IV. SOCIAL INEQUALITY

My thesis, in brief, is that the value of relations of social equality supports an Equality Constraint and a solution to the Bridging Problem. But what are relations of social equality?

Here it may help to start negatively: with what relations of social equality are not. I take it that we intuitively grasp the notion of relations of social superiority and inferiority: that, in virtue of how a society is structured, some people can be—in a sense that is perfectly familiar, even if its analysis is elusive—"above" and others "below." We know the paradigms. The servant is "subordinate" to the lord of the manor, the slave "subordinate" to the master, and so on. If asked to place various social groups in a hierarchy, we do this with ease. The plebian is "lower than" the patrician, the untouchable "lower than" the Brahmin, and so on. We know what Alexis de Tocqueville found so conspicuously absent when he wrote of being struck by the "equality of conditions" (among white men) of Jacksonian America.[4] We know how to follow the subtle negotiations among different "stations" that preoccupy so many European novels well into the twentieth century. Social inequality—the presence of social inferiority and superiority—is what social scientists would describe as "stratification," or what might otherwise be described as "distinctions in rank or status," "hierarchy," or "subordination." To some extent, it is the analogue—irrevocably transformed by symbol and self-consciousness—of "pecking order" in other social animals. This analogy may help to explain the primitive depth and inarticulateness of our consciousness about relations of social superiority and inferiority. And I take it that whereas human beings are instinctively conscious of relations of social inferiority and superiority, we, at least here and now, are not simply conscious of these relations, but are moreover disquieted by them, see them as a problem. The paradigms provoke in us a sense of unease.

But what in these paradigms provokes this unease? What are relations of social superiority and inferiority, exactly? The main negative point is that it is *not* simply a matter of how *stuff* is allocated. More carefully put, relations of social superiority and inferiority do not obtain *just when* some have *more, or better, cooperatively produced means, like liberty and*

4. Alexis de Tocqueville, *Democracy in America*, vol. 1 (1835).

wealth, to pursue their individual plans of life. When, in optimistic moods, I imagine that posterity will have much greater wealth than I have, no question of social superiority or inferiority makes sense. I am not in any recognizable way "subordinate" to my great-grandchildren.

Nor is there social inequality *just when* such disparities are accompanied, and perhaps produced, by a *failure of equal concern for people's independent claims to means*. By an "independent" claim, I mean simply a claim not rooted in a concern about social superiority or inferiority itself, such as a claim based on need or contribution.

On the one hand, this still is not a sufficient condition of social inequality. Suppose that, in a state of nature, several people collaborate in producing some means. Then some of them run off with an unfair share of the fruits of their labors, never to encounter the others again. There is a disparity of means (snared rabbits, say) and a disparity that results from a failure of equal concern for people's independent claims to them (given equal contributions, the rabbits should have been split equally). Nevertheless, because the thieves and their victims do not continue to live together, because the disparity is not, as it were, woven into the fabric of ongoing social relations, there is no structure of hierarchy or subordination between them.

On the other hand, failure of equal concern for claims to independent means is not even a necessary condition of social equality. Perhaps some form of "left-libertarianism" (roughly, the view that each person has absolute property rights in himself, but shares equally with others property rights in the world) or "luck egalitarianism" (roughly, the view that goods should be distributed so that people enjoy equal welfare or resources except for differences that result from their own choices) represents the correct answer to the question "How should we respond with equal concern to independent claims for means—or at least material means?" To my mind, left-libertarianism and luck egalitarianism seem about as plausible of answers to that question as any. Nevertheless, a society scrupulously governed by such a view—and so a society that responds with equal concern for independent claims—might be a society with significant social inequality. The cumulative effect of prudent or imprudent decisions, propensities for saving, and so on in such a society would predictably be class stratification, distinctions in status, personal dependence, and so on. This descriptive point suggests, in turn, a normative point: that, while some form of left-libertarianism

or luck egalitarianism may be the appropriate way to distribute means among people who are for a time thrown together, but will go on to live apart, it is not, at least not without amendment, an appropriate way of distributing means among people who have to share a social world.

These points have become almost a mainstay in discussions of justice in the distribution of economic goods, due to the work of Elizabeth Anderson, Samuel Scheffler, Debra Satz, Jonathan Wolff, and others—work to which I am deeply indebted.[5] For the moment, I am concerned primarily with the descriptive point. A distribution of material goods governed only by an abstract conception of fairness in the allocation of goods—or, as I have put it, by equal concern for people's independent claims to them—will differ from a distribution governed instead by the aim of maintaining relations of social equality among those to whom the goods are allocated, or among them and those responsible for the allocation.

