Democracy Requires Organized Collective Power: On the Limits of Liberal Proceduralism

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"Democratic institutions awaken and flatter the passion for equality without ever being able to satisfy it entirely."

Alexis de Tocqueville[1]

"To turn from mechanisms and concepts to the social forces in play…"

Karl Polanyi[2]

Introduction

What is the value and function of democratic institutions? One prominent and powerful answer could be broadly called "liberal proceduralist": democratic institutions, by embodying fair procedures for resolving disagreements, constitute or contribute to a politically valuable ideal of relational equality.[3] As attractive as it is, this view falters because it rests on a flawed view of democratic institutions. In place of the liberal proceduralist view, I develop a democratic power approach. The democratic power approach advances a dynamic account of democratic

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[1] Alexis de Tocqueville, *Democracy in America*, trans. George Lawrence (New York: Harper, 2006), 198.

[2] Karl Polanyi, *The Great Transformation: The Political and Economic Origins of Our Time* (Boston: Beacon Press, 2001), 206.

[3] Representative defenses of this view include see Elizabeth S Anderson, "What Is the Point of Equality?," *Ethics* 109, no. 2 (1999); Charles R. Beitz, *Political Equality: An Essay in Democratic Theory* (Princeton, New Jersey: Princeton University Press, 1990); Harry Brighouse, "Egalitarianism and Equal Availability of Political Influence," *The Journal of Political Philosophy* 4, no. 2 (1996); Allen Buchanan, "Political Legitimacy and Democracy," *Ethics* 112, no. 4 (2002); Thomas Christiano, *The Constitution of Equality: Democratic Authority and Its Limits* (Oxford: Oxford University Press, 2008); Christopher G. Griffin, "Democracy as Non-Instrumentally Just Procedure," *The Journal of Political Philosophy* 11, no. 1 (2003); Niko Kolodny, "Rule over None I: What Justifies Democracy," *Philosophy & Public Affairs* 42, no. 3 (2014); "Rule over None II: Social Equality and the Justification of Democracy," *Philosophy & Public Affairs* 42, no. 4 (2014); Daniel Viehoff, "Democratic Equality and Political Authority," *Philosophy & Public Affairs*, 42, no. 4 (2014); James Lindley Wilson, *Democratic Equality* (Princeton: Princeton University Press, 2019).

institutions, one that focuses on how procedures and outcomes, taken together as having effects on the organization of power in society, sustain valuable relationships of social equality. It concurs with liberal proceduralists that the value of democratic institutions resides in how they help sustain relationships of equality. But, according to the democratic power approach, that equality is not realized by fair procedures or by the internal, formal structure of democratic institutions. Rather, democratic institutions are simultaneous formal procedures and substantive mechanisms for organizing different actors, interests, and groups in society. Democratic institutions instantiate (virtuous or vicious) recursive feedback loops between formal rules and the broader balance of social forces. As such, the either/or that has dominated the debates about the value of democratic institutions—either fair procedures or reliable outcomes, either intrinsically valuable or instrumentally valuable—fails to capture what democratic actors should care about: the integrity of political equality over time, an integrity that is, under realistic conditions, sustained only by virtuous feedback loops between institutional procedures and the ongoing organization of the generally disorganized majority of society's members.[4]

We can identify an institutional order as democratic insofar as it both satisfies minimal criterion of inclusion and equal consideration while also organizing popular constituencies such that its institutional order has endogenous tendencies towards furthering equality. Both are necessary constituents of a democratic society. But even granting, as the following does, that democratic institutions are intrinsically valuable because of how they help realize the value of political equality, the question remains of *how* those institutions realize the value. Liberal proceduralists argue that democratic institutions realize the value of equality through fair procedures. But this misapprehends the nature of such institutions. Democratic institutions are

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[4] For a liberal proceduralist view that emphasizes the problem of integrity over time, see James Lindley Wilson, *Democratic Equality* (Princeton: Princeton University Press, 2019).

both formal procedures *and* mechanisms for organizing collective power. Further, while at times these two functions of democratic institutions will align, in many cases achieving the organization of collective power will require relaxing the principle of procedural fairness. Evaluating the relationship between democratic institutions and political equality thus requires intersecting normative and empirical analysis of both the structure of procedures and the context in which those procedures operate. To aid in this project, the following develops a view of the people, the agents of democracy, and of the state, the medium through which the people act, as infrastructures of power. The democratic power approach begins from the sociological generalization that political majorities, as larger groups, face collective action problems and so are less organized than smaller and more cohesive powerful minorities. Given those background conditions, procedural fairness alone cannot constitute political equality. Rather, democratic institutions *both* constitute fair decision-making procedures *and* organize the naturally disorganized citizenry, enabling them against powerful individuals and more cohesive and powerful social groups.[5] Organized collective power enables the people to act on and through the state, even as particular powerful actors threatened by democracy will use state institutions to seek to assert their interests and disorganize the people. The model is recursive in that democratic institutions help organize virtuous or vicious feedback loops among organized collective power, the people, and the state.

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[5] My argument builds on recent work emphasizing the pro-wealthy bias of current political institutions and the contemporary threat of oligarchic elites: Gordon Arlen, "Aristotle and the Problem of Oligarchic Harm: Insights for Democracy," *European Journal of Political Theory* 18, no. 3 (2019); Larry M. Bartels, *Unequal Democracy: The Political Economy of the New Gilded Age*, 2nd ed. (Princeton: Princeton University Press, 2016); Martin Gilens, *Affluence and Influence: Economic Inequality and Political Power in America* (Princeton: Princeton University Press, 2012); Jeffrey Edward Green, *The Shadow of Unfairness: A Plebian Theory of Liberal Democracy* (Oxford: Oxford University Press, 2016); Amanda Maher, "What Skinner Misses About Machiavelli's Freedom: Inequality, Corruption, and the Institutional Origins of Civic Virtue," *The Journal of Politics* 78, no. 4 (2016); John P. McCormick, *Machiavellian Democracy* (Cambridge: Cambridge University Press, 2011); Jeffery A. Winters, *Oligarchy* (Cambridge: Cambridge University Press, 2011).

