist evolutionary psychology, and clinical trials funded by "big pharma"—can therefore be expected to predominate in politics. Because the questions answered by political meritocracies tend to have distributive implications, in other words, they are far more reliably attractive as targets for capture.

A democratic bureaucracy, of course, is both centralized, unlike science, and concerned with distributive questions. And indeed, for both of these reasons, contemporary democratic bureaucracies are notoriously susceptible to corruption, inefficiency, waste, and a host of other pathologies. The key difference is that in a political meritocracy, bureaucratic leaders get to select their own replacements. In the short term, this means that they will likely choose successors with the same biases, blind spots, and partial interests, which will therefore be self-reinforcing, compounding the concentration of power over time in the hands of the class whose partial interests are represented. In the absence of democratic oversight, those disadvantaged by such power asymmetries have few resources to overcome them, and their only hope is for those with power to relinquish it voluntarily. Democratic bureaucracies, by contrast, are always only an election away from recovery. While democratic corruption often persists for quite some time, the threat of replacement

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[4] Bagg, "Can Deliberation Neutralise Power?"

is always present, and so long as they have a vote, the disempowered therefore have at least one tool at their disposal for recapturing political institutions, which citizens of a political meritocracy do not.

Perhaps most concerning of all for political meritocracies, however, is the ever-present threat of an even more serious dysfunction and a far more complete form of "capture"—i.e., a smaller elite or even a single individual who successfully gains control over a highly centralized power structure. Political meritocracy, which combines the centralized structure and political concerns of bureaucracy with the self-perpetuating practices of science, is far more susceptible to such dystopian outcomes than either science or democratic bureaucracy. In science, as we have seen, there is both less of an incentive for groups or individuals to attempt such takeovers, because there are far fewer distributive issues at stake; and a much higher barrier, because of the relatively decentralized nature of scientific institutions. In a political meritocracy, by contrast, the incentive to "capture" the centralized institutions is extremely high, while the structure of the centralized institution itself makes its capture disturbingly easy. Democratic bureaucracy, of course, handles distrbutive issues within a centralized structure, but is protected against this dystopian form of capture by the mechanism of regular elections. Without democratic oversight, leaders in bureaucracies can and often do replace those who are not disposed simply to follow their orders by invoking criteria of "merit." An effective power grab in such a system—either by a class, an elite few, or an individual—is therefore both far too easy to accomplish and far too devastating to any of the virtues we might suppose the system to have.

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I cannot address all possible epistocratic alternatives, and I have thus focused primarily on Bell's particularly salient version of political meritocracy, modeled on the real experience of Singapore and China. It is worth noting briefly, however, that similar arguments apply to many imagined epistocratic schemes as well, such as the restricted or plural voting proposed by Brennan. Such schemes are likely to make us uneasy because nearly all previous limitations of the franchise have been unjust, but as Brennan points out, it is possible for such distinctiions to be made on just rather than unjust grounds in the future.[5] And while there are many arguments against such schemes which rely on the intrinsic value of suffrage or the epistemic competence of voters, we are trying to do without such questionable assumptions.

Setting aside questions of legitimacy or knowledge, however, actually enables a much more effective response to Brennan's suggestion. Building on the arguments we have made above about the distribution of power, we can simply admit that suffrage restrictions could conceivably be used for good while maintaining that in all likelihood, they *wouldn't* be; that the racist, sexist, classist history of voter exclusion, in other words, would almost certainly be the rule rather than the exception. As with "meritocratic" selection of political leaders, any conceivable mechanisms for enabling the "epistocratic" selection of voters would have immense implications for the distribution of power, and would therefore be extremely attractive targets for "capture." At the same time, they would be self-reinforcing, allowing the winners to determine the bounds of subsequent (s)electorates. This

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[5] Brennan, *Against Democracy*, 224.

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combination would almost inevitably lead to a particularly insidious and far-reaching form of gerrymandering—i.e., politicians selecting their own voters—whose effects would compound over time rather than fading with shifting population dynamics, creating vicious cycles of path-dependency. Whatever their value in theory, therefore, voting restrictions are far too dangerous to implement in practice.

State capture and decentralized markets

The contrasts elaborated here point the way towards a better grasp of democracy's true virtues. Where a political meritocracy is subject to extreme dysfunction and capture by elites, democracy is more robust. Democratic institutions are hardly immune to capture and corruption, of course—indeed, many of Brennan's and Bell's criticisms hit their marks with painful accuracy. But competitive elections ensure that democracies retain greater resources for self-correction, and capture is therefore less durable and severe.

If this is our brief against meritocracy, however, we might wonder why further democratization is the right response to the conditions of modernity. After all, the likelihood that various features of the state will be "captured" and used for rent-seeking by private actors is one of the main arguments brought against democratization by many advocates of market-driven decentralization, especially in the public choice tradition of economics. The other possibility to consider, then, is that rather than eliminating universal suffrage altogether, we could simply limit the harms brought about by voter incompetence by restricting the power of majorities. Indeed, there is already precedent for such restrictions in the use of actively counter-majoritarian practices like judicial review, as well as institutions such as central banks, which are simply insulated from everyday political

influence. Several authors have recently offered the suggestion that we should scale up such restrictions, especially as concerns the ability of majorities to manipulate and regulate the free market.[6]

Like Brennan and Bell, these critics also draw upon much of the same research that we cited in the previous chapter, concerning the ignorance and prejudice of ordinary citizens. Moreover, what public choice economists call "government failure" is a real and pervasive problem which often describes precisely the sort of "state capture" we are trying to avoid. As with meritocracy, then, any plausible response to the conditions of modernity will take markets as part of the solution to the problem presented by the vast power of modern states. The question, again, is how to balance them in practice—or in starker terms, perhaps, whether to give *priority* to markets or democracy.[7] Despite the validity of at least some of Caplan's and Somin's concerns, however, we must side with democracy on this score. Severe limits on the capacity of majorities to interfere with markets—as imagined by advocates of a more limited, smaller and ideally "minimal" state—would facilitate a number of path-dependent, self-reinforcing forms of state capture, from which there is little hope of non-catastrophic escape.

This point may appear counterintuitive: if the goal of market-driven decentralization is to minimize the state, how can it be that it would increase the risks of state capture? As

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[6] Caplan, *The Myth of the Rational Voter*; Somin, *Democracy and Political Ignorance*.
[7] This argument is indebted to Jack Knight and Jim Johnson's approach, grounded in "reflexivity." The crucial difference here is my explicit focus on the distribution of power, rather than accurate identification of problems and solutions, as the key to self-correction. See Knight and Johnson, *The Priority of Democracy*; Aligica, *Institutional Diversity and Political Economy*.

long as the state retains a monopoly on coercive force, however, it will still set the "rules of the game" in a fundamental way, ensuring that whatever rules it does make will be especially significant. If a state enforces property rights but is constitutionally prohibited from engaging in redistribution, for instance, control over how property is defined, allocated, and transferred, will be far more important than it would be otherwise. More generally, inequalities that are not actively perpetuated by the state may still be enabled by it. If decentralized racism or sexism creates inequalities between groups, for instance, simply because the state is officially powerless to take affirmative action against them, then "state capture" by the dominant group may be signified by the *absence* rather than the presence of state policy, and will be all the more rigid and path-dependent for its invisibility.

By enabling more expansive mechanisms of regulation and redistribution, social democracies undeniably open themselves to many forms of regulatory capture. As we noted above, however, they also retain thereby the crucial capacity for self-correction. In using constitutional means to limit democratic control, by contrast, a "minimal" state opens itself to forms of capture which are far more path-dependent and inescapable. Once elites have "captured" the few means at the disposal of such a state, it will be very difficult for other groups to challenge their concentrated power. Centralized democratic oversight, therefore—which all but the most extreme market fundamentalists admit is necessary— may actually be rendered *less* dangerous by increasing its jurisdiction: while it cannot prevent capture altogether, democracy enables a less costly recovery. Democratic

institutions, in other words, exhibit a greater capacity for self-correction than both fully centralized (i.e. meritocratic) and fully decentralized (i.e., market-driven) alternatives.

I cannot claim to have given appropriate consideration to all factors affecting the proper balance between meritocracy, markets, and democratic institutions. Nor do I deny the real benefits of either meritocracies or markets as genuine tools for preventing state capture—indeed, I have embraced both in limited measure. My aim in this section was to briefly compare democratic institutions to their leading competitors on the metric of resistance to path-dependent forms of state capture, and to provide an outline for how a more extensive argument in those terms might proceed. This accords with the broader goal of the chapter, which is not to definitively refute political meritocracy or market fundamentalism, but to articulate a plausible framework for defending democratic institutions, which might serve as an alternative to commonsense views. Demonstrating its plausibility, then, requires answering at least one more serious concern.

An ocular model of democratic "accountability"

The advantages I have claimed for competitive majoritarian elections seem to assume that they will function as a check upon the ability of elites and other subgroups to capture the state. In making the case against meritocratic alternatives, for instance, I argued that democracies are always one election away from removing offending leaders, rendering them more resistant to capture. In making the case against market-based alternatives, I argued that competitive elections for control over state policy enable disempowered groups to contest and eventually overcome the capture of state institutions by privileged classes. In enumerating the weaknesses of commonsense theories of democracy in the previous

chapter, however, I observed that policy only loosely tracks citizen preferences in real democracies, and that these preferences may not be trustworthy in the first place. As Achen and Bartels demonstrate, even minimalist models emphasizing "leadership selection" or "retrospective accountability" fail to pass empirical muster.[8] How, then, can I claim the advantages I have claimed for elections?

In order to understand how actually-existing elections can be expected to serve as a salutary check on the power of elites, we must first abandon the deep-seated assumption that their value lies in expressing what Jeffrey Green has aptly called the "voice of the people."[9] Following Green, in other words, we must recognize that the observational, "ocular" power of the people is far more important than their traditional "vocal" powers of voting and deliberation. It is through spectatorship rather than voice, for one, that *citizens* most often experience democracy. Perhaps more importantly, it is also the "eyes of the people" whose pressure is felt most acutely by democratic *leaders*. Precisely because of the many limitations of elections as "vocal" mechanisms of accountability, the relationship between any particular action and a politician's prospects for re-election are so convoluted as to prevent any serious consideration of their marginal effects. Instead, public officials attempt to manage their "image" in a more holistic way, responding directly not to shifts in predicted vote share but to the likely consequences for their reputation across various media. The result is that the actual democracies we inhabit in the twenty-first century have

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[8] Achen and Bartels, *Democracy for Realists*, 116–76.
[9] Green, *The Eyes of the People*.

an "ocular" rather than a "direct," "representative," "participatory," or "deliberative" character.[10]

Even if this model more accurately describes contemporary democratic life, of course, we might worry that it does not enable a particularly compelling defense of democratic institutions against their rivals. Indeed, it undermines the distinctively *democratic* character of the power of democratic citizens over their leaders: on a day to day basis, for example, Xi Jinping and other CCP cadres are constrained by the same "ocular" form of popular power as their American counterparts.[11] The same could be said of those in positions of power within a decentralized framework, such as CEOs and religious leaders, who are not directly accountable to democratic majorities. No leader in any of these contexts calculates the precise effects of various changes in policy or rhetoric on their chances of winning a majority in the next election; all consider the consequences, instead, for their reputation, in a more holistic sense. By showing that the power of the people in democracies and non-democracies is different in degree rather than in kind, therefore, Green has perhaps unintentionally blurred the line between the two—an innovation which may appear threatening or even fatal to democracy in the eyes of both supporters and opponents.

I argue, however, that foregrounding the importance of ocular power actually *strengthens* the case for the deeply flawed elections which characterize contemporary

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[10] This concept has parallels in Bernand Manin's "audience democracy," Pierre Rosanvallon's "counter-democracy," and John Keane's "monitory democracy." Manin, *The Principles of Representative Government*; Rosanvallon, *Counter-Democracy*; Keane, *The Life and Death of Democracy*. See Thaa, "Issues and Images." On Green's view, however, even many of those who appreciate the reality of our age of spectatorship often fail to escape the "vocal model." Green, *The Eyes of the People*, 109–12.
[11] See, e.g., Boix and Svolik, "The Foundations of Limited Authoritarian Government"; Chen, Pan, and Xu, "Sources of Authoritarian Responsiveness."

democracies. While elections rarely provide a mechanism of direct accountability, after all—which is the role they are meant to play on most intrinsic as well as many instrumental accounts—they do act as a standing reserve of countervailing power which induces politicians to care about their reputations. Even if leaders are rarely punished for policy-relevant infractions, to make this observation is to select on the dependent variable; i.e., it fails to account for everything they avoid doing out of fear of such punishment. As Achen and Bartels admit, there are occasional moments of what seems to be meaningful electoral accountability in real functioning democracies, and so the threat of removal from office still hovers ominously over the heads of elected officials—all the more frightening, perhaps, for its unpredictability—causing them to respond to public pressure of all kinds.

What this means is that rather than expressing the voice of the people, elections serve as a highly imprecise but nonetheless reliable anchor for the people's ocular power, which can in turn be deployed for a number of more targeted ends. It is true, therefore, that citizens of both democracies and non-democracies exercise power over their leaders in the same way: i.e., primarily through spectatorship rather than voice. In an electoral democracy, however, their ocular pressure has greater force, thanks precisely to the reserve of "vocal" power guaranteed by competitive elections.

Mass-elite dynamics in ocular democracy

Even the ocular power of the people, of course, is not wielded *directly* by "the people" in their (hundreds of) millions. It is journalists and opposition politicians who expose the lies and misbehavior of leaders or bureaucrats; scholars and scientists who settle questions of fact; lawyers and judges who definitively interpret the law so that it effectively

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constrains officeholders. It is social movement leaders who organize protests or boycotts; religious leaders and labor organizers and opinion writers and media personalities who send signals to ordinary citizens about what to believe and which priorities to adopt in politics. It is only in an indirect sense, then, that politicians and other leaders care about the scrutiny of "the people." In a more immediate sense, they care about the scrutiny of these elites, who have the power to "focus" the people's gaze. Politicians care about their image among these elites, in other words, because this image will be more or less faithfully reproduced among the population at large. But of course, it is not an entirely one-way interaction, and the "ocular model" allows us to capture the complex interplay between elites and ordinary citizens in modern democracies, which lies somewhere between the extremes of a "bedrock" model and entirely "manufactured" consent.