Nor is it even enough to avoid social inequality to distribute means not simply with equal concern for independent claims, *but also with an eye to avoiding the kinds of social inequality that might arise from that very distribution*, for example, regulating even fair disparities of wealth so as to avoid class stratification or personal dependence. Imagine a society administered by a class of ascetic warriors, selected at an early age, by a battery of aptitude tests, to make laws for the laypeople and to regulate justice among them. Imagine that they scrupulously distribute

5. See Jonathan Wolff, "Fairness, Respect, and the Egalitarian Ethos," *Philosophy & Public Affairs* 27 (1998): 97–122; Elizabeth Anderson, "What Is the Point of Equality?" *Ethics* 109 (1999): 287–337; Samuel Scheffler, "What Is Egalitarianism?" *Philosophy & Public Affairs* 31 (2003): 5–39; and Debra Satz, *Why Some Things Should Not Be for Sale: The Moral Limits of Markets* (Oxford: Oxford University Press, 2010). Others, concerned in the first instance with the bad not of social inequality but instead of "domination," such as Philip Pettit and Nicholas Vrousalis, have similarly argued that avoiding this bad may conflict with satisfying independent standards of fair distribution. Philip Pettit, *On the People's Terms* (Cambridge: Cambridge University Press, 2012), chap. 2; and Nicholas Vrousalis, "Exploitation, Vulnerability, and Social Domination," *Philosophy & Public Affairs* 41 (2013): 131–57. I would resist, however, a tendency in this work, as well as in replies to it, to represent luck egalitarianism and "social egalitarianism" as alternative conceptions, supposedly complete in themselves, of justice in the distribution of material goods. Why not view them as two distinct concerns to which a conception of distributive justice should be sensitive? Why not say that a conception of justice should seek, on the one hand, to provide means fairly distributed and, on the other, to prevent subordinating relations from taking root?

means in the way just described. Of course, by hypothesis, they have greater means of certain kinds, such as the opportunity to perform their administrative role. However, suppose that, by way of compensation, they deprive themselves of many personal liberties and material comforts that civilians enjoy. Arguably—to the extent the worth of various means is commensurable at all—they are not even advantaged, on balance, in the distribution of overall means. Yet there is an obvious sense in which they constitute a superior social stratum, occupy a higher position in the hierarchy. This is surely one of the first things that would register on a visitor to their shores.[6]

So what is present in the societies that we have described—societies in which there is equal concern for independent claims to means—that might account for the intuitive presence of social inequality? It seems to have to do with the following:

(i) Some having greater relative *power* (whether formal or legal, or otherwise) over others,[7] while not being resolutely disposed to refrain from exercising that greater power as something to which those others are entitled.

(ii) Some having greater relative *de facto authority* (whether formal or legal, or otherwise) over others, in the sense that their commands or requests are generally, if not exceptionlessly, complied with (although not necessarily for any moral reasons), while not being resolutely disposed to refrain from exercising that greater authority as something to which those others are entitled.

6. This imaginary society should be reminiscent of Philip Pettit's paradigms of beneficent "domination": the kindly slave master, the husband who keeps his wife in a "gilded cage," the aristocrat with a pronounced sense of noblesse oblige, the colonial administrator who tirelessly bears the "white man's burden," and so on. See Philip Pettit, *Republicanism* (Oxford: Oxford University Press, 1999); and Pettit, *On the People's Terms*; and Henry S. Richardson, *Democratic Authority: Public Reasoning about the Ends of Policy* (Oxford: Oxford University Press, 2002), chap. 3. However, as I argue in Niko Kolodny, "Being Under the Power of Others," unpublished manuscript, I think it is a mistake to put this objection in terms of domination, as Pettit defines it.

7. The definition and measurement of such power is, unsurprisingly, a difficult philosophical problem in its own right. See, for example, Alvin Goldman, "Toward a Theory of Social Power," *Philosophical Studies* 23 (1972): 221–68. For present purposes, we just rely on the intuitive judgments on which an explicit theory of such power would be based.

(iii) Some having attributes (for example, race, lineage, wealth, perceived divine favor) that generally attract greater *consideration* than the corresponding attributes of others.[8]

A comment about (i) and (ii), followed by a comment about (iii). The brute fact that the stronger Beefy could physically subdue Reedy need not imply his social superiority over Reedy, if Beefy is resolutely disposed to refrain from exercising this greater power over Reedy, not as an optional gift, but as something to which Reedy is independently entitled. In other words, social equality does not require equality of "raw" or "natural" power: power, such as strength, speed, cunning, or knowledge, viewed in abstraction from human dispositions. Nor can equality of "natural" power be realized by institutional design, for institutions, such as legal systems, themselves consist in human dispositions. What social equality requires is that "natural" power be regulated by the *right* dispositions. This is what the "while" clauses in (i) and (ii) aim to capture. Thus, for example, the mere presence of standing armies need not imply a disparity of power of this kind over political decisions, if (a big "if," in many times and places) they resolutely respect democratic civilian control.[9]

The comment about (iii) is that the responses constitutive of "consideration" are not just any positive responses to a person or his attributes.