My argument has broader implications for thinking about democratic institutional design, the relationship between democracy and liberalism and about what it means for a democratic theory to be "realistic." My argument provides a framework for evaluating and comparing competing institutional designs for democratic procedures. Such evaluations require comparative analyses of how different democratic institutions facilitate or thwart the organization of popular power. To illustrate this, I show that the democratic power approach can articulate the importance of majoritarianism for democracy.

Liberal proceduralist views promised to reconcile liberalism with democracy by showing how democratic institutions helped realize liberal principles of equal respect and concern. Democratic institutions are not instruments for protecting more fundamental liberal rights. Rather, insofar as they enacted fair procedures that treated all citizens equally, democratic institutions could be part of the liberal ideal itself. My argument challenges this reconciliation: the organization of collective power may require systematically biasing democratic institutions against certain political positions that, from the perspective of liberalism, would require fair and equal treatment. Put most bluntly, democracy may be a more partisan ideal—associated with certain political actors and underlying interests, those of the majority as opposed to the relatively powerful and wealthy—than liberal proceduralists acknowledge.[6]

My argument also suggests an alternative democratic realism. Current realist approaches to democracy either insist on beginning from more minimal normative principles, such as legitimacy, or else from a supposedly more realistic estimation of the capacities of ordinary

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[6] While my argument owes much to his, I differ from Josiah Ober in viewing liberalism as a family of political views that often rest on a set of assumptions about the structure of political activity and political institutions, and not just a comprehensive moral worldview. He seeks to show you can defend democracy apart from liberalism; I identify a deeper tension between the liberal tradition and democratic institutions. *Demopolis: Democracy before Liberalism in Theory and Practice* (Cambridge: Cambridge University Press, 2017).

citizens and the benefits of elite autonomy.[7] The following contends that a theory of democracy

is realistic, rather, if it encompasses both the normative principles that animate democracy as

well as the structure of the political avenues, coalitions, and equilibriums that could sustain the

institutional realization of those principles in large-scale, modern societies.

Liberal Proceduralism and the Value of Democratic Institutions

Are democratic institutions valuable because of the structure of their internal procedures

or because they tend, over time, to produce outcomes that maximize some other normative good?

Liberal proceduralism, as I understand it, is the family of views that defend the first answer:

democratic institutions are intrinsically valuable because of how they constitute or contribute to

certain valuable relationships or embody a principle, such as equality, that can only be realized

relationally.[8] Such defenses of the intrinsic value of democratic institutions position themselves

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[7] For the role of legitimacy in realism, see Illaria Cozzaglio and Amanda R. Greene, "Can Power Be Self-Legitimating? Political Realism in Hobbes, Weber, and Williams," *European Journal of Philosophy*, online first; Robert Jubb, "On What a Distinctively Political Normativity Is," *Political Studies* Review 17, no. 4 (2019); Enzo Rossi and Matt Sleat, "Realism in Normative Political Theory," *Philosophy Compass* 9, no. 10 (2014); Bernard Williams, "Realism and Moralism in Political Theory," in *In the Beginning Was the Deed: Realism and Moralism in Political Argument*, ed. Geoffrey Hawthorn (Princeton: Princeton University Press, 2005); for accounts of democracy that begin from the problem of legitimacy under conditions of deep moral disagreement, see Richard Bellamy, *Political Constitutionalism: A Republican Defense of the Constitutionality of Democracy* (Cambridge: Cambridge University Press, 2007); Laura Valentini, "Justice, Disagreement and Democracy," *British Journal of Political Science* 43, no. 1 (2013); for recent realist critiques of citizen competence and fruitful rejoinders, see Christopher H. Achen and Larry M. Bartels, *Democracy for Realists: Why Elections Do Not Produce Responsive Government* (Princeton: Princeton University Press, 2016); Samuel Bagg, "The Power of the Multitude: Answering Epistemic Challenges to Democracy," *American Political Science Review* 112, no. 4 (2018); Lachlan Montgomery Umbers, "Democratic Legitimacy and the Competence Objection," *Res Publica* 25, no. 2 (2019). For a critic of elitist realism that focuses on the value of popular mobilization for democracy, see John Medearis, *Democracy is Oppositional* (Cambridge: Harvard University Press, 2015). I depart from Medearis in emphasizing the positive role democratic institutions play in facilitating the organization of collective power that is the precondition for oppositional mobilization.

[8] For the idea of relational equality, see Elizabeth S Anderson, "What Is the Point of Equality?," *Ethics* 109, no. 2 (1999). The primary value that liberal proceduralists take such institutions to realize is equality, although there are other values, such as freedom as non-domination and autonomy, that are also values that depend on a certain sort of recognized social standing and so can only be realized through certain sorts of relationships, thus producing a potential justification of the intrinsic value of democracy. Here, I focus on equality, as I think it provides a particularly compelling way to spell out the value of democracy, but also because it most directly leads to questions of the broad organization of power in society.

against instrumentalist views, according to which democratic institutions, as the distribution of rights to coercion, are justified only insofar as they reliably produce outcomes that accord with some external normative standard.[9] Liberal proceduralists contend that such instrumental justifications of democracy miss part of the essential meaning of democracy: organizing decision-making in a way that is fair to everyone is a way of providing equal respect to the members of a democratic society.[10] And it is this realization of a principle through an institutional procedure that explains the obligation to obey the discrete decisions of such institutions, even if we may disagree the decision vis-à-vis some substantive standard of evaluation.[11]

While the debate between intrinsic and instrumental views of democracy focuses on the justification of democracy, it also entails a theory, less visible, of how to apply whatever value justifies democracy to political institutions. Implicit in such a theory is a view of what political institutions are, how they function, the relationship between formal rules and their actual operation, and, finally, how they relate to or realize different normative values. In particular, both the intrinsic and the instrumentalist views of democracy concur that the internal procedure

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[9] Richard J. Arneson, "Democracy Is Not Intrinsically Just," in *Justice and Democracy: Essays for Brian Barry*, ed. Keith Dowding, Robert E. Goodin, and Carole Pateman (Cambridge: Cambridge University Press, 2004); Daniel Viehoff, "XIV—the Truth in Political Instrumentalism," *Proceedings of the Aristotelian Society* 117, no. 3 (2017); Steven Wall, "Democracy and Equality," *The Philosophical Quarterly* 57, no. 228 (2007).