We observed in the previous chapter that most citizens in contemporary democracies have very little knowledge of politics. Where they do develop "rational" explanations for their beliefs, preferences, and vote choices, therefore, there is significant evidence that such reasoning is highly correlated with—and likely "motivated" by—group identities. A great deal hinges, then, on how this identity is mobilized by the various elites who send signals about how to understand and interpret political events. We can dispense rather quickly, that is, with any model of democracy which treats citizen preferences as a "bedrock" from which representatives and other elites take their orders.

For a number of reasons, of course, the relationship between elites and ordinary citizens in a democracy is also not entirely one of "manufacturing" consent. There is, for one, no clearly defined group of "elites" who could "manufacture" consent in the first place. The

boundary between "citizens" and "elites" is, on the contrary, quite fluid—anyone who gains enough influence among her fellow citizens counts, simply in virtue of this influence, as an "elite." Second, and partly because of this, whatever "elites" do exist at any time do not share enough interests to collaborate effectively in manufacturing consent. Instead, they compete with one another for the allegiance of citizens. Third, then, this competition *matters*: the relative influence of various elites is always in flux as citizens shift their allegiances over time.

Many of the most important factors shaping citizens' allegiances seem to have something to do with social identity.[12] That said, however, everyone has multiple overlapping social identities and may interpret or value them differently in different circumstances. Moreover, nobody is *reducible* to those identities. As we have seen in chapter four, the forces shaping human agency are extremely complex, and anyone who claims to have discovered a singular "first mover" such as partisanship, race, bourgeois ideology, or genetics is therefore bound to be wrong. What we can say, then, is that identity-mobilization is an extremely important process in producing political beliefs and actions, but that predictions of political beliefs or behavior based entirely on identity affiliations will never come close to complete accuracy. Particular elites may successfully command a citizen's attention one day and lose it the next. They may be able to mobilize certain identities in some ways but not others, or in some contexts and not others. While they

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[12] Green, Palmquist, and Schickler, *Partisan Hearts and Minds*; Lodge and Taber, *The Rationalizing Voter*; Greene, *Moral Tribes*; Haidt, *The Righteous Mind*; Landa and Duell, "Social Identity and Electoral Accountability"; Bartels, "Beyond the Running Tally"; Kahan, "Why We Are Poles Apart on Climate Change."

clearly exert power by focusing the popular gaze, elites are also in competition for influence with one another, and are thus ultimately "dependent"—to use Madison's usefully vague term—upon citizens as well.

In many ways, the situation is not so different in non-democracies. As individuals and as a class, of course, political leaders in all modern states wield great power in virtue of their control of state institutions. In most states, however—including many non-democratic states—a much wider class of political elites exercises significant power over political leaders, in such a way that those leaders are in fact constrained to a relatively narrow set of feasible actions. In functional autocracies like China, for instance, there is a clearly defined political class, including members of the Communist Party as well as entrepreneurs and business leaders, whose control of various power resources enables them to make demands of those officially entrusted with political power.

The key features which distinguish this kind of elite from political elites in successful democratic states, then, are precisely those we examined above as preventing an entirely one-directional relationship of "manufacturing consent." First, the boundaries of the class of political elites in a democracy—assuming freedom of the press and so on—are more fluid than they are in an autocracy. Second, and as a result, democratic elites have more heterogeneous interests than elites in an autocracy. And third, finally, a far greater proportion of the elites in a democracy depend on the allegiance of ordinary citizens for their political influence. While some elites in autocracies like China may function as "tribunes" of a sort and therefore depend on the allegiance of ordinary citizens in a similar way, few must appeal to citizens in order to shore up their power. Meanwhile, many elites

in democracies wield influence solely due to their possession of other power resources such as wealth. For a great many others, however, the key resource which gives them power over political leaders is their ability to influence public opinion. And the reason political leaders are attentive to such elites, of course, is that their power depends upon winning majoritarian elections with universal suffrage.

Advantages of an ocular model

The danger of what Green calls the "vocal model" of democracy, then, is not that it values elections, but that it obscures the complex mechanisms through which elections ensure that democratic citizens have more power than subjects of autocracies. It encourages us to see democratic and nondemocratic government as two fundamentally opposed forms of sovereignty, one of which grants citizens equal agency and the other of which offers them nothing. This categorical distinction, which assigns democracy intrinsic value, I have shown, will inevitably fail to live up to our expectations. As a result, we may lose faith in the priority of democracy, perhaps even turning to nondemocratic methods of actualizing "popular sovereignty." The "ocular" model, by contrast, points our attention away from paradoxical and potentially dangerous questions of ultimate sovereignty and towards more tractable questions of relative power. This has two key advantages.

First, as we have seen, the amount of control granted to any individual citizen by her vote is so negligible as to be almost worthless. In fact, it can be thought of as *entirely* worthless to her, considered *as an individual*. On the vocal model grounded in equal agency, this appears to defeat the purpose of universal suffrage. On an ocular model, however, which foregrounds the relative power of various classes and categories of people,

it is easier to see why universal suffrage is necessary. The franchise may not be worth anything to any given individual, but it is hardly worthless to *categories* of people who might otherwise be locked out of access to state power entirely. In the terms of the ideal we have been developing, that is, universal suffrage makes it more difficult for particular groups or categories of people to capture the institutions of the state for their own advantage. Relative to political systems without universal suffrage, that is—systems where the power of the class of political elites is less dependent on the allegiance of citizens more generally—it is more difficult for the class of political elites to capture the state for themselves. The difference is that where those with official political power in non-democracies are constrained mostly by the class interests of political elites, politicians in democracies are constrained also, or to a greater extent, by the interests of *everyone*.

The second advantage of the ocular model's focus on the relative power of groups is to highlight that the franchise is only one of a number of mechanisms by which disempowered groups may begin to claim more power—including, for instance, deliberation. In chapter three, we explored the mismatch between the "classical theory" of deliberative democracy articulated most prominently by Habermas, and the practical initiatives which are proposed and advocated at least nominally in service of its philosophical aims. Deliberation, we observed, does not appear to realize any of the values which make it attractive, except under very restrictive conditions which could not be generalized on a large scale.[13]

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[13] This argument is developed at length in Bagg, "Can Deliberation Neutralise Power?"

On an ocular model, however, the enforcement of deliberative norms of public discourse is important simply because it makes openly hypocritical or self-interested justifications unavailable, and thereby renders certain forms of concentrated power more difficult to acquire—a task which is not entirely beyond the reach of the highly degraded forms of deliberation which characterize contemporary democracies.[14] More importantly, perhaps, it enables us to understand the importance of *strengthening* deliberative practices and institutions—in precisely the ways that many deliberative theorists suggest—without making any claims that deliberative-enhancing action possesses some kind of *priority* over other demands.

In particular, it eschews the tendency within deliberative theory to obscure the essential role of non-deliberative contentious politics in both achieving and maintaining democracy—including everything from the seemingly mundane "arts of resistance" employed by powerless peasants on James Scott's accounts;[15] to the rebellions, secessions, and general strikes which have terrified elites from the beginning of sedentary, hierarchical civilization.[16] Deliberative theorists tend to regard such collective contestation as, at best, a corrective supplement to democracy; justifiable only as a way of reaching a more rational or deliberative utopia from nonideal circumstances.[17] As democratic theorists of a more "realist" orientation are increasingly coming to recognize, however, such collective

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[14] See, e.g., Elster, "Arguing and Bargaining in Two Constituent Assemblies"; Knops, "Delivering Deliberation's Emancipatory Potential"; Schimmelfennig, "The Community Trap."

[15] Scott, *The Art of Not Being Governed: An Anarchist History of Upland Southeast Asia*.

[16] Breaugh, *The Plebeian Experience*.

[17] See, e.g., Fung, "Deliberation before the Revolution"; Mansbridge et al., "Place of Self-Interest."

contestation is better understood as part of the democratic ideal itself. [18] In Scott's words, "most of the great political reforms of the nineteenth and twentieth centuries have been accompanied by massive episodes of civil disobedience, riot, lawbreaking, the disruption of public order, and, at the limit, civil war. Such tumult not only accompanied dramatic political changes but was often absolutely instrumental in bringing them about."[19] Like elections, in other words, episodes of contentious politics both enable and instantiate the ocular power of the people, and should be expected to characterize democracy in perpetuity.

This view is supported by empirical research highlighting the role of contentious politics in sustaining democracy.[20] Elections do not prevent extra-electoral contestation, scholars of comparative politics observe, they simply make it less likely to erupt into violence. Elections and a strong centralized state structure enable collective contestation, ensuring the effectiveness of direct action and amplifying its power over elites, it seems, and are properly seen as indispensable to democracy. But democracy is just as incomplete without continuous enactments of popular power as it would be without elections, and it is primarily through these other forms of collective action that progress truly occurs. By precluding us from seeing the franchise as a sacred and categorically distinct possession,

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[18] See, e.g., Medearis, *Why Democracy Is Oppositional*; Bretherton, *Resurrecting Democracy*; Stout, *Blessed Are the Organized*; Stears, *Demanding Democracy*; Phulwani, "The Poor Man's Machiavelli." This is distinct, however, from the tradition of "fugitive" democracy, drawing on Hannah Arendt and Sheldon Wolin, which sees democracy to exist *only* in such contentious episodes. On the view defended here and by the theorists listed above, such episodes are necessary to democracy but not constitutive of it. See Arendt, *On Revolution*; Wolin, "Fugitive Democracy."
[19] Scott, *Two Cheers*, 16.
[20] Tilly, *Democracy*; Tilly and Tarrow, *Contentious Politics*.

therefore, the ocular model actually enables us to see its real value as one among many sources of power that can be wielded by ordinary people.

7.4 ~ Resistance to state capture as a general ideal

> *The very principle of constitutional government requires it to be assumed that political power will be abused to promote the particular purposes of the holder; not because it always is so, but because such is the natural tendency of things, to guard against which is the special use of free institutions.*
>
> *— John Stuart Mill[21]*

Let us zoom out again to the broader argument of the dissertation. What I have shown in the first half of this chapter is that the standard of resistance to state capture is able to offer a convincing, robust defense of actually-existing democratic institutions. It does a better job than alternative justifications at articulating reasons for favoring majoritarian elections with universal suffrage that are both plausible and robust to historical variation, in spite of the very many flaws with this institution. This, however, is only part of the project of articulating the real value of democracy, and in the second half of this chapter, I shall demonstrate that the standard of resistance to state capture also improves upon alternative justifications in responding when the value of majoritarian institutions is in doubt. First, I argue, it offers the best and most useful interpretation of what has gone wrong, and what our priorities ought to be in fixing the problem. Second, it offers the best heuristic for deciding when it really has gone too far.

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[21] Mill, *Considerations on Representative Government*, 137.

When majoritarian elections fail

On an ocular model, elections function to constrain the power of leaders by forcing them to care about satisfying a broad swath of constituencies, rather than just those represented in the class of political elites. Not wanting to incur the wrath of any sizable portion of the population, politicians step carefully even if they understand that any given step is unlikely to be the one which results in electoral defeat. In particular, they studiously avoid the violation of certain essential democratic norms, and do not attempt to access various levers of power which they understand to be off-limits. They do not countermand judicial decisions or undermine the media. They do not seek to entrench their own power, or the power of their party, by "packing" courts or bureaucracies with unqualified, dependent sycophants. They do not openly sabotage their successors. In other words, they obey the norms of liberal democracy, without which even the most basic majoritarian elections tend not to survive. Majoritarian elections will fail to prevent state capture, then, when these norms break down, and the ocular model helps to explain how this happens.

Part of the reason that politicians obey the norms of liberal democracy may be an internal sense of honor and duty, and we should not discount the role that individual moral leadership may play—especially in the founding of democratic states, where such virtue may be necessary to set an example and thereby jump-start coordination on obedience to and enforcement of norms. But as Madison says, "enlightened statesmen will not always be at the helm," and obedience to these norms over the long term is more reliably maintained by the threat of coordinated enforcement. Assuming the picture of mass-elite dynamics articulated above, then, how can such coordinated enforcement be achieved?

At the very least, elites themselves must be committed to the relevant democratic norms, either for intrinsic or instrumental reasons. If they are not, democracy will quickly dissolve. Somewhat more challenging, then, is the requirement of coordination among elites in detecting and disciplining violations of the norms. Given the salience of partisan animosities and the substantive disagreements that dominate policy discussions, even those who agree strongly, in theory, about the necessity of maintaining democratic norms, may disagree in practice about what counts as a violation, or whether a particular violation is serious enough to warrant discipline. On the one hand, consciously denying the reality of obvious violations may come to seem like a tactical sacrifice worth making for the achievement of other substantive priorities. On the other hand, elites are hardly immune to motivated reasoning, and disagreements among partisan opponents about what counts as a violation may be a result of entirely genuine beliefs and perceptions on both sides. As a result, cross-party coordination upon norms, where it exists, is quite a remarkable achievement, and is likely always to be fragile. It will be especially fragile, then, if citizens begin shifting their allegiances from existing elites to new or previously marginal elites whose commitment to democratic norms is less stable in the first place.

We may summarize this by saying that in order for the threat of enforcement to be credible, elites commanding allegiance among a sufficiently large swath of the public must be able to coordinate to discipline violations of those norms, and that there are roughly three ways in which the credibility of the threat can break down. First, existing elites can cease to be committed to these norms. Second, existing elites can fail to coordinate in disciplining violations. And third, citizens can cease to trust the elites who are committed

to them, switching their allegiance to novel or previously marginal elites who may be unburdened by such commitments. A combination of these failures help to explain the rise of Donald Trump in the United States in 2015 and 2016.

Donald Trump and the breakdown of democratic norms

From the start of his campaign, it was clear that Trump was not a standard candidate. He violated fundamental norms of democratic discourse over and over again, making it clear that he disdained the elites who attempted to enforce them. And at the beginning, at least, the relevant elites did their best to enforce those norms. Trump received very few donations from traditional Republican donors, and very few endorsements from established Republican politicians. He was treated as a pariah by the party. While he was given a great deal of coverage in the "mainstream" media, the vast majority of it was negative or openly dismissive—even that from Fox News, which early in the race, at least, seemed to favor other Republican candidates.

Under normal circumstances, this kind of treatment from conservative elites would have spelled death for a Republican Presidential candidacy, but as a wealthy celebrity, Trump was uniquely qualified to persevere: he could fund his own campaign and had far greater name recognition than any of the other Republican candidates, which he had in recent years parlayed into a base of political support by peddling various conspiracy theories. Meanwhile, given the commitment of both parties to cosmopolitan policies favoring relatively free markets and relatively open borders, the moment was uniquely ripe for a sizable portion of the Republican electorate to defect from their established institutions.

The consequence of this, of course, was that despite the best efforts of the Republican Party elite, Trump became the Party's nominee, and at that point Trump was accepted, however grudgingly, by most with political ambitions in the Party. A sizable number of conservative elites, however, did *not* accept Trump—a far larger defection than might be expected at a time of extreme polarization and partisanship. What is surprising is not, in other words, that most Republican elites came around, but that so many did not—including former Presidents Bush (Sr. and Jr.), former Presidential candidates Romney and McCain, and (for most of the campaign) his chief rival for the nomination, Sen. Ted Cruz. Many others who technically counted themselves supporters, and eventually the Republican Party itself, refused to actively campaign for him. Among intellectuals and others without formal political offices, the defection was even more resounding. Scores of Republican academics and leading conservative media outlets joined the chorus denouncing Trump.

The electoral response to this unmistakable signal, it seems, was a deafening silence. The widespread punishment of Trump's anti-democratic rhetoric and action which most elites expected was, as one commentator called it, "the dog that didn't bark."[22] The elite defection was as large as could be hoped for in contemporary partisan politics, yet it seems to have been entirely ignored by ordinary voters. Whatever happened, some combination of the three causes listed above was likely involved. Some existing elites, presumably, ceased to care about democratic norms, especially once they realized that voters were not giving them an incentive to do so. Many others seemed wary about violations, but after

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[22] Quiggin, "The Dog That Didn't Bark."

Trump won the nomination, they were not willing or able to coordinate with their opponents in punishing such violations, deeming this non-punishment an acceptable risk. And finally, of course, at the root of both of the other phenomena, is the mass desertion of traditional elites by rank-and-file Republicans, both in the primaries and later in the general election, when most of them voted for Trump despite massive and obvious bi-partisan reservations, on the part of elites, about his fitness to be President.

To summarize: the ocular model is able to answer three essential questions about Donald Trump's rise to power: a) what was "working" before Trump's victory, despite all of the other flaws with the US political system?; b) what went wrong during the 2016 campaign?; and c) what needs to happen in order to solve the problem? We can address each in turn.

What was valuable about the US political system before this happened, despite all of its many pathologies, is that democratic norms were stable because those who threatened to upset this order were widely condemned and deprived of support, rendering them unable to mount a successful bid for public office. When the "eyes of the people" became focused, with the help of elite lenses, on violations of these norms, those violations were, to use a favorite phrase of the 2016 campaign, "disqualifying." This prevented individuals hostile to the democratic order from ascending to positions of political power.

What happened during the 2016 campaign, then, is that such norm-violations were suddenly no longer disqualifying, and the process can be broken down into two parts. During the Republican primary, the Republican elites who tried to coordinate on punishing norm violations found themselves abandoned by a large swath of ordinary citizens, and

new elites unconstrained by this commitment—such as Steve Bannon of Breitbart and Alex Jones of Infowars—began to command their allegiance instead. In the general election, then, Trump would still very likely have lost if a significant enough number of Republican elites—especially those in official positions—had openly opposed him. At least partly due to the intense polarization of society, however, most of them held their noses and backed their nominee.

Finally, then, if the stability of democratic norms is to be salvaged, the threat of punishment must regain credibility. Elites commanding allegiance among a sufficiently large swath of the public must again be both willing and able to coordinate to discipline violations of those norms. Either those who now command allegiance must be induced, somehow, to commit to those norms; or the public must be come to see them for the dangerous frauds they are. Both, of course, are easier said than done.[23]

A realistic appraisal of democratic institutions

The conclusion that elections alone cannot guarantee a free society will not come as a surprise; nor is it news that elections themselves can sometimes certify or entrench instances of state capture. The defense of democracy offered here in terms of enhancing resistance to state capture therefore improves on many theories of democracy simply by allowing for this possibility. But this is not all it does: as we have seen, the ocular model with which it is associated also demonstrates more clearly how the threats from elections

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[23] All three of these insights align with the work of scholars of comparative democratization, without simply repeating their work. See, for example, Charles Tilly's emphasis on the integration of trust networks into the state, in *Democracy*.

are likely to materialize. The reason that the "eyes of the people" can act as a check on the power of democratic politicians is that the threat of reputational consequences keeps them at least loosely accountable, through a variety of mechanisms, to a variety of elites, commanding the allegiance of a variety of popular constituencies with a variety of interests.

Short of eliminating elections entirely, then, democratic politicians who seek to consolidate their power have two primary mechanisms at their disposal: they may weaken the multivalent mechanisms which would otherwise ensure reputational consequences for any attempts to consolidate power; and they may try to minimize the harm to their electoral success which can be expected to follow from whatever reputational consequences they do end up suffering. In the first category, they may seek to undermine trust in the press, the judiciary, the military, the bureaucracy, the academy, and any other elite institutions which, despite their other flaws, do serve as a countervailing force, constraining certain forms of centralized power. In the second category, there is gerrymandering and other forms of electoral manipulation as well as an even more sinister process of polarization, whereby society becomes so divided that even those who recognize the anti-democratic nature of their actions will be unable to stomach the substantive costs of voting or advocating for their opponents.[24]

The ocular model not only admits the *possibility* that demagogues can use the means of majoritarian elections to capture the state, therefore, it also demonstrates *how* they will do so: i.e., by overriding *other* protections against state capture such as the rule of law, the

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[24] Svolik, "When Polarization Trumps Civic Virtue."

separation of powers, and liberal rights. None of these insights, however, undermine the general defense of majoritarian elections it has suggested in the first part of the chapter. For this defense never relied on the positive merits of popular sovereignty, or a denial of the real dangers of universal suffrage. Instead, it was grounded in the comparative observation that there are no *alternative* mechanisms which can render us "safer" from the danger of state capture. Meritocracy and markets, we have seen, cannot do so. But even among elements of the liberal democratic ecology, majoritarian elections are not alone in being subject to abuse in pursuit of state capture. In general, these elements work together, but under certain circumstances, all may be turned against one another.

Just as elections can be used to remove or cheapen liberal rights, that is, thereby disabling the resources they offer for resisting state capture; so too can liberal rights—and the judicial review of legislation designed to protect them—disable the resources offered by universal suffrage. In the infamous "Lochner era" of US jurisprudence, for instance, non-wealthy classes attempted to use the power granted them by universal suffrage to achieve legislation limiting the power of wealth. Yet the wealthy were able to use judicial review, under the pretense of protecting "property rights," to preserve their partial "capture" of the state. It is not just elections, then, which fail to be sacred, but all of the institutions of liberal democracy—even, at times, seemingly indispensable principles like the rule of law, and seemingly unobjectionable ideals like "freedom." One of the most important consequences of understanding the value of liberal and democratic institutions in terms of resistance to state capture, in other words, is to burst the illusion that any of them is sacred on its own.

So long as we adopt an agent-relative approach, of course, this should not shake our general confidence in the advisability of supporting liberal and democratic institutions. Even if citizens cease to care about upholding individual rights and the rule of law, for instance, the agent-relative approach reminds us that this is not yet sufficient cause to abandon universal suffrage. Given this predicament, after all, there is unlikely to be any alternative *more* likely to preserve those goods. As Kirshner points out, the problem of anti-democratic laws is secondary to the problem of anti-democrats themselves. Even if some alternative *could* better ensure the stability of rights and the rule of law in the short term, moreover, eliminating universal suffrage would re-open the political system to a host of political pathologies and forms of capture which the democratic system prevents, as explored in the sections above. Over the long term, then, such systems are unlikely even to ensure the stability of rights and the rule of law. Given the danger of self-reinforcing, path-dependent state capture posed by the available alternatives, in other words, elections still deserve our robust endorsement. More specifically, we can endorse the heuristic "support majoritarian elections with universal suffrage" with a high degree of confidence and generality.

Nevertheless, as we have seen, puncturing the illusion of sacredness also enables us to grapple more honestly and effectively with the many demonstrable pathologies afflicting democratic institutions—and with the many tensions between them. Though it need not shake our general confidence in support for democratic institutions, therefore, adopting the goal of resisting state capture does help us identify those rare circumstances when this support must be withdrawn: i.e., when we must violate certain democratic principles in

order to preserve democracy into the future. The final advantage of the ideal of resistance to state capture, then, is that it enables us to negotiate between the many interlocking demands of liberal democracy, all of which can be understood as methods of enhancing that resistance.

Negotiating between methods of resistance to state capture

Among the interlocking demands of liberal democracy which occasionally come into conflict, we may include majoritarian elections with universal suffrage; the rule of law (including civilian control of the military); liberal rights (including the freedom of speech, religion, and the press); and institutions and norms of deliberation.

Consider first the rule of law. Because subverting the rule of law has such unpredictable and dangerous consequences, it opens the door to seizure of the state by authoritarian forces. In any halfway decently functioning democracy, therefore, the imperative to maintain the rule of law ought to overrule nearly every other concern. The fact that it is justified instrumentally, however—by its role in resisting state capture—means that other concerns will occasionally take priority. On the scale of individual acts, for instance, we can make decisions about disobedience, civil or otherwise, based on a consideration of whether the resistance to state capture it offers outweighs the destabilizing effects it has on the rule of law, and therefore the incremental increases in the likelihood of an even more dangerous form of capture. This may be relevant to any number of individuals, including the ordinary citizen participating in sit-ins, the government contractor leaking sensitive documents, and the judge enacting a particular substantively good outcome against her understanding of the most appropriate statutory interpretation. This reasoning is also

appropriate when evaluating more systemic challenges to the rule of law, for example in considering the legitimacy of revolution, coups, or external intervention.

More generally, then, this approach enables more productive engagement with the well-known theoretical "paradoxes" associated with the ideal of popular sovereignty, most of which are variants of the problem that there is no "democratic" way to found a democracy or defend it from anti-democrats.[25] The "boundary problem," for instance, observes that all democracies must delimit membership in "the people," but cannot do so without first deciding who gets to participate in that decision.[26] As noted by those writing about the "counter-majoritarian difficulty" and the problem of "militant democracy," meanwhile, it often becomes necessary to treat anti-democrats in ways that seem to contradict the very principles of democracy being defended.[27]

Whether this is on the level of "activist" judicial review or military intervention to stop anti-democratic parties from taking power, the key test, of course, is whether support for some alternative to majoritarian elections with universal suffrage is likely to do better in resisting state capture. If, for instance, an authoritarian party looks poised to take power through a majority vote, it might be justifiable for military generals to prevent this from occurring. The standard that must be met in order to justify this action, however, is extraordinarily high, and will be very difficult to meet, precisely because a military coup

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[25] Wollheim, "A Paradox in the Theory of Democracy"; Honig, *Emergency Politics*; Mouffe, *The Democratic Paradox*; Heyd, *Toleration*.

[26] Espejo, *The Time of Popular Sovereignty*; Espejo, "People, Territory, and Legitimacy in Democratic States."

[27] Loewenstein, "Militant Democracy and Fundamental Rights, I"; Loewenstein, "Militant Democracy and Fundamental Rights, II"; Friedman, "History of the Countermajoritarian Difficulty, Part One"; Kirshner, *A Theory of Militant Democracy*.

itself increases the danger of state capture—both in the present and the future—so drastically. The danger of state capture must be so dire, imminent, and certain, that the extremely high risks which coups inevitably incur would be lower than the risk of failing to act. For the most part, Kirshner's guidelines—discussed in chapter three—function well in this regard. In my view, however, they offer even more reliable guidance when organized in terms of the dispersion of power and resistance to state capture.

Doing so allows us to acknowledge the real problems which are signified by talk of "paradox" without becoming distracted by the definitional issues which have tended to dominate philosophical discussions of such problems (i.e., "is there a *democratic* way to found or defend democracies?"). Rather than attempting to answer such dilemmas with reference to conceptual analysis—deciding whether rights of participation in majoritarian elections are more "fundamental" to the democratic ideal, for instance, than other liberal rights—this perspective presses us to ask the more practical question of which among many dangerous options is in fact the least dangerous in the circumstances. Like Kirshner and a number of other democratic theorists, it seeks to identify forms of power that have "self-limiting" characteristics.[28] Where some seem to regard "self-limiting" as a synonym for "legitimate," however, the former term is useful to me precisely because it resists the latter's implication that any form of power could ever be fully safe or trustworthy. The

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[28] Kirshner calls his theory the "self-limiting" theory of militant democracy. *A Theory of Militant Democracy*, 24ff. Others who have used this same language include Jean Cohen and Andrew Arato, who have called the power of social movements "self-limiting," and Habermas, following them, who sees deliberation in similar terms. See Cohen and Arato, "Social Movements, Civil Society, and the Problem of Sovereignty"; Habermas, *Between Facts and Norms*, 370. Andrew Sabl and Vijay Phulwani, writing of Ella Baker and Saul Alinsky respectively, understand the difference between leaders and organizers in similar terms. See Sabl, *Ruling Passions*; Phulwani, "The Poor Man's Machiavelli."

"paradox of power" I have highlighted is decidedly pragmatic rather than conceptual. It challenges us to think in predictive rather than principled terms about the complex tradeoffs we face in defending the state from capture; to make judgments in full awareness of the conditions of uncertainty under which we make them.

A similar logic may be used, then, when negotiating traditionally "liberal" rights and protections. As explored briefly above, the entrenchment and enforcement of rights such as the franchise or the freedom of the press requires that norms supporting those rights enjoy widespread support that is robust to partisan concerns, emergency logic, and other potential shocks. When they are sufficiently well entrenched, however, such rights represent effective resistance to state capture. Rights that are enumerated but not well enforced, on the other hand, are clearly not as effective, but they are often not entirely inert either. Because rights discourse is so tightly linked to various levers of power in the modern world, claiming unrealized rights is an important vector of collective action in contemporary contentious politics around the world—especially but not only in democratic countries. Indeed, even in those countries where the more basic liberal rights are well protected, claiming hitherto unrecognized rights can be an effective strategy for achieving certain goals.[29] We shall explore this strategy in the final chapter, when considering the logic of a universal basic income and the prospects for its implementation.