[10] Liberal proceduralists disagree both about how exactly fair procedures realize the principle of equality as well as what constitutes fairness. Nonetheless, they agree that the focal point should be the internal structure of a democratic procedure and how it treats different views fairly in reaching collective decisions.

[11] Thomas Christiano, *The Constitution of Equality: Democratic Authority and Its Limits* (Oxford: Oxford University Press, 2008); Niko Kolodny, "Rule over None I: What Justifies Democracy?," *Philosophy & Public Affairs* 42, no. 3 (2014); "Rule over None II: Social Equality and the Justification of Democracy," *Philosophy & Public Affairs* 42, no. 4 (2014); Daniel Viehoff, "Democratic Equality and Political Authority," ibid.; James Lindley Wilson, *Democratic Equality* (Princeton: Princeton University Press, 2019).

of a democratic institution can be segmented from the outcomes of the institution, such that they can be evaluated separately.

Yet the very idea of relational equality should lead theorists to question the distinction between procedure and outcome as a description of democratic institutions. If what we are after is the constitution of broad relationships of equality throughout society, then we must inquire into the effects of both procedures and outcomes on the organization of different broad social actors. The question is whether procedures and outcomes together, over time, produce and preserve broad social relations of equality. The following argument focuses then, not on *what* justifies democracy, but on *how* democratic institutions realize the value that is taken to justify them. My core claim is that the liberal proceduralist view fails to apprehend the conditions under which democratic institutions can realize valuable political goods. The problem, then, is not with the core intuition that there is something intrinsically valuable about the relationships democratic institutions can help constitute and sustain. Rather, it is with how the liberal proceduralist takes democratic institutions to realize such value, and so with the underlying theory of institutions on which the liberal proceduralist view rests—a theory that separates procedure and outcome, inside and outside.

The democratic power approach provides an alternative framework for relating the ideal of equality to democratic institutions. Democratic institutions are mechanisms that function through recursive feedback loops between procedures and outcomes. Insofar as the operation of procedures depends on the background organization of social actors and how they relate to the procedure, the general outcomes of the procedure will alter the potential fairness or integrity of the procedure itself. But to bring this insight into democratic theory, we must begin, not from an ideal of free and equal citizens, but from a theory of collective power whereby such power gets

actualized through procedures that organize the generally more disorganized majority. This view of collective power and democratic institutions points to a revised concept of the people and the state, articulating how both relate to the constitution of political equality over time.

Organized Collective Power

As the following two sections will argue, the limits of the liberal proceduralist view are reflected in its incapacity to account for either the people, as the collectivity behind democracy, or the state, as the infrastructure of power on and through which the people act. But to develop a view of both, and so of the relationship between democracy and equality, we need to begin with a theory of political institutions and organized power. Democratic institutions are always more than just procedures. Like all political institutions, they are both procedures and mechanisms. As procedures, democratic institutions consist of explicit rules that distribute decision-making authority within the institution. But political institutions are also nodal points in the broader organization of power and capacities in society. An overt example of this comes from societies in which routine corruption undermines the efficacy of procedural norms. Both the people and the state exist at the intersection of formal procedural rules and the effects of those institutions on the organization of collective power in society.

Institutions are Procedures and Social Mechanisms

Political institutions are social mechanisms as well as procedures. As I understand it, an institution is a social mechanism insofar as it structures patterns of activity both *within* and *outside* of that institution in a relatively stable and predictable manner. For example, while there may be specific procedures involved in acquiring health insurance in the US (eligibility etc.), on the aggregate level the structure of those procedures is going to affect the incentives of large-scale actors, such as insurance companies or hospitals, in a way that then restructures the

interests and political power of the actors who either sustain or seek to challenge those procedures. In political science, scholars point to how "policy makes politics"—institutional procedures have broader effects on society, creating new political constituencies who will then seek power to influence the structure of those procedures.[12]

If we want to know what relationship a political institution realizes, we need to examine more than the fairness of their procedures. We also need to inquire into how they function as social mechanisms to organize interests and actors—what I am calling collective forms of power. Only then can we determine whether the procedure constitutes the sort of relationship in question. The institutions may still be intrinsically valuable—that is, we could still say democratic institutions bring something valuable into the world just for how they structure our relationships with each other—yet we need a broader account of the sort of structuring such institutions enact. As mechanisms, democratic institutions coordinate diverse actors such as to organize ex-ante less cohesive majorities, enabling them to steer policy and so relate to each other as equal citizens. The crucial point is that the effects of democratic institutions are not outcomes, discrete from procedures. Rather, the effects of institutions, in redefining the collective actors that interact with a procedure, affect the ongoing functioning of the procedure itself.

The language of mechanisms is helpful because it reminds us that certain features of institutions will have relatively consistent effects even in otherwise different contexts. The idea of mechanisms has recently received attention in the philosophy of social science, where scholars argue that causal mechanisms are "identified by the kind of effect or phenomenon" they produce and, moreover, that such mechanisms have "a structure. When a mechanism-based explanation opens the black box, it discloses this structure. It turns the black box into a transparent box and

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[12] Andrea Louise Campbell, "Policy Makes Mass Politics," *Annual Review of Political Science* 15 (2012).

makes visible how the participating entities and their properties, activities, and relations produce the effect of interest."[13] When examining a democratic institution as a mechanism, we have to inquire into its structuring effects on the organization of different actors in society. These effects are distinct from *both* the internal procedures of those institutions *and* the immediate outcomes of those procedures. Rather, the effects of democratic institutions as mechanisms only becomes clear in the context of recursive feedback loops between procedures, outcomes, and the interests and identities of actors. As mechanisms, democratic institutions, in the first place, organize and constitute collective actors that can then work through them – ranging from constituencies through to the people as a whole. But those actors then exert influence on those same institutions. Democratic institutions constitute political agents like the people insofar as those institutions function as mechanisms that rearrange power in the broader social world, enabling the political activity of different collective actors. But this entails a view of power that extends beyond formal decision-making rights—the sort of power on which liberal proceduralists focus in emphasizing fair procedures.

Organized Activity and Collective Power

As mechanisms, democratic institutions affect the organization of power in society. This points to a broader conception of power than is used by liberal proceduralists, who tend to focus on power as something that can be distributed through formal decision-making rules. Power is how those institutions distribute authoritative rights to determine or control the outcome of a decision-making procedure. But organized political power does not necessarily have to mean control over decision-making outcomes. Rather, the power in consideration here is an irreducibly inter-subjective phenomenon that emerges from the ongoing organization of collective activities.

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[13] Peter Hedström and Petri Ylikoski, "Causal Mechanisms in the Social Sciences," *Annual Review of Sociology* 36 (2010): 50, 51.

Arendt puts the point nicely: "What keeps people together after the fleeting moment of action has passed (what we today call 'organization') and what, at the same time, they keep alive through remaining together is power."[14] The power that arises from organization does not give any individual or group unconditioned control or probability of control over the course of events or affairs, as is more clearly the case when someone wins a vote. Nonetheless, such organization enhances our individual and collective power. Organized collective power is not something to be distributed, as is control or influence, but an emergent property of these processes of organization. The distribution of decision-making authority makes it appear as though power is a good to be held and distributed, but that good rests on the prior emergence of power as a feature of the organized coherence of activities that enables people to coordinate their actions through language rather than just force.[15]

To take a mundane example, we see that our individual power, in the sense of our capacity to realize certain goals, is enhanced through organized patterns and structures, such as traffic rules. But the power under consideration here goes beyond coordination—it refers to the specific power that comes from being able to unite organization with persuasion. Persuasion becomes effective insofar as there are organized opportunities for collective action that enable people to channel their persuasive capacities in an organized and quasi-united direction. Here an operative example is a political campaign. While the voting procedures prized by liberal proceduralism may specify a distribution of decision-making power, a political campaign spills beyond formal procedures and towards the activity of organizing collective power, so as to

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[14] Hannah Arendt, *The Human Condition* (Chicago: University of Chicago Press, 1958), 201.
[15] For the discursive and communicative aspect of power, see Rainer Forst, "Noumenal Power," *Journal of Political Philosophy* 23, no. 2 (2015); Jürgen Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, trans. William Rehg (Cambridge, Mass.: MIT Press, 1998).

ensure people exercise that individual procedural right in an organized manner.[16] An electoral victory then has a symbolic and discursive significance that goes beyond the structure of the rules that determine a winner.

Seen in this light, democratic institutions do not (only) distribute power as decision-making rights but also realize power by organizing the disorganized over and against the already organized, such as wealthy minorities and incumbent state actors. The organization of these different political actors will then affect the operation of democratic procedures, enabling some actors to pursue their ends over others. Democracy rests on such feedback loops between procedures and the organization of social power, feedback loops that break down the opposition between procedure and outcome. Part of what gives democracy its dynamic is that these egalitarian modes of organizing power are in constant competition with pre-existing, non-democratic forms of organization as well as with challengers who wish to exert control over democratic forms of organization via formal procedures and the state. Thus, state-formation propels the formation of new political institutions that also seek to organize popular constituencies as a counter-weight to pre-existing, aristocratic hierarchies. Charles Tilly called the state a protection racket – but this fact means it is an *accountable* protection racket, one that supplants other, less accountable rackets.[17] This possibility was recognized by one of the earliest observers of state-formation, Machiavelli, who saw that aspiring princes could forge an alliance

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[16] Insofar as they enable this sort of coordination and organization, parties and partisanship may then be a valuable precondition for the constitution of political equality. For a recent defense of partisanship along these lines, see Jonathan White and Lea Ypi, *The Meaning of Partisanship* (Oxford: Oxford University Press, 2016).

[17] Charles Tilly, "War Making and State Making as Organized Crime," in *Bringing the State Back In*, ed. Peter Evans, Dietrich Rueschemeyer, and Theda Skocpol (Cambridge: Cambridge University Press, 1985).

with the people over and against incumbent elites.[18] Here, political intuitions function to organize the generally more disorganized larger majority over and against more cohesive, and so easily mobilized, powerful minorities. Similar dynamics have played out historically because of state actors' dependence on monetary and military resources of the people (taxation and military conscription, respectively).[19] This dependence meant that those state actors had to organize the people through taxation or military conscription, creating a new source of democratic power that could assert itself when the old order crumbled—think, most dramatically, of the uprisings after World War I that inaugurated new democratic orders in many quasi-authoritarian regimes, such as Germany and Austria.

The State and the People as Political Infrastructure

Democratic institutions are both procedures and mechanisms with predictable social and political effects, effects that will then feedback into the integrity of the institutional procedure. The full import of democratic institutions, in this view, is not exhausted not by how they guarantee certain formal and procedural voting rights. Rather, the value of democratic institutions arises from how the organization of collective power enables the people to act through the state and preserve, through recursive feedback loops between procedure and outcome, relationships of political equality. But how should we conceive of the people and the state? The liberal proceduralist theory has difficulty with both. Such theories implicitly conceive of the people as just the aggregate members of a society and the state as a delegate that directly implements the outcomes of collective choice. Because of its attention to the interaction between formal procedural institutions and the organization of power in society, the democratic power approach can articulate the importance of both the people and the state for democratic theory.

[18] Niccolò Machiavelli, *The Prince*, trans. Harvey C. Mansfield, 2nd ed. (Chicago: Chicago University Press, 1998), Chapter IX.

[19] John P. McCormick, *Machiavellian Democracy* (Cambridge: Cambridge University Press, 2011).

From the point of view of organized collective power, the people stands for the relatively less powerful majority of society and the state for an infrastructure of power through which the people can act.