Again here, the normative status of all rights as subordinate to the goal of resisting state capture (and ultimately to the dispersion of power), renders them commensurable with

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[29] See, for instance, Bonnie Honig's discussion of "the right to taste" in *Emergency Politics*.

other concerns, and therefore they are not properly regarded, at least on a theoretical level, as "side constraints" or "trumps."[30] Power comes in many forms, I have argued throughout this dissertation, yet liberal rights protect us only against some of them. Indeed, in contemporary liberal societies, the accumulation of vast concentrations of power has too often been pursued under the banner of the protection of liberal rights. Therefore, resisting state capture requires that both elites and ordinary citizens lend their support not just to majoritarian elections, deliberation, the rule of law, and liberal rights; but also to other forms of power dispersion such as the redistribution of wealth, the perpetuation of egalitarian gender norms, the abolition of white supremacy, and the disruption of discursive and disciplinary forms of power—all of which can facilitate and entrench state capture.

At the same time, this should not be taken to imply that the dangers of eroding liberal rights or the rule of law are simply illusory. The protections which most often come under attack on the left, such as the rights to property and free speech, are not to be carelessly thrown aside. Thus, though the self-appointed defenders of free speech on college campuses in recent years have typically exhibited massive overreaction against minimal threats to expression while remaining willfully ignorant of the threats posed by concentrated racial and gender power, those attempting to remedy these more pressing imbalances do themselves no favors by mocking the very idea that free speech concerns might be relevant in these contexts. In doing so, they neglect the possibility that social

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[30] For discussion, see Nozick, *Anarchy, State, and Utopia*; Dworkin, "Rights as Trumps"; Nedelsky, "Reconceiving Rights as Relationship"; Pildes, "Why Rights Are Not Trumps"; Waldron, "Pildes on Dworkin's Theory of Rights."

norms as well as institutional sanctions represent a form of power worth accounting for. Using this power to sanction certain forms of racist speech, even if it disperses power in the short run, could conceivably have ill effects in the long run if it weakens general social and institutional commitments to this principle. If campus protesters are right to pressure administrators, professors, and fellow students to behave in accordance with certain norms of public discourse, it is not because they fail to exert any sort of power at all, nor that this power is fully safe or legitimate. Rather, it is because they have made the right predictive judgment, and the power they exert will have the effect of undermining entrenched sources of concentrated power *without* substantially endangering free speech.

At this point, of course, concerns about "state capture" are becoming more and more difficult to distinguish from concerns about "dispersing power" more generally. Many radical concerns, it is worth noting, *can* be framed in terms of state capture. Consider, for example, that oppressed classes who earn the franchise but have few other resources to speak of will have far less power vis-à-vis their elected officials than classes which are better off. They will have fewer economic resources which they may use to their advantage and threaten to withdraw; fewer social connections to those in positions of institutional power; and less control over the norms, discourses, and narratives which govern their common life; to name only a few of the means by which "durable inequalities" are perpetuated.[31] Thus, though it will certainly be easier for them to generate collective action and discipline public officials with the franchise than without it, they are still clearly at a

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[31] Tilly, *Durable Inequality*.

disadvantage, and as such, even their ocular power will be far less intensely felt than that of other classes. Public officials will have to care what they think, but not as much as they will have to care about the preferences and interests of others. Purely "private" power imbalances which seem to have little to do with the state, therefore, do end up weakening the reflexivity made possible by centralized democratic institutions.

The reason for confining ourselves to the language of state capture, however, fades as our focus drifts further and further from those institutions. The ideal of resisting state capture is suggested by the dispersion of power heuristic in response to a specific question: i.e., why should we prefer democratic institutions, and majoritarian elections in particular, to conceivable alternatives which might be thought to produce epistemically superior results? And in this role, it is highly effective. It is also effective when we begin to negotiate between the demands of various democratic institutions. Perhaps it will also be more widely plausible than our more basic goal of the dispersion of all forms of power. If so, then the way we have shown the two to be intertwined in this section is quite significant: even if resisting state capture is all that matters, this still entails the dispersion of many non-state forms of power. It therefore strengthens the entire normative web anchored by the dispersion of power. Either way, the dispersion of power in all of its forms has emerged as a singularly important task for democrats. And either way, it is clear that democratic institutions are only a first step towards that end.

Ultimately, however, we must return to the more comprehensive heuristic of "dispersing power" if we are to make judgments about how to proceed and what to prioritize in political life more generally. If the question is how to defend democratic

institutions, and majoritarian elections with universal suffrage in particular, it will be very useful to refer to a specific and particularly important effect of those institutions, which could not be replicated by alternatives, and this is provided by the standard of resisting state capture. That standard also yields a number of suggestions about how democratic institutions might be rendered more effective in that goal. But once we begin to discuss these strategies, we ultimately face the question of how we ought to weigh these concerns against others, and for this we must return to the more general heuristic of the dispersion of power. In the final chapter, then, I will begin to address the many questions about how to take the dispersion of power beyond the bare minimum of democratic institutions.

7.5 ~ Beyond popular sovereignty

Democracy is the worst form of Government except all those other forms that have been tried from time to time.
— *Winston Churchill*[32]

When we think democratically in the language of popular sovereignty, thereby attributing intrinsic value to democracy, we develop dangerously unrealistic expectations. On the one hand, this may lead us to ignore the glaring flaws of actually existing democracies, perhaps due in part to the sheer scale of the dissonance between ideal and reality. The reality, of course, is that throughout its history, democracy has coexisted with, facilitated, and even exacerbated colonialism, aggression, racialized caste systems, structural poverty, and many other forms of domination and oppression. In the common

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[32] Speech on the parliament bill, House of Commons, November 11, 1947. See http://hansard.millbanksystems.com/commons/1947/nov/11/parliament-bill

democratic imagination, however, these phenomena are cast as unfortunate deviations from democracy's pure form and confined to the past, while their contemporary legacy is papered over with the language of individual responsibility—yet another permutation, as I noted in the Introduction, of the logic of equal agency. If we acknowledge these contradictions, however, while accepting the terms in which the value of democracy is typically formulated, this may lead us instead to become disillusioned with democracy itself. Simply put: defending the injustice perpetuated by contemporary democracies with reference to the intrinsic value of popular sovereignty is a losing battle.

Rather than conceiving of democracy as potentially reflecting the will of a collective subject—"the people"—I have proposed in this chapter that we recognize it as a polycentric system maintained by a balance of power between those with official political power, a shifting class of political elites, and the rank and file of the ordinary citizenry, with no one holding *ultimate* sovereignty. Democratic institutions are worth keeping around, then, because they are the best able to resist the capture of state power by individuals, groups, and categories of people—better, that is, though far from infallible.

This defense of actually-existing democratic institutions is both consistent with empirical research and robust to historical contingency. Taking seriously the comparative approach suggested by Churchill's famous quip, cited above, I identified structural features inherent in the most salient genuine alternatives to democracy—centralized meritocracies and decentralized market-based orders—which make them far more susceptible to capture than democratic ecologies anchored by majoritarian elections. Drawing on Jeffrey Green's understanding of "ocular" democracy, then, I reinterpreted the importance of elections as

performing this anchoring role. This enabled me to understand the salutary function of even the severely flawed electoral institutions which characterize contemporary democracies, generating more robust resources for defending them against increasingly pressing challenges.

The realism of my account not only facilitates a more effective defense of democracy than conventional democratic ideals, however; it also suggests a more useful critical ideal for the future of democracy. It explains the importance of both deliberation and non-deliberative contentious politics, and provides a common language in which a great many concerns of contemporary liberals, democrats, and radicals can be rendered. It therefore enables us to make better-informed judgments and engage more productively amid disagreements. It absolves us from the Sisyphean task of defining the necessary and sufficient conditions for the legitimacy of borders, or revolutions, or judicial review, or the militant defense of democracy; from the need to choose, once and for all, between conceptions of freedom or equality or popular sovereignty. On the contrary, it assumes that in politics there are no guarantees and no absolutes. For most of us, however, and most of the time, supporting democratic institutions is a necessary response to our imperfect and uncertain world.

Chapter Eight: Basic Income and the Dispersion of Power

8.1 ~ Introduction

Throughout the dissertation, I have argued for the dispersion of power as a top-level heu6ristic and organizing principle for those who seek to "think democratically." I began in the first several chapters by showing that the logic which currently plays this role for most of us—equal agency—is seriously flawed. I then turned to the advantages of my alternative, discussing its comprehensiveness in chapter four and its usability in chapter five. In chapters six and seven, finally, I turned to the concrete question of how to defend existing democratic institutions, arguing that the defense offered by the "dispersion of power"—via the more specific standard of "resistance to state capture"—is both more persuasive and more robust to historical and cultural variation than alternatives grounded in equal agency, most notably "popular sovereignty." Ultimately, however, I concluded that the "resistance to state capture" ideal was not comprehensive enough to capture *all* of the concerns I would like to consider. Indeed, it was never intended as such: it was devised as a response to a particular set of questions about how the political institutions of the state ought to be organized. And as broad and open-ended as these questions are, the question of what to pursue *through* those institutions is much broader still.

On an agent-relative approach, the task of defending democratic institutions is limited, at least, by the range of feasible alternative procedures for selecting political leaders. In considering meritocracies which limit suffrage and market-based orders which limit the scope of majoritarian legislation, therefore, it is at least plausible that I have defended democratic institutions against their most relevant competitors. Our scope is not similarly

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circumscribed, however, in discussing which substantive priorities ought to be adopted going forward. Rather than attempting to discuss all of the plausible, potentially feasible proposals for dispersing power in the future, therefore, I shall focus in this final chapter on a single substantive policy priority and discuss it from a variety of perspectives. That policy is Unconditional Basic Income (UBI or "basic income" for short).

One of the central reasons for adopting this focus is that it addresses a substantial gap in my argument to this point. Among the fundamental questions typically treated by political theories at the highest level of abstraction—theories of "freedom," "equality," "justice," and "democracy," for example—the distribution of economic resources is perhaps the most significant that has so far been neglected. Yet as we shall see in this chapter, it is my view that greater dispersion of economic resources is absolutely crucial to democratic goals more broadly, and I cannot conclude without addressing it.

As in the previous chapter, my argumentative goals here are multi-directional. For those who are already convinced by the dispersion of power approach, this chapter will advocate basic income as a primary goal for the medium and long term. For those who are already convinced of the value of basic income, on the other hand, this chapter will argue that the dispersion of power is the best way of articulating that support. Finally, a third argumentative axis emerges as especially important in this chapter, given that basic income does not command nearly as much pre-existing support as democratic institutions. My goal here is to demonstrate to skeptics of the dispersion of power ideal that it offers great versatility and power in thinking through the extremely complex open-ended questions involved in setting an agenda for the criticism and improvement of liberal democracy.

8.2 ~ What is unconditional basic income?

We may begin, then, by defining the policy in question. Though there is a wide range of proposals for how it might be implemented, the core idea of Unconditional Basic Income is startlingly simple. In the words of Philippe Van Parijs, one of its foremost advocates, the idea is to "give all citizens a modest, yet unconditional income, and let them top it up at will with income from other sources."[1] Broadly similar ideas have a long history, stretching back to Milton Friedman, Bertrand Russell, Thomas Paine, or Thomas More[2]—depending on who you ask—and have been given many names, from "basic income grants"[3] or "guarantees"[4] (both BIGs) to a "negative income tax,"[5] "citizen's income,"[6] "stakeholder grants,"[7] "civic minimum,"[8] "universal basic income,"[9] "universal grant,"[10] "social income," "social dividend," "social dividend," "basic capital," "demogrant," and so on. They have been defended as a "a way of combining the appeal of both socialism and anarchism,"[11] as "a capitalist road to communism,"[12] as the best way of achieving "real

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[1] Van Parijs, "Basic Income," 7.

[2] On the history of basic income ideas which begins with Thomas More's *Utopia*, see "History of Basic Income." An anthology of precursors to basic income which begins with Thomas Paine's *Agrarian Justice* is provided by Cuncliffe and Erreygers, *The Origins of Universal Grants*. Van Parijs cites both Friedman and Russell as originators of the idea, in various forms, in "Competing Justifications of Basic Income," 6–7.

[3] Ferguson, *Give a Man a Fish*.

[4] Walker, *Free Money for All*.

[5] Friedman, "The Case for the Negative Income Tax."

[6] Vuolo, *Citizen's Income and Welfare Regimes in Latin America*.

[7] Ackerman and Alstott, "Why Stakeholding?"

[8] White, *The Civic Minimum*.

[9] Srnicek and Williams, *Inventing the Future*.

[10] Van der Veen and Van Parijs, "A Capitalist Road to Communism."

[11] This is how Van Parijs describes Bertrand Russell's argument in *Roads to Freedom*. See Van Parijs, "Competing Justifications of Basic Income," 7.

[12] Van der Veen and Van Parijs, "A Capitalist Road to Communism."

libertarianism" or "real freedom for all,"[13] as the only decent response to automation and other forces driving people into the "precariat,"[14] and in general on grounds of liberty, equality, community, efficiency, and nearly any other widely held value.[15]

There are, of course, many differences between these proposals. What unites those I consider under the title of "unconditional basic income," however, is a commitment to flexible, unconditional grants of disposable income. On the one hand, unlike systems of "in-kind" distribution such as public education or health care, and limited-use "voucher" systems such as food stamps, basic income grants are flexible—typically taking the form of cash transfers—and can be used for anything. On the other hand, unlike social security, unemployment and disability insurance, or even *minimum* income guarantees, these grants are not conditional upon factors such as age, employment, disability, gender, childcare needs, or means testing. They are simply guaranteed, unconditionally, to everyone.

This idea may seem far-fetched, but for a number of reasons, basic income (or at least some variety of unconditional cash transfers) has recently become the darling of an impressive array of supporters, from libertarians[16] to labor leaders;[17] liberals[18] to democrats[19] to republicans[20] to socialists;[21] from development economists obsessed with

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[13] Van Parijs, *Real Freedom for All*.
[14] Standing, *A Precariat Charter*.
[15] See generally the contributions in Van Parijs, *Arguing for Basic Income*.
[16] Since Milton Friedman advocated a negative income tax, for instance, libertarians such as Tyler Cowen and Charles Murray have come out in favor of the basic income. See Murray, *In Our Hands*. See also Munger, "Basic Income Is Not an Obligation, But It Might Be a Legitimate Choice"; Moseley, "A Lockean Argument for Basic Income."
[17] Stern and Kravitz, *Raising the Floor*.
[18] Steiner, "Compensation for Liberty Lost."
[19] Pateman, "Democratizing Citizenship."
[20] Casassas, "Basic Income and the Republican Ideal"; Raventos, *Basic Income*.
[21] Srnicek and Williams, *Inventing the Future*; Wright, "Basic Income as a Socialist Project."

randomized controlled trials[22] and bureaucrats grappling with staggering poverty in countries such as Brazil and South Africa[23] to Silicon Valley futurists anticipating a post-scarcity economy.[24] Meanwhile, it is ever closer to becoming a reality. Small-scale experiments with basic income are appearing around the world, from Finland[25] to Uganda,[26] and despite lacking the endorsement of any major political party, a ballot initiative for an extremely generous national basic income in Switzerland—considered "utopian" even by many basic income advocates—garnered a respectable 23% of the vote in a 2015 referendum.[27] Clearly, a basic income of this utopian variety is still relatively far away, even for a small, homogeneous, wealthy country like Switzerland. Yet momentum continues to build, and candidates representing major parties have recently endorsed basic income in France and South Korea.[28]

The point of my examination of a basic income is not to choose among this vast array of proposals. Neither is it my primary purpose to evaluate pre-existing arguments for basic income. Finally, I do not address any of the most common arguments *against* basic income grounded in practical concerns about microeconomics (i.e., reducing incentives to work), macroeconomics (i.e., inflation, overtaxation), or culture (i.e., promoting "laziness").

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[22] Hanlon, Barrientos, and Hulme, *Just Give Money to the Poor*; Widerquist et al., *Basic Income*.

[23] Gliszczynski, *Cash Transfers and Basic Social Protection*; Ferguson, *Give a Man a Fish*; Widerquist and Lewis, *The Ethics and Economics of the Basic Income Guarantee*.

[24] Bort, "Elon Musk Says Government Will Have to Introduce A 'universal Basic Income' for the Unemployed"; Friend, "Sam Altman's Manifest Destiny"; Kolbert, "Our Automated Future."

[25] "Basic Income Experiment 2017–2018."

[26] McFarland, "UGANDA."

[27] "Switzerland's Voters Reject Basic Income Plan."

[28] Shanahan, "FRANCE"; Coehlo, "Korea."

Though a full treatment of the subject would clearly need to do so, this task has been ably accomplished by others.[29] Meanwhile, I have more targeted ends.

I first demonstrate the close connection between basic income and a dispersion of power framework, highlighting three levels in particular on which a basic income might be expected to disperse power: directly through the dispersion of material resources; indirectly through the effects of this material dispersion on other group-based inequalities; and symbolically, through its effects on political discourse. Next, I compare basic income with rival policy proposals as well as rival principles of distributive justice, seeking to show both the wisdom of basic income as well as the wisdom of arguing for it in terms of the dispersion of power rather than equal agency. I close by considering why it is an especially important priority for those seeking to think democratically in the 21st century.

8.3 ~ Basic income and / as the dispersion of power

Solving the paradox of redistribution: direct effects of unconditionality

Recall, first, the dilemma of distribution outlined in chapter five as one manifestation of the "paradox of power." The problem, I observed, is that property rights and the redistribution of resources are both central imperatives of a dispersion of power approach, yet they often come into conflict. This is not unique to redistribution, of course: as we have emphasized throughout, dispersing power usually requires at least some level of

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[29] Van Parijs, Cohen, and Rogers, *What's Wrong With a Free Lunch?*; Raventos, *Basic Income*; Wright, *Redesigning Distribution*; Stern and Kravitz, *Raising the Floor*; Walker, *Free Money for All*; Reich, *Saving Capitalism*; Sheahen, *Basic Income Guarantee*; Parijs and Vanderborght, *Basic Income*; Standing, *Basic Income*.

concentrated power, and so there will never be perfectly "safe" solutions. We can make judgments about whether particular actions or policies are advisable, however, based on our best estimation of the relative concentration of power to be undermined, and the concentration required to undermine it. Making and improving such estimations—negotiating the paradox of power—is in fact the key method recommended by a dispersion of power heuristic.

In this case, the question is whether state efforts to redistribute resources will require the creation and use of power that is more concentrated than that which is undermined, and there are a number of concerns on either side. Redistribution, on the one hand, clearly has power-dispersing effects both at the top and the bottom ends of the wealth distribution; and on groups as well as individuals. Most bluntly, if certain categories of people have lower average wealth than others, redistribution will disproportionately benefit less privileged groups, decreasing the severity of whatever categorical inequality exists.

There are, however, a number of powerful concerns urging caution about redistribution as well—otherwise it would hardly be a dilemma. Most generally, effective and pervasive redistribution under modern conditions can only realistically be achieved by states, and since states are already the most prominent and potentially dangerous concentrations of power, proposals to expand state power always require caution. At least at the extreme end, fears of despotism are not unjustified: the most aggressive redistributive efforts in human history have been undertaken by some of its most horrifically authoritarian states—from the USSR and Maoist China to Zimbabwe under Robert Mugabe. Neither is the evidence

limited to these salient examples: the positive association between redistribution and autocracy is robust in global and comparative perspective.[30]

Less aggressive redistributive efforts have, of course, been successfully undertaken by liberal democracies, and there is no evidence that the relatively high levels of redistribution achieved by states such as Sweden or Norway represent some kind of cap on the amount that is consistent with democracy. Yet there are real concerns about the power granted to redistributive states even within broadly liberal democracies. Perhaps a tax approved for the purpose of redistribution, for instance, will be redirected to wars and extensive systems of surveillance. More banally, redistribution is, like all state functions, open to rent-seeking and other forms of partial state capture.

Though they are not perhaps the first target of rent-seekers, for instance, redistributive schemes may be manipulated to the advantage of a particular industry (e.g., home construction or pharmaceuticals), or a particular set of actors within an industry (e.g., chain stores with economies of scale), or even particular corporations. More generally, redistributive mechanisms can be "captured" by groups to perpetuate categorical inequalities—as when Southern Democrats burdened the New Deal with a panoply of racist exclusions and exceptions, rendering the swiftly expanding welfare state a form of "affirmative action" for white people.[31] Even if the state is not captured in any obvious way, meanwhile, redistribution may be undertaken in ways that reinscribe subtler structures

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[30] Albertus, *Autocracy and Redistribution*.
[31] Katznelson, *Fear Itself*; Katznelson, *When Affirmative Action Was White*; Hayward, *How Americans Make Race*.

of domination, at the very least mitigating its positive effects. Indeed, this is precisely what has occurred with the postwar welfare states of the industrialized West, which frequently perpetuate asymmetrical relations of power between men and women[32] and "discipline" poor people in ways that keep them disempowered.[33]

Clearly, legitimate concerns about existing redistributive schemes are not limited to the political right or the political left: both have reason to be skeptical of traditional welfare states, and the concerns of both, as I have shown, can be productively understood in terms of the dispersion of power. It is unsurprising, then, that figures on both the political right and the political left have found something to like in the idea of a basic income: because of its unconditionality, it is uniquely positioned to solve many of these problems at once.

Most basically, of course, basic income achieves redistribution without most of the risks normally attending redistributive schemes that we discussed in the section above. At the top of the power distribution, for instance, the unconditionality of UBI eliminates the danger that redistributive mechanisms will be targeted for rent-seeking and other forms of "state capture." By removing discretion about how funds are spent, that is, distributing basic income unconditionally reduces the concentrated power of the state. Meanwhile, making distribution unconditional also reduces the ability of states to police the lives of recipients. This increases the relative power of poor people as a group, of course, but it is especially good for poor women and people of color, who have been disproportionately

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[32] Hirschmann, *The Subject of Liberty*, chap 5; Abramovitz, *Regulating the Lives of Women*; Hays, *Flat Broke with Children*; Hirschmann and Liebert, *Women and Welfare*; Ferguson, *Feminist Case Against Bureaucracy*.
[33] Piven, *Regulating the Poor*; Quadagno, *The Color of Welfare*; Katz, *In the Shadow of the Poorhouse*.

targeted and disempowered by such disciplinary regimes. Where traditional welfare states have achieved some laudable redistributive aims—and have likely dispersed power on the whole—these gains have come with serious costs, enabling rent-seeking and other forms of state capture while perpetuating patriarchy and white supremacy.

The most direct advantage of an *unconditional* basic income, therefore, is that would yield the former without the latter, weakening the concentrated power of the state (relative to other redistributive schemes) and strengthening the position of those at the bottom. It achieves significant dispersion of power through the redistribution of wealth, that is, at minimal cost in terms of concentrated state power. As the anthropologist James Ferguson summarizes, the state becomes "neoliberally 'slim' (in the sense of eschewing costly and intrusive government programs for engineering the conduct of those under its care) while at the same time carrying out a very substantial economic intervention (both redistributing resources and acting as a kind of direct provider for each and every citizen)."[34] Meanwhile, there is "no policing of conduct, no stigmatizing labels, no social workers coming into homes—and no costly bureaucracy to sort out who does or doesn't qualify."[35] It therefore represents something like an optimal solution to the paradox of power as it applies to the distribution of wealth and resources.

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[34] Ferguson, *Give a Man a Fish*, 30.
[35] Ibid.

Emancipation through bargaining power: indirect effects of unconditionality

As important as these direct effects are for the dispersion of power, then, the *indirect* or *downstream* effects of an unconditional basic income may be equally if not even more significant. A basic income empowers disempowered groups not only through the absolute value of the cash they receive, that is, but also because of the more general feeling of economic security it provides—which explains why basic *income* is to be preferred to one-time grants of "basic capital."[36] Under the system of global capitalism, of course, economic insecurity (or "precarity") is one of the primary means through which groups become disempowered in the first place, rendering them dependent on dominant groups, unable to pursue long-term plans, and trapped in cycles of debt and poverty.[37] Compared to conditional welfare programs, then, which replicate certain features of this dependence and precarity, an unconditional basic income more fully resolves the problem of economic insecurity. This grants members of disempowered groups "exit options" from harmful relationships, as well as the freedom to pursue a wider variety of activities and the ability to plan their lives over longer periods of time. Such downstream effects can be characterized, in Guy Standing's words, as "emancipatory," and as Standing shows using data from an experiment in the Indian state of Madhya Pradesh, even a very small basic income has the potential to yield significant emancipatory benefits—including improved

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[36] See the essays comparing basic income with Ackerman and Alstott's proposal for "stakeholder grants" in Wright, *Redesigning Distribution*., especially those of Wright, Pateman, and Standing.
[37] Standing, *The Precariat*; Davis, *Planet of Slums*; Graeber, *Debt*.

educational and health outcomes for the young, and enhanced well-being for the elderly and disabled.[38]

One of the commonly cited emancipatory effects of a basic income, for example, concerns the labor market: i.e., the relations between employers and employees at particular firms, and the relations between "labor" and "capital" more generally. In Carole Pateman's words, a guaranteed basic income gives people "the freedom not to be employed"[39]—an exit option which, in Van Parijs' words, increases the "bargaining power" of people at the bottom of the power distribution.[40] On the individual level, a basic income enables employees to quit their jobs without facing destitution, giving them greater bargaining power vis-a-vis their employers and leading to more equitable workplace relations.[41] More broadly and more consequentially, because it does this simultaneously for all workers—eliminating the "reserve army of the unemployed" who are so desperate to survive that they will accept starvation wages and harsh working conditions—it also gives the working class greater bargaining power relative to capitalists. As Erik Olin Wright summarizes, therefore, "a generous, unconditional basic income… directly transforms the character of power within the class relations of capitalist society."[42]

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[38] Standing, "Why Basic Income's Emancipatory Value Exceeds Its Monetary Value"; Davala et al., *Basic Income*.

[39] Pateman, "Democratizing Citizenship," 109.

[40] Van Parijs, "Basic Income: A Simple and Powerful Idea for the Twenty-First Century," 10.

[41] For a typical defense of this view, see Casassas, "Economic Sovereignty as the Democratization of Work." For a skeptical response, see Birnbaum and De, "Basic Income in the Capitalist Economy."

[42] Wright, "Basic Income, Stakeholder Grants, and Class Analysis," 95. For a skeptical response, see Gourevitch, "The Limits of a Basic Income." Gourevitch does not dispute the basic logic of basic income as increasing the bargaining power of employees on its own; however, he worries that it will "crowd out" other forms of workplace democracy and labor power. Though I share his concerns, I do not find them to be overpowering, and for reasons elaborated below with regard to political engagement, I think it likelier, in fact, that it will *increase* the power of unions and other means of collective organization.

A second commonly cited emancipatory benefit of basic income is the effect it could have on gender relations. Just as in the labor market, an unconditional basic income (delivered to individuals rather than family units, Pateman emphasizes) provides an exit option, freeing women to leave their partners and thereby increasing their bargaining power; potentially even "creating the social and economic conditions required to reduce the gendered division of labor."[43] Similar increases in bargaining power for women, after all—from laws against spousal abuse and the increasing availability of domestic violence shelters to the availability of birth control and legal abortion, to the increasing availability of educational and employment opportunities for women, to the introduction of no-fault divorce—have also tended to reduce asymmetries in power between men and women, weakening the stranglehold of gendered divisions of labor in similar ways.

A third emancipatory benefit concerns the ability of citizens to participate in democratic life. Pateman again articulates this advantage, writing that a basic income would "support citizens' participation in collective self-government by opening up opportunities for citizens to develop their political capacities and skills."[44] It should be clear from the previous chapters, of course, that I do not share Pateman's optimism about democratic participation as such. In my view, political participation is neither inherently edifying for the individual nor inherently beneficial for the polity. Yet I hardly endorse the

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[43] Zelleke, "Institutionalizing the Universal Caretaker Through a Basic Income?," 1. For similar views, see Pateman, "Democratizing Citizenship"; Elgarte, "Basic Income and the Gendered Division of Labour"; Baker, "All Things Considered, Should Feminists Embrace Basic Income?"; Herzog, "Basic Income and the Ideal of Epistemic Equality." For skeptical views, see Bergmann, "Basic Income Grants or the Welfare State"; Gheaus, "Basic Income, Gender Justice and the Costs of Gender-Symmetrical Lifestyles."
[44] Pateman, "Democratizing Citizenship," 109.

Schumpeterian view that participation ought to be *discouraged* in general terms either. What matters, it seems to me, is who participates, and to what effect. The value of a basic income in this respect is neither to encourage nor discourage participation in general, therefore, but to reduce asymmetries in the ability of various groups to participate. We need not believe that people are particularly rational or particularly likely to be edified by political action to believe that their political participation will, on average, support their interests. By enhancing the ability of disempowered groups to engage in protests, boycotts, and other forms of social movement organization, then—whose importance for democratic life I have defended in the previous chapter—the relative power of those groups will grow.