The People

Democracy means the power (*kratos*), in the sense of an organized capacity to act, wielded by the people (*demos*).[20] But who or what are the people? To the extent that the liberal proceduralists provide a notion of the people, it is a minimal one – the people are simply those subject to the jurisdiction of a particular political community. The people stand for the aggregate members of a political community who owe each other, as individuals, treatment as free and equal citizens. As we will see, the liberal conception of the people mirrors the modern concept of the state, in which the state is a formal-legal ideal derived from a concept like individual right or civil society. In contrast, as an infrastructure of power, the people stands for the political organization of the ordinary, non-elite, and less visible members of a political community—those who abjure or fail to achieve highly visible forms of economic and political power.[21] As with the state, the liberal proceduralist view only proceeds based on the minimal concept of the people. Once the people as infrastructure of power is brought together with the idea that democratic institutions can facilitate the collective organization of power, we can see how the people exercise a sort of collective power within democratic politics, as well as how that collective power is enabled by the institutionalization of democratic structures vis-à-vis the state.

The long shadow of the concept of sovereignty clouds thinking about the people in democratic theory. The development of the idea of popular sovereignty required a

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[20] Josiah Ober, "The Original Meaning of 'Democracy': Capacity to Do Things, not Majority Rule," *Constellations* no. 15, 1 (2008).

[21] For a recent discussion of the implications of this version of the people for debates about liberalism, democracy, and populism, see Camila Vergara, "Populism as Plebeian Politics: Inequality, Domination, and Popular Empowerment," *Journal of Political Philosophy* n/a, no. n/a.

reinterpretation of the nature of the people: froma the infrastructure view, according to which the people are the non-powerful majority that is one source of power within a political community, to the liberal view, according to which the people are all citizens of the community acting together as an authorizing power. According to early modern theories of popular sovereignty, the people comes into existence insofar as everyone, as an individual, formally authorizes a juridical order. The democratic vision of the people is reinterpreted through the lens of individual consent, such that the people ought to be dissolved into a distribution of individual voting rights.[22]

We can see this shift in the reinterpretation of the Athenian understanding of democracy in early modern European thought. The Athenian ideology of democracy was based on the supremacy of the demos, understood in infrastructural terms, while the modern view arises from an idea of popular sovereignty. The Athenian idea of the supremacy of the demos did not necessarily imply a notion of absolute sovereignty, one realized through the people authorizing the constitution or the government. Indeed, it gained political traction because of a crucial ambiguity in the notion of the demos—an ambiguity between the demos as tyrant and as *idiōtēs*.[23] The demos as *idiōtēs* stood for the demos as ordinary people who lack relative social, economic, and political power. The supremacy of the demos meant not just the supremacy of the Assembly as a legislative body representing the desires or wishes of the demos (demos as *tyrannos*), but also the supremacy of non-elite Athenians over elite Athenians (demos as *idiōtēs*). An implication of this ambiguity is that the regulation of political competition in Athens focused, not on the adequate representation of individual components of the populace, but on the

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[22] On the role of consent in modern theories of democracy, see Bernard Manin, *The Principles of Representative Government* (Cambridge: Cambridge University Press, 1995).
[23] Matthew Landauer, "The Idiōtēs and the Tyrant: Two Faces of Unaccountability in Democratic Athens," *Political Theory* 42, no. 2 (2014).

prevention of any one individual or group amassing so much power that they could dominate the demos.[24]

As Kinch Hoekstra has shown, early modern theories of sovereignty deployed an interpretation of Athenian democracy that focused *only* on the tyranny of the demos—the idea of the Assembly as the supreme, authorizing legislative body—while neglecting the other meaning of the demos in Athenian democratic ideology.[25] The rise of the idea of popular sovereignty thus marked a shift in views of the people: from the people as the less powerful members of the polity to the people as all individuals within the jurisdiction of the state who retain ultimate sovereignty whatever specific form the government took. They were sovereign insofar as they retained an ultimate power to authorize the political community. The liberal proceduralist view takes this idea of popular sovereignty and gives it a proceduralist twist. The rational core of the ideal of popular sovereignty is that the legitimacy of the legal order follows from treating everyone fairly and equally, a legitimacy that is realized through fair decision-making procedures. Such interpretations transformed the demos from a designation of an organized group that stands in contrast to economic and political elites and into a collective and unified agent—one that could be a "sovereign" power. Put differently, the modern ideal of popular sovereignty rested on a singularly one-sided interpretation of the nature of democratic politics in Athens. The people became the "sleeping sovereign"—the source of the ultimate authority and legitimacy of the legal order, but one whose agency was attenuated, a reserve power.[26]

The language of popular sovereignty shifted away from the Athenian question—what institutions would organize and empower ordinary people (*idiōtēs*) in the political process—to a

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[24] Alexander S. Kirshner, "Legitimate Opposition, Ostracism, and the Law of Democracy in Ancient Athens," *The Journal of Politics* 78, no. 4 (2016).

[25] Kinch Hoekstra, "Athenian Democracy and Popular Tyranny," in *Popular Sovereignty in Historical Perspective*, ed. Richard Bourke and Quentin Skinner (Cambridge: Cambridge University Press, 2016).

[26] Tuck.

new question: how could the legitimating figure of the sovereign people become compatible with the scale of modern polities? Here, only two alternatives were available: either the people becomes a reserve power that acts only through extraordinary moments of constitutional (re)founding, or popular sovereignty becomes procedure. One avoids these problems if one views the people as a mode of organized collective power, rather than as an agent that exercises sovereign control or an aggregation of individuals. In this view, the people is always partially differentiated from both state actors and the members of powerful groups in society. The people comes into existence insofar as democratic institutions organize the collective power of the generally disorganized majority.

Here, the question is not one of identity but rather one of activity: what are the institutional processes and mechanisms that help sustain the capacity of ordinary people to act in an organized manner? The people is the result of political organization that coordinates the activities of these constituencies through broader social movements and over-arching institutional structures, producing a larger, cohesive, and organized movement that can lay claim to be the people. What this view of the people loses in conceptual precision it gains in both normative desirability and empirical tractability. It is more realistic, better capturing the connection between political institutions and the people, insofar as the people comes into existence through the collective organization of power. But in its realism, it also articulates the connection between the people and the value of political equality, insofar as political equality is sustained through the ongoing feedback between formal institutional procedures and the broader organization of collective power that constitutes the people.

The State

Once political decisions are made, they must be implemented. Liberal proceduralists focus on the integrity of decision-making procedures, identify political equality with fairness in those procedures. But how should we move from simple, direct models of democratic decision-making to democracy at scale, in large, complex societies? Recent liberal proceduralists turn to a model of representation to solve this problem, contending that representation does not undermine political equality insofar as "the relationship between the citizenry and official—say, representative in the legislature" is one of delegation.[27] Political representatives should act as delegates, much like "lawyers, doctors, accountants, and financial planners."[28]

This view fails to apprehend the nature of the state. Political representatives are not delegates—they are nodal points that mediate between the organized power of the people and the institutional infrastructure of the state.[29] The state does not stand to the people as an agent to a principle. Rather, the state is a set of structured institutions that pursue multiple, often contradictory, interests and imperatives. The relationship between the state and the people is one

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[27] Kolodny, 317.

[28] 317.

[29] Empirically, this is a highly implausible view of political representation, as Kolodny grants. But the issue is not just practical. In the first place, representation undermines the idea that relational equality is tied to equal opportunity to influence political decisions. Representation is a temporal relationship. It means abandoning equal influence over a series of future individual decisions. Kolodny observes that other forms of delegation do not imply social inferiority. But he also repeatedly emphasizes that political relationships, because of the potential for coercion, are distinctive from other relationships. Part of what makes delegation, in an unpolitical context, compatible with relational equality is that it is entered into voluntary (one can always represent oneself), usually has a clear endpoint, and so on. Furthermore, the "principal" is usually an individual or a corporate person who maintains the ability to direct their delegate over time. In an ideal delegation relationship, the principle is still guaranteed the right to be consulted on key decisions and, indeed, to decide them. Kolodny's defense of representation leaves out the losers in electing the representative. In a "direct democracy," if I lose a vote on a single decision, I can still view myself as others' equal as I know my odds of influencing future decisions are unchanged. But why should I view a representative elected by a majority in which I did not participate as my delegate? I have now given up my power over a series of future decisions. For a further critique of Kolodny's theory of representation, as well as an account of the relationship between political equality and the state similar to the one developed here, see Arash Abizadeh, "Representation, Bicameralism, Political Equality, and Sortition: Reconstituting the Second Chamber as a Randomly Selected Assembly," *Perspectives on Politics*, online first.

of both interdependence and antagonism. State actors depend on the people for resources, legitimacy, and even existential survival, and yet those actors have a strong interest in preserving their autonomous capacity to implement their own ends. State-formation, then, is both a necessary precondition for the realization of political equality under modern conditions of pluralism and large-scale political orders and a continuous threat to political equality.

As with the people, we can distinguish two different ways that one can analyze the state: the first view is of the state as a concept, one derived from, for example, the idea of right or legitimacy, and the second approaches the state as an infrastructure of power.[30] The first view is historically specific, referring to the ideological self-representation of the form that concentrations of public power took on beginning in 16th century Europe, while the latter is a broader idea that encompasses all contexts in which the administration of power becomes relatively independent from particular individuals or groups. In this broader view, the state is simply any institution that functions to implement collective choices (or enforce them *as* collective choices). It is hard to imagine a political community without some state apparatus, with democracy requiring an administrative state infrastructure that is independent of one family or ruling group. In this respect, Athenian democracy had a state, insofar as there was an institutional system for administering public goods and implementing decisions that did not merge with a single ruling family or group. As a historically-specific concept, however, the state

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[30] While I borrow the idea of infrastructure from Michael Mann, I use it in a more general sense to emphasize the disjunction between the states' formal or conceptually derived authority and the diverse institutional mechanisms through which its power is actually realized. Mann refers specifically to the infrastructural interpenetration of civil society and the state. Michael Mann, "The Autonomous Power of the State: Its Origins, Mechanisms and Results," *European Journal of Sociology / Archives Européennes de Sociologie / Europäisches Archiv für Soziologie* 25, no. 2 (1984); *The Sources of Social Power, Vol. II: The Rise of Classes and Nation-States, 1760-1914* (Cambridge: Cambridge University Press, 1993). Conversely, while all analysis will involve concepts, my critical target is arguments that implicitly or explicitly attempt to drive their political vocabulary—such as the people or the state—from more basic concepts like right or procedural fairness, thereby abstracting from all sociological considerations.

only took shape in 16th century Europe, alongside the philosophy of popular sovereignty, and stood in contrast to the sort of administration by amateurs and notables characteristic of Athenian democracy. The state, then, stood for a permanent apparatus of professional government, one regulated by explicit, formal law and structured by the continuous pressure to rationalize its deployment of coercive power.

This distinction matters, because the liberal proceduralist view presupposes the modern concept of the state, taking it as, if not a reality, then a regulatory ideal. Only with such a concept of the state can Kolodny argue that procedural fairness can realize political equality at scale, with the political actors in the state (representatives) being delegates who implement collective choices in a linear and seamless fashion. In contrast, the state as infrastructure articulates the relationship between organized collective power of the people and the authoritative enforcement of legal norms, with the state instead standing as particular nodal points in the uneven organization of power throughout society. Against the liberal proceduralist ideal of the state as a neutral medium for implementing the results of egalitarian procedures, the state itself is an infrastructure of power that reshapes society. The activities of the state are going to affect the structure of democratic procedures themselves. Here, again, the distinction between procedure and outcome breaks down.[31]

The modern concept of the state developed in the context of a specific model of European authoritarianism. Scholar-administrators like Heinrich Gottlob von Justi articulated the theory of the state as a way to justify the claims of the central authority against the local principalities under their jurisdiction.[32] Such theories sought to derive the state from the concept of civil

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[31] I am indebted to [removed] for this formulation.