Generalizing from this logic, indeed, direct political participation is not the only relevant activity which economic security will enable disempowered groups to pursue on less unequal terms. They will also, for instance, be better positioned to pursue positions of leadership in crucial institutions of cultural production, including in arts and entertainment, journalistic media, science, and the academy. Across the board, disempowered groups tend to be under-represented in such institutions, and these representational deficits facilitate the perpetuation of social norms and cultural discourses which in turn contribute to their continued disempowerment. While a basic income would hardly resolve these representational deficits on its own, it would intervene at a crucial stage of this cycle, enabling more members of disempowered groups to successfully pursue careers in these industries by granting them greater economic security. In this way, a basic income goes some way towards reconciling the concerns of partisans on either side of the "recognition

vs. redistribution" debate—while it clearly emphasizes redistribution, it does so in a way that does not preclude efforts to achieve recognition, and indeed facilitates such efforts.[45]

Finally, and relatedly, a basic income also grants disempowered groups more power over social norms and cultural discourses through their role as consumers. As we have acknowledged in the previous chapter, markets can be a powerful mechanism for dispersing power, especially through the principle of "consumer sovereignty." Whether it is through explicit boycotts or subtler trends and shifts in preferences, that is, consumers ultimately drive the decisions of producers. Thus, relative to a system in which social, cultural, and economic decisions are made by unaccountable elites, consumer sovereignty clearly disperses power. The problem, of course, is that it makes decision-makers accountable to consumers in direct proportion to the amount of wealth they possess, which is why majoritarian elections with universal suffrage (on a principle of one-person-one-vote) are also indispensable. Yet given all of the limitations of collective choice procedures discussed in the previous chapters, it would be unwise to regard "popular sovereignty" as a replacement for consumer sovereignty in every respect. As the experience of communist states demonstrates, "collectivizing" or "socializing" all cultural and economic decisions is an incoherent, dangerous dream; far more likely to concentrate power than disperse it. Given that some social, cultural, and economic decisions are best left in the hands of decentralized "consumers," then, the best way of "democratizing" those decisions is to

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[45] Fraser and Honneth, *Redistribution or Recognition?*; Barry, *Culture and Equality*; Okin et al., *Is Multiculturalism Bad for Women?*

place consumers on less unequal footing in the first place. Thought it clearly comes far short of full equality, a basic income is at least a step in the right direction.

Give a man a fish: symbolic effects of unconditionality

The notion of consumer sovereignty brings into focus a common criticism of universal basic income from the left: i.e., that on a symbolic level, it accepts the individualizing logic of "neoliberalism," thereby weakening efforts to build truly collective power among disempowered groups.[46] Though this is ultimately a predictive, empirical claim, and so I cannot hope to rebut it conclusively, I am skeptical. On the contrary, in fact, there are very good reasons to suppose that the "symbolic" effects of basic income would be quite positive for the disempowered—reasons that have been captured most fully and forcefully by an anthropologist, James Ferguson, in his analysis of certain tentative steps towards a "new politics of distribution" that have already been taken in practice.[47]

Ferguson's pioneering work in southern Africa, beginning in the 1980s, prefigured some of the devastating criticisms of prevailing regimes of international development aid which have recently become far more widely accepted.[48] In the course of doing such work, Ferguson writes, he was often tempted to suggest to development workers exasperated by

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[46] Though she does not directly address basic income proposals, Wendy Brown gives a compelling account of these concerns about neoliberal logic—and the threat it poses to democracy—in *Undoing the Demos*. I accept Brown's general account of the threat posed by neoliberal logic; I simply disagree with those who claim that a basic income would make things worse rather than better (e.g., Gourevitch, "The Limits of a Basic Income.").

[47] Ferguson, *Give a Man a Fish*.

[48] Ferguson, *The Anti-Politics Machine*. For recent adaptations of similar critiques by those within more traditional economics and international development communities, see Easterly, *The White Man's Burden*; Easterly, *The Tyranny of Experts*; Moyo, *Dead Aid*; Deaton, *The Great Escape*. See also Katz, *The Big Truck That Went By*.

his critiques that "better results could be obtained if the project funds, instead of being spent on Land Cruisers and foreign consultants, were simply handed over directly to the 'target population.'"[49] Yet even he and other scholars in critical development studies, he observes, largely accepted the governing assumption that this "proposal" was somehow beyond the realm of serious discussion. In the last few years, however, Ferguson notes that the idea that we can "just give money to the poor" is no longer treated as a "joke,"[50] and his 2015 book *Give a Man a Fish* explores the consequences of this shift.

In line with his regional specialization, Ferguson's immediate focus is on programs in southern Africa which have implemented significant cash transfers to the poor—totaling 3.4% of GDP and reaching up to 30% of citizens in the South African case—but his broader subject of analysis is the "quiet revolution" in development thinking led by the global South,[51] which has gone largely unnoticed, and of which these programs are a part. Though the programs which are already in place "do not go far enough toward the radical rethinking of the meaning of social payments," he admits, they offer hope that such a radical rethinking is possible, and a glimpse of what it might entail.[52] Though a future of widespread basic income is not exactly imminent, Ferguson interprets the tentative steps in that direction as a sign that such a future is possible, noting that such programs could be "the first stage in the development of international norms that would guarantee a right to a minimum income in the same way that we now expect states to provide basic education…"

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49 Ferguson, *Give a Man a Fish*, xi.
50 Ibid., xii. See Hanlon, Barrientos, and Hulme, *Just Give Money to the Poor*.
51 Ferguson, *Give a Man a Fish*, 13.
52 Ibid., 17.

and therefore also of "a far more radical politics than is usually associated with social 'assistance.'"[53]

Here, I will elide the details of the particular programs Ferguson analyzes and focus on how he understands their most radical "symbolic" implication, which would be more fully realized under truly universal programs: severing the connection between waged work and distribution. According to Ferguson, the emancipatory promise of these programs is to chip away at the "productivist common sense" inherent to *both* the "possessive individualism"[54] characteristic of liberal capitalism *and* the left's focus on labor.[55] The primary problem with capitalism on a Marxist model, after all, is not *poverty* or *inequality* but *exploitation*: i.e., the theft of working class labor by the capitalist class. In Ferguson's view, the obsession of both liberals and leftists with labor as the source of legitimate claims to the social product—even after we have abandoned the labor theory of *economic* value with which it was once associated—verges on the pathological.[56]

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[53] Ibid., 28. Ferguson's use of the qualified "minimum" here suggests means-testing and therefore conditionality, but this is an artifact of the limited nature of the programs he is studying rather than a conceptual distinction. As we shall see, Ferguson's analysis of the radical potential of these grants centers on their unconditionality.

[54] Macpherson, *The Political Theory of Possessive Individualism, Hobbes to Locke*.

[55] Ferguson, *Give a Man a Fish*, 23.Ferguson is not alone, of course, in this diagnosis. Following Dewey, for instance, Ian Shapiro sees a "workmanship ideal" encouraged by the rise of science (or "experimental philosophy") as central to Enlightenment political theory and shared by Locke and Marx. See *The Moral Foundations of Politics*, 9–17, 101ff. Charles Taylor also identifies something quite similar with the "valorization of ordinary life," in *Sources of the Self*, 211ff.

[56] Others, of course, have moved beyond this productivist focus on labor—most famously, perhaps, Hannah Arendt in *The Human Condition*. Yet Arendt is equally famous for her blithe willingness to subordinate and even ignore crucial dynamics of social and economic power—her solution is not to offer a new politics of distribution but to largely de-emphasize questions of distribution altogether. For other perspectives, see Weeks, *The Problem with Work*; Srnicek and Williams, *Inventing the Future*; Mason, *Postcapitalism*; Frase, *Four Futures*; Frayne, *The Refusal of Work*.

The significance of this conceptual shift is captured quite nicely by the title he gives the book: *Give a Man a Fish*. There are plenty of well-known problems, he notes, with the old development catchphrase from which it is taken (i.e., "give a man a fish, and he eats for a day; teach a man to fish, and he eats for a lifetime"). It assumes, for instance, that the fisher is a man rather than a woman; that poverty is caused by a lack of knowledge rather than means; that "experts" from abroad will know better than locals how to engage in sustainable and efficient production; the list goes on. Ferguson focuses, however, on an "even more fundamental problem": the assumption "that the problem of poverty is fundamentally a problem of production (not catching enough fish) and that the solution is to bring more people into productive labor (by adding, via training, more fisherfolk)." In a world which produces "more than 41 pounds of fish per year for every man, woman, and child in the world," he writes, it is "embarrassingly obvious" that at least part of the problem of poverty is not with production but with distribution.[57]

What Ferguson sees as most radical and significant about the logic of basic income which is implicated within even the smallest steps towards unconditional basic income, then, is its escape from the "productionist common sense" embedded in this slogan, which is what prevented him and his colleagues from taking seriously the idea of unconditional cash transfers. This common sense, of course, holds that such transfers are "handouts" and therefore "treat only the *symptoms* of poverty without getting at its underlying *causes*." The "distributionist" logic of basic income, by contrast, shifts the presumed default,

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[57] Quotes from Ferguson, *Give a Man a Fish*, 37–38.

thereby inverting our assumptions about symptoms and causes. Instead of presuming that "the real underlying cause of the deprivation of those with only their labor to sell is... their own failures of preparation," that is, perhaps the cause is the system of capitalist globalization which first forced them into wage labor by making it impossible to fish for themselves, then gradually rendered their labor superfluous, effectively cutting them out of "a distributive deal which used to include them." "In such a view," Ferguson continues:

> getting cut back *in* to the distributive deal is not treating the 'symptom' but goes, in fact, to the very root of the matter: the lack of any distributive entitlement is the underlying cause. Indeed, a distributionist (rather than productionist) analysis might revise the 'fish' formula as follows: if the proverbial 'man' were to receive neither a fish nor a fishing lesson but instead a binding entitlement to some specified share of the total global production, then (and only then) would he really be fed 'for a lifetime.'[58]

Under a productionist model, moral value is attached to labor and independence (both of which, of course, are gendered concepts). Poverty must therefore be the result of moral failing or "misfortune," while distribution is understood as charity, relief, or "social insurance," which is forever in danger of incurring an immoral, unstable, unmanly "dependency." For men, at least, dependence is seen as a shameful condition to be avoided at all costs. Where "able-bodied" men are the recipients of distribution under traditional welfare schemes, therefore, this "assistance" is always conditional and temporary; geared towards returning them to the labor market. Meanwhile, the vast majority of recipients are

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[58] Ibid., 38.

those considered naturally "dependent" anyway, including children, the disabled, the elderly, and, to some extent, women.[59]

On Ferguson's account, the new politics of distribution inaugurated by even the very limited unconditional distributive schemes in southern Africa completely flips this expectation of responsibility. Instead of assuming as a default that each individual receives no share of the social product unless he contributes to it via certain activities socially sanctioned as "labor," the default assumption is simply that in virtue of his existence or his membership in society, he has a rightful share in the social product.

As Ferguson points out, the flaws with this productionist model are especially clear in cases of "mineral wealth," where the role of luck in determining ownership rights is blindingly obvious—and it is not surprising that certain prototypes for basic income grants, such as Alaska's "Permanent Fund Dividend," are founded explicitly upon profits from mineral wealth.[60] But the supposed "independence" of producers is no less fictional in other cases. As feminists have long pointed out, for instance, traditionally feminized "care work" is simply not counted as such on productionist models—not to mention the reproduction of the labor force itself—but both are just as necessary to the continued "social product" as the male forms of "labor" counted by the productionist model.

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[59] See also Pateman, "Democratizing Citizenship," 111.: "the Anglo-American social insurance system was constructed on the assumption that wives not only were their husbands' economic dependents, but lesser citizens whose entitlement to benefits depended on their private status, not on their citizenship. Male "breadwinners", who made a contribution from their earnings to "insure" that they received benefits in the event of unemployment or sickness, and in their old age, were the primary citizens. Their employment was treated as the contribution that a citizen could make to the well-being of the community."
[60] Widerquist and Howard, *Alaska's Permanent Fund Dividend*.

More generally, as we have explored in previous chapters, the dense network of causal forces which enter into the production of any particular outcome is extremely complex, and any attempt to trace the causes of any particular outcome will eventually lead us back into the opaque depths of history. Thus, the claim of any particular individual to the exclusive enjoyment of the "fruits of their labor" is extremely dubious, "their labor" being hardly the only necessary condition for the existence of the "fruit." As a result, the vaunted independence of the (typically male) "breadwinner" figure on a productionist model is a sham, serving to erase the contributions of others upon whom he is, in fact, dependent. At the very least, the particular social system in which a particular form of "labor" or "investment" yields returns is dependent upon the massive coordination and cooperation of millions of others. And as we have explored in earlier chapters, even individual agents are themselves the product of a complex tangle of biological and cultural influences.

The productionist model also assumes that labor and the direct contribution to production it represents is the default mode of survival, and that distribution is excusable only for those who are unable to provide this sort of direct contribution. But as Ferguson points out, this is "simply not the case in much of Africa, where only small minorities participate in waged work and where a range of other activities and mechanisms allow 'most people' to obtain their livelihoods."[61] In his most traditionally "ethnographic" chapters, Ferguson documents how the realities of life in southern Africa reveal a very different world, in which dependence and distribution, rather than labor, are the default.

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[61] Ferguson, *Give a Man a Fish*, 21.

Lest we be tempted to think that this phenomenon is limited to Southern Africa or to poor countries more generally—a symptom of a poor "work ethic," perhaps, and a cause of continued poverty—he emphasizes that many if not most of the people now surviving on distribution rather than production had been producers in some capacity before employment dried up. Perhaps most strikingly, he points out that even in the US, only a minority of people—142 of 314 million—are actively employed. The non-working majority includes not only children and the elderly but also twenty percent of men aged 25-54.[62] Even in the US, that is, distribution rather than production is *already* the norm.

Ferguson does not shy away from acknowledging that the conceptual shift from productionism to distributionism can seem profoundly counterintuitive, and he is clear that we should not go too far in offering a "one-sided overvaluation of distribution." Yet perhaps a "strategic reversal," he suggests, could push us in the right direction, adding hopefully that "there is something about the times that we are living in that invites such a rethinking."[63] If so, it would almost certainly be an advance from the perspective of the dispersion of power. Where a productionist mindset reinscribes structures of domination such as patriarchy and ableism, figuring women, children, the elderly, and the disabled, as naturally dependent and therefore inferior to "independent" able-bodied men, a distributionist alternative understands everyone to have a "share" in social production, regardless of the nature of their "contribution." This empowers those who are less capable of contributing to "production" in socially acknowledged ways, putting them on more equal

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[62] Ibid. As we have seen, he is hardly alone in thinking this.
[63] Ibid., 46.

footing with those whose contributions are more readily recognized. By shifting our default expectations, replacing productionist ideology with distributionism is yet another way of transferring bargaining power to the disempowered.

A similar process has occurred in the past, with the transmutation of erstwhile elite "privileges" into universal civil or human "rights." An example used by both Wright and Pateman, for instance, is universal suffrage: at one point, voting was considered a privilege of birthright or virtue, but during the 19th century, default expectations shifted, and voting became seen more properly as a right.[64] The effect of this shift, of course, is to transfer power to those who can now expect to vote, and need not "earn" the privilege—for example, by acquiring a certain amount of property or passing a test. In a distributionist framework, similarly, we might say that income security becomes a "right" to be demanded on the basis of one's humanity, rather than a privilege to be earned by contributing in particular ways or granted on the basis of charity.

The politics of "rights," of course, is heavily contested, and at this point in its history may have outlived its usefulness: they are by now so often neglected that consigning basic income to the status of a "right" may, perversely, have the effect of ensuring that it will be ignored.[65] If the language of rights has become so thoroughly cheapened by overuse, this is troubling, for it defeats the central purpose of rights-talk. Rather than dwelling on this

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[64] Wright, "Basic Income, Stakeholder Grants, and Class Analysis"; Pateman, "Democratizing Citizenship."
[65] Ferguson illustrates this point with a story about a South African man who stood up from the audience in a forum on the right to housing in South Africa (which is guaranteed by the country's constitution), and said to the assembled experts (after observing hours of proceedings): "I'm afraid there has been some mistake here. All I have heard about today is that I have the right to a house. Now that is all very well. But the problem is I don't want the right to a house… I want a *house*." Ferguson, *Give a Man a Fish*, 48.

loss, however, Ferguson looks towards the future, opting for the language of "shares" over that of rights. Given a goal of dispersing power, however, we need not be committed to one language over the other. Wherever we come down on this pragmatic issue, the goal is the same: to shift the default assumptions of productionism to those of distributionism; and thereby to empower those who are disempowered to make claims on the state without relying upon gendered, racialized (and simply inaccurate) assumptions about what counts as a "contribution," and which of the poor are "deserving."

8.4 ~ Basic Income in Comparative Perspective

An agent-relative approach to problems of distribution

Let us suppose, then, that basic income is a good idea from the perspective of the dispersion of power. So what? There are many "good ideas" in the world. As clear as it may be that a substantial basic income would be better than the 20th-century welfare state, the current welfare state has the virtue of existing, while basic income is, for the most part, still a pipe dream of philosophers. As long as we are discussing utopian proposals, then, why should we prefer basic income to others? The relevant question, it seems, is not whether basic income is a *good* idea, but whether (and in what sense) it is the *best* idea. Why, that is, have I made basic income a central piece of my platform here?

Answering this question requires that we recall what my "platform" is in the first place; i.e., a set of heuristics to be used by particular agents, in particular circumstances, for particular purposes. And on this agent-relative approach, there is no such thing as the "best" idea, *simpliciter*. The value of an ideal can only be judged in relation to the purposes it is meant to serve in the world. Accepting basic income as the "best" response to a particular

set of circumstances, therefore, does not preclude accepting other ideals as better responses to *other* circumstances. We needn't worry that basic income will crowd out all other ideals and proposals, that is, whether they are more *or* less "utopian." Instead, there is room for a proliferation of ideals at varying scales of feasibility. At the same time, of course, there *are* constraints and tradeoffs to consider: heuristics must be consistent across time in order to be useful to us; and we must choose which to prioritize in our action and discourse. And so while there is no need to claim that basic income is the best ideal for *all* circumstances, I do claim that it deserves priority—among people who seek to think democratically—as the best response to a wide *range* of centrally important circumstances.

The dispersion of power itself, of course, may be employed as a heuristic in a variety of circumstances, but it is most useful when making choices between political ideals at the highest level of generality, and when judging the merits of large-scale political proposals. Within the normative web anchored by this most general ideal, then, is the somewhat more specific imperative of resistance to state capture, which is useful when defending democracy against its rivals and attempting to improve democratic institutions: i.e., the questions of what is called "democratic theory."

The proposal of basic income, then, belongs in the same normative web, but is most likely to be useful when considering questions about the production and distribution of wealth. Even when thinking about this general topic, of course, basic income is not *always* the best proposal: if basic income is not politically feasible in the short term, for instance, it may be better to emphasize *less* ambitious reforms in crafting policy platforms. And there may be contexts in which it is useful to discuss systems of political-economic organization

which are even *more* ambitious: systems which transcend the questions of production and distribution to which basic income provides an answer. Nevertheless, I claim, basic income is the best answer to the questions most often asked by political theorists and philosophers under the heading of "distributive justice" or "normative political economy."

Is basic income perversely utopian?

Clearly, there is a sense in which basic income is "utopian," in that it is not politically feasible at present. It will be helpful to begin, then, by distinguishing the sense in which it is utopian from other, *perverse* forms of utopianism—i.e., forms of utopianism that are not just suboptimal but may be actively harmful. To illustrate three varieties of perversity that basic income escapes, then, I discuss anarchism, communism, and populism.

In considering political anarchism in chapter five, I observed that it bears a certain similarity to a "dispersion of power" framework, and that certain varieties of anarchist theory may indeed be useful as an ethical orientation towards social and political action. The usefulness of anarchist theory, however, is conditional on the recognition that any attempt to implement a *fully* anarchist political model in the present or foreseeable future— either by withdrawing entirely from the state system or attempting to overthrow it—would inevitably fail. It is not impossible for a truly stateless society to flourish in some unimaginably distant future, but so much would have to be different about our world before this could happen that it is extremely difficult to say anything useful about either the forms such a society would take or the circumstances under which it could succeed. When understood as anything *more* than an "ethics of opposing power," therefore, anarchism represents one way of being "perversely" utopian.

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At the opposite extreme, perhaps, is the Marxist-Leninist alternative, by which (to adopt a not unreasonable caricature) a vanguard communist party implements some egalitarian distributive scheme. In one sense, this ideal is less utopian than full-scale anarchism, because it is at least conceivable in the world more or less as we know it. In fact, the first steps towards such an ideal have been taken a number of times. In every case, however, it has ended in authoritarian dictatorship, and at least in the long term failed miserably to achieve its distributive goals. This is not an accident, and I have tried to incorporate its general lesson in my own anti-vanguardist ideal: i.e., too much concentrated power is always dangerous, no matter where it comes from. And this is the sense in which the ideal of a communist distributive state is perversely utopian. The end of perfectly planned egalitarian distribution itself may appear "desirable." However, the means which are necessary to pursue that end are so overwhelmingly likely to fail to produce it, and to instead produce a totalitarian dictatorship, that it is not worth pursuing.

Clearly, the basic income ideal is not perversely utopian in either respect. It could conceivably be brought about by a democratically elected government and would not therefore require authoritarian means. Nor is there any reason to expect it to collapse upon implementation. The future in which it exists, in other words, is eminently foreseeable: the *only* thing that would have to change, indeed, is that enough people would have to support it democratically. Switzerland's referendum on basic income garnered 23% of the vote— quite far, to be sure, from being implemented, but hardly on the same order of magnitude of utopianism as a global transformation of the state system into an anarchist alternative.

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A final, subtler category of potentially "perverse" utopianism is represented by the danger of encouraging populist revolt against technocratic elites in contemporary liberal democracies. The issue here is not that populist grievances against technocratic elites are imaginary or invalid: many are real. Nor is it that the procedures advocated by populists are infeasible under present and foreseeably future circumstances. It is easy to imagine how a wave of populist discontent could sweep a new party to power that would shake up ossified bureaucracies, eliminate waste and opportunities for rent-seeking, and generally disrupt the reproduction of elite advantage. From the perspective of the dispersion of power, this would be a dream come true. But under contemporary circumstances, at least, such dreams are also dangerous. Even if the intellectual founders of such movements are careful to distinguish between the sorts of elites whose power ought to be undermined and those whose reproduction is necessary for the dispersion of power over the long term, such finer distinctions tend to get lost in the melodrama of electoral politics.[66] As we have seen in the previous chapter, the resulting generalized mistrust of all elite structures may lead to the indiscriminate weakening of the scientific establishment, protections for independent media, and liberal democracy itself.

Because many of its goals, taken individually, are important for the dispersion of power and the reform of democratic institutions, this sort of populism cannot be unequivocally rejected, but the danger of using populist rhetoric is worth taking seriously. It has the *potential* to be a form of "perverse" utopianism: a muted relative of that represented by

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[66] McKean, "Toward an Inclusive Populism?"

vanguardist state Communism, whereby it is not the policy proposals themselves that create dangerous concentrations of power, but the *arguments* for those policies which tend to get made. Because they are apt to be misinterpreted and stripped of nuance in their uptake by mass publics, such arguments lead, with some reliability, to policies which undermine the dispersion of power over the long term. By destabilizing trust in democratic institutions and demobilizing citizens, they open the door to authoritarian alternatives. To argue along such populist lines is not *necessarily* self-undermining, therefore—as is arguing for anarchism or state communism—but it is, in an important way, playing with fire.

The point of this detour is to note that basic income is not dangerous even in this limited way. Advocacy for it need not lead to a generalized demobilizing disillusionment with democracy. It is a redistributive policy that is unifying in its universality rather than divisive, and focuses on solutions rather than vilifying enemies. And because a central part of its justification is *weakening* state discretion over individual choices, it does not lead to a more generalized trust in state action as a solution to all problems.

By this accounting, of course, anarchism and communism are not even "good ideas." It has been useful to use them as exemplars of a "perverse" utopianism, in order to distinguish the kind of utopianism which characterizes basic income, but they are in some ways orthogonal to the main question here, which was why we ought to emphasize basic income over other *good* ideas. Why, to repeat, is basic income the *best* idea? In answering this question, then, there are two potentially relevant comparison sets: concrete policy proposals and abstract principles of distributive justice. We shall examine each in turn.

Basic income as a policy proposal

Consider first the proposal of reparations for slavery in the United States, which might seem an obvious recommendation of the dispersion of power ideal, and is, like basic income, fundamentally concerned with the redistribution of wealth. Given that there are immense asymmetries in power between blacks and whites in the United States which are straightforwardly traceable to the enslavement of African-Americans and their subsequent treatment after emancipation, reparations would indisputably disperse power, weakening the severity of one of the worst and longest-standing categorical inequalities in US history. Indeed, many of the benefits I have claimed for basic income in terms of disrupting categorical inequalities might be achieved more efficiently—in the US, at least—through some form of reparations.

The proposal of reparations is not perversely utopian in the way that anarchism or communism is. There is nothing to suggest that the means required (taxation, identification of black Americans, distribution of grants, etc…) would overwhelm its redistributive ends. Nor is there any evidence that forces external to public opinion would prevent it from happening, or that it could not realistically be executed by a government committed to doing so. As with basic income, the only obstacle to passing reparations is getting enough support for it from citizens and political leaders. If the question we ask ourselves, then, is whether reparations are "justified" on a dispersion of power framework—all else equal—the answer is yes.

All else, however, is never equal. In political life, we must prioritize certain proposals over others, even when the latter are worthy of support in an abstract sense. It is thus

precisely because the proposal of reparations is such an overwhelmingly "good idea" for the dispersion of power, on its own merits, that I have chosen it as a contrast case here: i.e., in illustrating why basic income is, nonetheless, a *better* idea.

Perhaps the most obvious difference is that the idea of reparations for slavery is most relevant to the U.S. and a few other states like Brazil, whereas a basic income could be implemented at some level in most countries around the world. If we expanded the proposal to include reparations for colonialism, conquest, and expropriation, of course, we would catch a much larger portion of the world in our scope, but this would come at the cost of increasing complexity in each case. Generalizing basic income across contexts does not require as much adaptation to local histories and circumstances, and so it more likely to gain widespread, even global support.

Even just within the United States, however, there are still very good reasons to prioritize basic income. In my estimation, to begin with, it would be far more difficult to get majority support for any form of direct reparations than it would be to mobilize a coalition behind some version of a basic income. What's more, the case for basic income will only become stronger as time goes on, and the processes of globalization, automation, and concentration of capital continue apace. Meanwhile, the most salient injustices committed against African Americans—enslavement foremost among them—continue to recede further into the past. Even if reparations could be achieved, finally, it would make differences between people more salient and very likely intensify racial resentment, thereby mitigating its benefits for the dispersion of power. Precisely because a basic

income is *universal,* by contrast—benefiting even those who do not support it—there is much less reason to expect backlash or retrenchment.

None of this, of course, is "fair." It is a dangerous fiction that we have entered a "post-racial" era in which the legacies of chattel slavery and Jim Crow no longer structure American society. Thus, my prediction that the idea of reparations for slavery will lose persuasiveness over time carries no implication that this decline in persuasiveness is justified. Nor would any backlash or retrenchment, of course, be justified in any moral sense. As a result, the "contingent" or "pragmatic" reasons I have given for prioritizing basic income over reparations may appear irrelevant to the tasks of normative theory. It may seem that a proposal like reparations is either justified or it is not, regardless of how unpopular it is, and no matter what resentments and backlash it will generate. But from an agent-relative perspective, we do not have the luxury of such decontextualized judgments of justification. Instead, we must judge proposals, standing where we are, on the metric of whether they will help us achieve our goals. And on this metric, we must acknowledge the force of such "contingent" concerns, even though they are decidedly unfair.

Other advantages of basic income over reparations, meanwhile, are less historically contingent, having more to do with the structure of the proposals. Reparations, for instance, would be a one-time event, whose consequences are unpredictable yet non-replicable. It *could* bring about a large reduction in categorical inequality, whose effects would only get stronger with time as African Americans used the money to improve their social and economic station. But its effects could also *wear off* with time, if remaining inequalities made wealth less effective as a power resource for African Americans. Either way, the

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immense effort it would take to implement a reparations program would exhaust itself in that implementation, yielding uncertain long-term effects. The dispersive effects of a basic income program, by contrast, are much more likely to endure, and indeed to grow in importance with time.[67]

Another advantage of basic income is that small steps can be embraced without fear of adverse consequences. Some advocates of basic income, like Carole Pateman, have argued that if a monthly grant is not enough to live on, then it ought not be accepted at all; on the grounds that it would then not provide a credible "exit option" for workers and women.[68] This is a real concern, but Pateman's argument relies on a falsely bright line between whether an exit option "exists" or "does not exist." Even with a giant guaranteed income, of course, a woman may still be afraid of leaving an abusive husband: in subjective terms, she may not feel she has a sufficient exit option. Meanwhile, any unconditional income, however small, may make it easier on the margins for women to leave their partners.