[32] J.H.G. von Justi, *Natur Und Wesen Der Staaten Als Die Quelle Aller Regirungswissenschaften Und Gesezze* (Mitau: W. A. Steidel und Compaignie, 1771). For an overview of these views, see David F.

society and individual right as a way of justifying the jurisdiction of centralized authorities. These theories eventually mixed with the social contract tradition to develop the modern theory of the state. The concept of the state, here, is strictly derived from the notion of individual right. That is, the state is legitimate insofar as it is a necessary precondition for the existence of individual rights, rights that are grounded in what it means to be an agent with the capacity for practical reason. In the more ambitious interpretation of the liberal proceduralists, the idea of right is tied to a principle of reciprocity that grounds both private and political rights and justifies democracy as a realization of relational equality. The liberal proceduralist view of the people as the aggregate of individuals and of the state as derived from an individual right go together. In both cases, they derive a description of an institution from a conceptual principle—free and equal individuals, in the case of the people, fair procedures leading to authoritative laws, in the case of the people. The concept of the state provided a powerful framework within which to legitimate the new form of power embodied in these rationalized structures of political administration—it had a "state effect" in drawing new boundaries between public and private and providing public power with new justifications.[33]

To the extent that the liberal proceduralists examine the state, they do so only under the auspices of the modern concept of the state. Yet the modern concept of the state is an idealized and ideological portrayal of the state geared towards the needs and aspirations of state-building authoritarian regimes in continental Europe. Political actors sought to portray themselves as engaging in the "depersonalization" political power by dissolving it into the concept of right, on the one hand, or a functional, rule-governed administrative system, on the other. In reality, the

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Lindenfeld, *The Practical Imagination: The German Sciences of State in the Nineteenth Century* (Chicago and London: The University of Chicago Press, 1997).
[33] Timothy Mitchell, "The Limits of the State: Beyond Statist Approaches and Their Critics," *American Political Science Review* 85, no. 1 (1991).

construction of the modern state was only ever a partial, uneven process. There never was nor could there be a complete depersonalization of power. The depersonalization of power simply means that the individuals exercising power have their field of activity increasingly structured by legal norms and demands for horizontal and vertical accountability, even as these norms and accountability structures are always underdetermined relative to specific choices and actions.

This realist point does not vitiate the importance of legality or democratic accountability. But it does mean that the state is always a site of struggle between competing political interests and not simply an instrument for implementing collective decisions. Even when it has been influenced by the modern ideology of the rational state, the state remains an infrastructure of concentrated power. The state is a (by no means seamless and coherent) agglomeration of political offices held together as much by inertia and informal practices as by conceptually derived legal or political principles. Indeed, democratic polities are often marked by a surprising lack of both rationalized administrative capacity and a weak, if non-existent, resort to Kantian constitutionalism as a legitimating rationale. This power is "public" insofar as it is relatively autonomous from continuous control by specific individuals and groups in society.

What does this mean for political equality and democracy? It challenges the implicit background of the liberal proceduralist view—the idea that one can segment procedure and outcome. The state is not a neutral medium for implementing collective decisions arrived at through procedures that constitute political equality. Rather, the state is both a precondition for and a constant obstacle to realizing political equality—a set of institutional structures that shape the course of potentially virtuous egalitarian feedback loops. States are under pressure to respond to the people and even to help constitute the people through democratic mechanisms and institutions. Yet, at the same time, actors within the state seek to shield their power from public

accountability so as to pursue their own ends as autonomously as possible. Political equality, then, requires more than just the equalization of collective decision-making procedures. It requires the ongoing organization of the majority that can enable the people to act on and through the state.

Conclusion: Evaluating Democratic Institutions

Procedural fairness is an important component of how democratic institutions constitute political equality. But liberal proceduralists risk fetishizing procedural norms as such. They abstract institutional procedures from the broader social balance of forces in which they operate, investing those procedures with a political purpose they cannot realize. Democratic procedures do help to realize political equality, but only insofar as they enable, rather than undermine, efforts to organize the people over and against entrenched, powerful elites and the state. Kolodny imagines democratic procedures scaling through relationships of delegation, yet once representatives are taken to be part of the state, the idea of delegation breaks down. Instead, we should see representatives as perched between the collective organization of popular power and the interests of the state. Indeed, astute empirical observers such as Peter Mair have shown how, over time, representatives and parties can become entrenched in the state, surviving off of collusion and cartelization rather than popular mobilization, and so undermining the collective organization of power.[34]

Taking democratic institutions as mechanisms that organize power in society, and not just decision-making procedures, undermines the distinction between procedure and outcome. The post-Rawlsian debate regarding democracy divides between instrumental and intrinsic views of democracy. Advocates of either assume that this distinction aligns with that between the internal

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[34] Peter Mair, *Ruling the Void: The Hollowing of Western Democracy* (London and New York: Verso, 2013).

structure of decision-making institutions and the outcomes of those procedures. My contention is that we can accept the intrinsic value of democracy and the constitutive role of democratic institutions in realizing political equality without this divide between procedure and outcome. As also substantive social mechanisms with predictable effects, the outcomes of procedures will be inflected by, even as not reducible to, the way those procedures organize and mobilize certain constituencies, groups, and actors in society. These political actors are constantly working within existing procedures as well as trying to advance policies and mobilize supporters in a way that will alter those procedures going forward.

Insofar as democratic institutions are more than formal procedures, then the justification of democracy should involve a comparative evaluation of different institutional options and the extent to which they will further or thwart the ongoing feedback loops that sustain the valuable relationships between equals that democracy enables. Democratic theorists need to evaluate democratic institutions based on their substantive effects on the distribution of power in society and not just their formal structures. Take, as an example, the import of majority decision-making rules for democracy. For example, Kolodny contends there is no inherent connection between political equality and majoritarianism. The typical objection against supermajority rules is that they make one outcome (the status quo) more likely than alternatives.[35] Yet, from the perspective of liberal proceduralism, such a defense of majoritarianism would unfairly burden certain citizens—namely, those who support the status quo. Under a supermajority rule, everyone still "has the same opportunity to influence the adoption of [a] decision as any other person." "What matters for social equality," Kolodny writes, "is that people have equal opportunity to influence

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[35] Melissa Schwartzberg, *Counting the Many: The Origins and Limits of Supermajority Rule* (Cambridge: Cambridge University Press, 2014), 121-25.

decisions, not that decisions have equal opportunity of being made."[36] Supermajority rules are

compatible with this principle, as would be lottery voting, in which everyone casts their vote and

the winning vote was randomly selected.[37]

I believe Kolodny is correct that, from a purely procedural perspective, majoritarian and

supermajority decision-rules are equally fair. However, this is not so when it comes to the

broader effects of democratic institutions on the structure of power outside of the procedures.

The democratic significance of majoritarian democratic institutions resides in how they enable

the collective organization of power. They help realize political equality, not understood as

fairness *within* the procedure, but understood as the people's capacity to sustain and exercise

their organized power. One of the primary effects of majoritarian institutions is to enable the

organization of the otherwise inert majority as the people with organized collective power.

Majority-based voting procedures—both referenda and ballot initiatives as well as more

majoritarian models of representative institutions—create incentives for intrepid actors and

concerted social movements to constitute and mobilize political majorities, such that they can

then exercise power through majoritarian institutions as part of virtuous feedback loops. This is

especially so if one introduces some minimal sociological assumptions about, for example, the

relationship between democratic institutions and ex-ante distributions of wealth, such that

majoritarian institutions will enable the relatively poorer and less organized majority to direct

political power over and against the desires of more organized economic minorities. The concern

here, of course, is that the likely outcome of general majoritarian procedures will be democratic

action against vulnerable, weaker minorities rather than justifiable targets like the wealthy

(justifiable insofar as targeting them fosters virtuous feedback loops). My argument leads to a

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[36] Kolodny, "Rule over None II: Social Equality and the Justification of Democracy," 323.
[37] Ben Saunders, "Democracy, Political Equality, and Majority Rule," *Ethics* 121, no. 1 (2010).

presumption in favor of majoritarianism that could be overridden by specific historical

circumstances. We see this, for example, in consociational, power-sharing institutions in

societies with deep histories of religious strife. But such deviations typically specify the

minorities in question precisely in order to prevent generic counter-majoritarian institutions from

undermining the organization of collective power. Generalized procedures to protect minorities

fail to distinguish between vulnerable minorities and powerful minorities, and so they will

generally undermine political equality by enabling the political organization and activity of

powerful minorities.[38]

One implication of my argument is that there can be a tension between the ideal of fair,

neutral procedures and that of substantive political equality.[39] Insofar as democratic institutions

interact with the organization of power in society, there are conditions in which the realization of

substantive political equality could require relaxing, if not violating, principles of procedural

fairness. For instance, from the democratic power perspective, the connection between

democracy and equal suffrage is contingent, not necessary, and dependent on the likely effects of

changes in the structure of voting rights.[40] Differential voting rights or special vetoes for the less

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[38] See the discussion in Schwartzberg, 172-79. Concerns about introducing status-quo biased veto points in such contexts can be further alleviated through symmetrical special-majority rules, which force each possible outcome to achieve a majority, although these introduce additional problems with regards to ties. See the analysis in Robert E. Goodin and Christian List, "Special Majorities Rationalized," *British Journal of Political Science* 36, no. 2 (2006).

[39] The issues I raise here speak to broader questions about the role of democratic popular mobilization and collective power under non-ideal circumstances in broadly Rawlsian political theory. As Lea Ypi recently argues, for example, that under non-ideal circumstances it would be wrong to identify existing state institutions with an ideal of public reason. Lea Ypi, "The Politics of Reticent Socialism," *Catalyst* 2, no. 3 (2018). Similarly, my argument is that under non-ideal circumstances it would be wrong to conflate political equality with the formal distribution of decision-making rights in those institutions. Rather, we need to examine how such institutions intersect with the organization of power in democratic political movements.

[40] For example, the expansion of suffrage could be democratically disempowering if it is done in exchange for electoral institutions that preserve the dominance of traditional political and economic elites—as, indeed, there is evidence was the case historically. See Amel Ahmed, *Democracy and the Politics of Electoral System Choice: Engineering Electoral Dominance* (Cambridge: Cambridge

powerful or wealthy could both help augment the collective organization of power.[41] Evaluating

institutions based on these sorts of likely effects on these political projects, for liberal

proceduralists, would be a failure to treat individuals as free—it would associate them with a

particular social group or interest.[42] If we see political equality as realized by the collective

organization of power—neither intrinsic to procedures nor instrumental to their outcomes but the

result of ongoing feedback loops between procedures and organized social actors—we have to

include knowledge of the different political projects in our evaluation of institutional

alternatives.

No single institutional procedure will guarantee the stable realization of the value of

equality. Instead, democratic communities must rely on potentially unstable institutional

feedback loops between procedures and outcomes. This follows from the theory of the second

best: in a world in which the ideal preconditions for liberal proceduralism do not hold, there is no

reason to think every move towards fairer procedures will help realize political equality. Rather,

we need to incorporate empirical knowledge of the likely effects of such moves, holding other

factors constant, and it could be that given our current conditions more perfectly neutral

procedural fairness will undermine, not further, political equality.[43] To aid in such comparative

evaluations of democratic institutions, the democratic power approach introduces concepts, such

as democratic institutions as mechanisms for organizing collective power, the people and the

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University Press, 2013). However, in most contemporary societies, a move away from universal suffrage would most likely undermine the organization of collective power.

[41] For defenses of both, see John P. McCormick, *Machiavellian Democracy* (Cambridge: Cambridge University Press, 2011); Dirk Jörke, "Political Participation, Social Inequalities, and Special Veto Powers," *Critical Review of International Social and Political Philosophy* 19, no. 3 (2016).

[42] Thus, in his rejection of arguments for majoritarianism, Niko Kolodny argues we must view individuals as "not bound by, or identified with, any particular choice, judgment, or outlook." Kolodny, "Rule over None II: Social Equality and the Justification of Democracy," 324.

[43] For more see David Wiens, "Assessing Ideal Theories:Lessons from the Theory of Second Best," *Politics, Philosophy & Economics* 15, no. 2 (2016).

state, that help synthesize the modern conditions under which institutional procedures operate. But the democratic power approach also contains a substantive lesson: democratic institutions will, at times, have to treat unfairly the projects of those who want to undermine the collective organization of power. As a result, democrats will sometimes have to choose between procedural fairness and substantive political equality—and they should choose the latter.