Moreover, implementing a basic income on a very small scale by no means precludes larger scales from following; indeed, it facilitates further increases. Consider the contrast with reparations. If a very small, token amount of wealth were transferred to African Americans under the heading of "reparations," this would likely kill the momentum of any

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[67] It is possible, of course, that a basic income program could be repealed by an opposition party once it comes into power, but if my arguments highlighting the potential for basic income to become seen as a basic right are plausible, this is quite unlikely. Once in place, more generally, it is very difficult to destroy or even cut back on entitlements programs, especially those that affect everyone. It is difficult to find a majority coalition willing cut their own salaries. At worst, it could be allowed to shrink in size relative to inflation or other subtler macroeconomic trends; more likely, however, a basic income will grow with time such that its power-dispersing effects grow.

[68] Pateman, "Democratizing Citizenship," 105.

plausible movement for reparations, without actually having any real impact on power relations. A small, token amount of basic income is always possible, by contrast, but it is unlikely to stall future progress in quite the same way; indeed, it is at least possible that a "token" basic income could create the infrastructure for a more substantial and meaningful one to take its place in the future.

For all of these reasons, then, it seems that reparations are a harder sell for what would ultimately be a lower payoff. If one has to choose a single target for advocacy, then I have argued that a basic income proposal is likely to yield greater returns on one's investments of time and other resources. This is what I mean by saying that basic income is a *better* idea. Yet as I have emphasized, this does not make reparations a *bad* idea. And there may be many situations in which one does not have to choose. In such cases, the dispersion of power framework would endorse arguments for reparations.

Consider, for example, Ta-Nehisi Coates' celebrated essay "The Case for Reparations," which highlights the continuous expropriation and exploitation of African Americans at the hands of the US state.[69] Even if readers do not agree with his final conclusion, they may nevertheless come away from the essay with a better understanding of the structural injustices which have defined American politics for four centuries, and which continue to shape the destinies of Americans of all races. This is not coincidental: illuminating structural and historical injustice is the *core* of the case for reparations as it is most often made, and so most arguments for reparations will, if sincerely encountered and fully

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[69] Coates, "The Case for Reparations."

digested, have the same effect. Making such arguments is unlikely to achieve measurable progress in the dispersion of power *directly*, I have argued—i.e., through the achievement of the stated end—but it may nonetheless shift discursive assumptions and public opinion in a way that could *indirectly* affect the dispersion of power. And this, despite all of these qualifications, is certainly better than nothing.[70]

Basic income as a theory of distributive justice

It may be granted, finally, that basic income is a "good idea," in the sense that a society with a basic income would be *more* just than the one we have, and even that it is a better idea than many other worthy proposals, such as reparations for slavery. But it may still be objected that this does not make it the *best* idea. Surely such a crude distributive system, more specifically—a system which makes no distinctions between people based on their choices, or their talents, or their willingness to work, or the oppressions they have suffered—does not deserve the distinction of yielding the *most just* distribution of wealth.

Indeed, an array of potential objections can be formulated along these lines. Why give money to everyone instead of just those who need it? More precisely, why not maximize the resources held by the least well-off, a la Rawls' "difference principle," or compensate people for those hardships which are the result of *luck* while holding them responsible for their *choices*, a la "luck egalitarianism"? Why, for that matter, focus on wealth at all, as opposed to well-being, or happiness, or "primary goods"? Most generally, the objection

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[70] This is also true, of course, of basic income. If arguments for basic income can help to bring about the symbolic shift in expectations articulated above, this both makes basic income more likely and also has beneficial effects of its own for the dispersion of power.

can be phrased as follows: Perhaps this crude tool *is* indeed the "best" we can hope for under contemporary circumstances. Arguments for a basic income, after all, have been made on the basis of several of these "more sophisticated" theories of justice.[71] But we cannot evaluate whether it is the *best* response to our circumstances unless we first know which criteria we are using to make that judgment in the first place.

To make this objection is to return us to the place of basic income in the broader normative web anchored by the dispersion of power. Basic income, after all, is intended as one concrete proposal among many, and *not* as an overarching institutional framework for determining the distribution of all material resources; much less a general *principle* of resource distribution. In responding to the objections, then, we must clarify the level on which the objection is being made. If, on the one hand, alternatives such as the difference principle or luck egalitarianism are interpreted as *policy proposals*, then the response is quite obvious, and draws upon the arguments that we have made throughout this chapter. We give money to everyone, unconditionally, instead of just those who need or "deserve" it, because in practice, empowering the state to make these decisions has all sorts of negative consequences. Relative to *unconditional* basic income, at least, such proposals would give the state far more discretion, and weaken the "exit option" provided to relatively disempowered participants in romantic and workplace relationships.

Of course, theories of distributive justice like the difference principle and luck egalitarianism are *not* typically intended as policy proposals. They are not, that is, designed

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[71] See the contributions to Van Parijs, *Arguing for Basic Income*.

to be used by state actors in making distributive decisions; they are designed for *us* to use—as theorists and citizens—in deciding which institutions to support. State actors, on such a model, are to be given much more specific mandates, on the basis of those decisions, which do not grant them so much discretion. Indeed, some may even use "ideal" principles like the difference principle and luck egalitarianism to justify basic income as a response to "non-ideal" circumstance in which state power might turn out to be dangerous.[72] We might interpret the objection, then, as a concern about the heuristic being used to determine the appropriate distribution of wealth, rather than the means being used to distribute it.

Yet if that is how we are interpreting the objection, of course, the proper comparison is not with basic income but with the dispersion of power, and our response refers to the arguments we have made throughout the rest of the dissertation. By the traditional standards of distributive justice, basic income is an undoubtedly crude, simplistic mechanism. Yet it is valuable, on an agent-relative approach, precisely *because* of this crude simplicity. We focus on distributing wealth as opposed to other resources or metrics of welfare not because it is the *most important*, that is, but because it is the *easiest to distribute*—at least without necessitating too much centralized state intervention.

An agent-relative approach blurs the line between ideal and non-ideal theory; between crafting the best response to non-ideal circumstances and devising the ideal standards by which such non-ideal judgments ought to be made. The dispersion of power framework, therefore, simply has no answer to the question of what the "most just" distribution would

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[72] Van Parijs, "Competing Justifications of Basic Income," 19–21., citing Rawls, *A Theory of Justice*, 275.

be; it provides no ideal distribution against which non-ideal distributions may be measured. From the perspective of the dispersion of power, of course, there is a reason to develop "utopian" and "ideal" theories, but these are intended for states of the world that are far in the future, and a proper respect for our uncertainty about the future should eliminate any temptation to be precise about such ideals. There is thus simply no point in articulating in precise terms the "optimal" distribution in an abstract sense, describing principles of distribution that "go ought in the night." Instead, offering the best response to a particular set of circumstances is *all there is* to serving as an effective ideal.

As a consequence, considering concerns about democracy and distributive justice in isolation from one another does not lend clarity to our discussions, as many philosophers assume. If the purpose of formulating these ideals is to *use* them in making political choices—as few philosophers would deny outright—this isolation simply obfuscates our discussion of both. Consider: questions about what distributive system would be best in a world where state power was not dangerous are irrelevant to the political challenges we actually face in a world where state power *is* dangerous, and is likely to remain so as long as there are states. We cannot simply hold the questions of distributive justice constant while imagining this danger away, for these questions only arise in the first place within a world characterized by that danger. To put it another way: so much else would have to be different about the world in order for state power *not* to be dangerous that considering the questions of distributive justice in such a world strikes me as about as useful as discussions of swimming pool maintenance on Mars. Such debates are not *strictly* nonsensical, that is,

but they are so far removed from contemporary relevance that it is difficult to defend spending time on them.

To be clear: I am not implying that heuristics such as the difference principle and luck egalitarianism are useless in this way. Liberal theorists of justice *do* account, in practice, for the danger of state power, through the incorporation of ideals such as individual liberty and "public justifiability"—both of which limit the coercive power of the state—as constraints on distribution. Yet because these ideals are understood as fixed points of reference, and often as categorically or "lexically" prior to other concerns, we are prevented from undertaking the most direct and productive inquiry. We are told, for instance, to hold one variable constant ("liberty") while describing the optimal value to be taken by another ("distributive justice"). But these "variables" are interconnected in deeply complex ways. The optimal kind of "liberty" may vary quite wildly—and in unpredictable ways— depending upon the forms of "distributive justice" and "democracy" and "public justification" which exist. Rather than drawing conceptual maps of a vast, multidimensional possibility space—in which uncertainty piles upon unimaginable uncertainty—it is far more efficient simply to begin where we are, and evaluate our options going forward. That is what I have tried to do in this dissertation.

8.5 ~ Conclusion: Basic income as an ideal for the 21st century

> *What is at stake, then, is this: How can the growth of capabilities be disconnected from the intensification of power relations?*
> *—Michel Foucault*

In lieu of a comprehensive summary of the arguments of this chapter or the dissertation as a whole, then, I shall close with a short reflection on why basic income—and the

dispersion of power more generally—are particularly important priorities to adopt in our contemporary circumstances. In short, I claim, the economic and cultural forces that are likely to be most significant in shaping the conditions of 21st century life all promise to exacerbate extreme inequalities of wealth and other power resources, and the dispersion of power, with an emphasis on basic income, is the best available response to these trends.

First, in the absence of corresponding labor mobility, the increasing capital mobility brought about by globalization means that labor will have less and less power within any particular national context. Low-skilled wage workers, especially in the high-income countries where they had previously enjoyed relative stability, are becoming ever-more vulnerable.[73] At the same time, steadily increasing automation of industrial production continues to eat away at their job base, and with more sophisticated artificial intelligence, automation is now expanding into the traditionally safe territory of "service-sector" and even "professional" jobs.[74] These trends will only magnify the intensity of the tendency of capital to concentrate in fewer and fewer hands, as documented and explained most powerfully by Thomas Piketty.[75] Few think these trends will slow; many predict that they will soon speed up quite rapidly as artificial intelligence approaches new frontiers.[76]

Partly as a result of this and partly for independent reasons, the idea of basic income is gaining momentum. Though they disagree on the details, thinkers and policymakers from

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[73] Standing, *The Precariat*.
[74] Ford, *Rise of the Robots*; Susskind and Susskind, *The Future of the Professions*; Kaplan, *Humans Need Not Apply*.
[75] Piketty, *Capital in the Twenty-First Century*.
[76] Schwab, *The Fourth Industrial Revolution*; Bostrom, *Superintelligence*; Brynjolfsson and McAfee, *The Second Machine Age*.

a wide variety of ideological backgrounds see some form of basic income as a reasonable response to these historical conditions. On the one hand, many with socialist sympathies searching for new means to egalitarian ends after the tragedies of state communism have settled upon basic income.[77] On the other hand, arguments for basic income in the work of libertarians like Milton Friedman have long made the idea attractive to certain intellectuals on the right, while the explosion of interest in artificial intelligence in the last ten years had led to a much wider embrace of the strategy among those who celebrate the productive capacity of capitalism and tend to see its intensification as inevitable.[78] These trends, then, have been supplemented by a wave of research in development studies and economics which has tempered the instinctive skepticism felt by many technocratic elites about any proposal to simply give money away. "Handouts"—or "unconditional cash transfers," to use the more scientific term—have long been understood as the poster child for ineffective aid, but economists are slowly coming to accept that they may in fact be among the *most* effective strategies for increasing development outcomes.[79]

Unconditional basic income, it seems, is an idea whose time has come. It should be at the top of the policy agenda of anyone who seeks to respect the interests of all human beings. The logic of dispersing power demonstrates why, emphasizing not only its effects on welfare or work, but its continuity with the basic project of liberal democracy. Where

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[77] At least since Van Parijs and Van der Veen published "A Capitalist Road to Communism," basic income has been a favorite proposal of "market socialists" and others attempting to imagine economic life beyond the Cold War dichotomy between capitalism and communism. See Reich, *Saving Capitalism*; Srnicek and Williams, *Inventing the Future*; Frase, *Four Futures*; Mason, *Postcapitalism*.

[78] Murray, *In Our Hands*; Cowen, *Average Is Over*; Bort, "Elon Musk Says Government Will Have to Introduce A 'universal Basic Income' for the Unemployed."

[79] Hanlon, Barrientos, and Hulme, *Just Give Money to the Poor*; Banerjee and Duflo, *Poor Economics*.

we have understood this project and its key institutions in terms of their effect on the dispersion of power, basic income appears as another crucial tool in the democratic toolkit, offering a mechanism for dispersing power with minimal danger of creating unmanageable concentrations elsewhere. Yet precisely because it is only one of many such tools, targeted at dispersing one of many forms of power, it is also clear why it must be pursued in and through democratic institutions.

As we carve our paths through the 21st century, the key political imperatives of those of us who seek to respect human interests are to protect our democratic institutions, and to identify and fight the most dangerous forms of concentrated power. We will inevitably face great uncertainty in doing so, but despite that uncertainty—or rather, *because* of it—the logic best suited to guide us through this darkness is the dispersion of power.

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Biography

Samuel Ely Bagg was raised in Durham, North Carolina, and received a B.A. in Ethics, Politics, and Economics from Yale University in 2009. He spent two years teaching at the Ecole d'Humanite in Hasliberg-Goldern, Switzerland, before returning to Durham in 2011 to begin a Ph.D. in Political Science at Duke University. Having specialized in political theory and political institutions, he will receive his Ph.D. in May of 2017. His research concerns fundamental issues in liberal and democratic theory, drawing insights from a range of disciplinary perspectives. In addition to pursuing this manuscript for publication as a book, he has already published related projects using insights from cognitive science (at the *European Journal of Political Theory*) and Darwinian models of evolution (at *Politics, Philosophy, and Economics*) to address contemporary debates in political theory; as well as an explicit defense of the integrative theoretical methodology (in *Political Research Quarterly*).