8. This selects what I think are the essential features of the analyses of social inequality given by Anderson, "What Is the Point of Equality?" Elizabeth Anderson, *The Imperative of Integration* (Princeton, N.J.: Princeton University Press, 2010), chap. 5; Scheffler, "What Is Egalitarianism?"; Samuel Scheffler, "Choice, Circumstance, and the Value of Equality," *Politics, Philosophy and Economics* 4 (2005): 5–28; Samuel Scheffler, "The Practice of Equality," in *Social Equality: Essays on What It Means to Be Equals*, ed. C. Fourie, F. Schuppert, and I. Wallimann-Helmer (Oxford: Oxford University Press, forthcoming); and Pierre Rosanvallon, *The Society of Equals*, trans. Arthur Goldhammer (Cambridge, Mass.: Harvard University Press, 2013). I say, "selects," because I worry that many elements of Anderson's analysis confuse social inequality with distinct concerns. Some of these elements are not necessary for social inequality, such as "exploitation," "marginalization," unjustified "violence" (Anderson, "What Is the Point of Equality?" p. 313), judgments of superior "intrinsic worth," "natural" or unchosen distinctions such as "family membership, inherited social status, race, ethnicity, gender, or genes," and a denial that "all competent adults are equally moral agents" (ibid., p. 312). And some of these elements seem straightforwardly objectionable on grounds that have nothing to do with social inequality. Unjustified violence, for example, is possible even among people who do not share a society. And it is objectionable simply because it does not respect people's independent claims to be free from such violence, which is a means to just about any sane plan of life.

9. I am particularly indebted to Victor Tadros for discussion of these issues.

By "consideration" I mean to pick out, specifically, those responses that social superiors, as social superiors, characteristically attract. Viewed from another direction, "consideration" is meant to pick out those responses that, in a society like ours, which is anxious about social inequality, we feel, either every person is owed equally simply in virtue of being a person, or are problematic for anyone to give anyone else. Examples are responses such as respect and intimidation. In our society, everyone, we feel, should be given equal respect, and no one should feel intimidated. Similar things might be said about certain forms of attention, deference, courtesy, a willingness to serve the interests of or to fulfill the claims or commands of, efforts to ingratiate or curry favor with, and so on.

By contrast, merely acknowledging someone's special talent or beauty, or feeling love or friendship toward someone, need not be consideration. One can acknowledge such attributes, or love someone, without granting to someone the sort of deference characteristic of the lowly's relation to the high. After all, buyers in a slave market can acknowledge special talent or beauty in their prospective purchases. And even living in a society that at least aspires to equality, we do not think that everyone is owed such acknowledgment simply in virtue of being a person. While politeness might require paying some minimum of attention and regard to each fellow guest at a dinner party whoever he or she may be, it does not require that one find them all equally physically attractive or skilled at conversation, much less that one love them as one does one's spouse or children.[10]

A deeper analysis of the difference between consideration and the broader category of positive response is elusive. However, we can identify some necessary, although not jointly sufficient, characteristics of

10. This is not to deny that people reasonably care about being rated highly for attributes such as talent or beauty. They are an important source of self-esteem. Nor is it to deny that the distribution of such sources of self-esteem is a concern of political morality. Nor, finally, is it to deny that such attributes could be the basis for the sorts of responses distinctive of social inequality. Beauty, for example, could play the role that birth plays in more familiar aristocratic societies. In that case, a beautiful person would attract not only high ratings for his or her beauty, but also greater courtesy, deference, and so on toward his or her person, interests, claims, and imperatives as a whole. The point is simply that this involves a further step. The mere acknowledgment of personal beauty need not be so freighted.

consideration. First, although their *basis* may be some narrow and accidental attribute of the person, the responses constitutive of consideration are *focused* on the person and his or her interests, claims, or imperatives as a whole. Thus, because Herr Geldsack *has high net worth*, one is particularly courteous to *him* and solicitous of *his wishes*. By contrast, we can rate a sprinter highly along the dimension of speed, say, without this bleeding into our responses toward him or his claims as a whole. Second, these responses are *practical*, matters of how someone deals with the person and claims of the target. They are not simply judgments of the kind that an uninvolved spectator would make. By contrast, acknowledging that Genghis Khan was a fine horseman is not itself a practical judgment, but instead an observation open to twenty-first-century students of military history to make. Finally, the responses constitutive of consideration are "agent-neutral" in character. If the fact that X is higher born than Y calls on Z to give greater consideration to X than to Y (perhaps where Z *is* Y), then it calls on *everyone* else to do the same. By contrast, friendship and love are agent-relative in character. The fact that X is my friend calls for me to give greater weight to X's interests than Y does not mean that it calls for others, such as Y's friends, to do the same.

Since these are, to repeat, not sufficient conditions, more remains to be said. However, our purposes may not require a deeper analysis of the difference between consideration and other kinds of positive response. While such an analysis would be essential to a freestanding account of what social inequality is, such an analysis need not be essential to the argument that a concern for social equality implies a concern for democracy. Even setting aside the (iii) consideration component of social inequality, the (i) power and (ii) de facto authority components of social inequality may suffice for that argument. (A similar reply can be given to the reservation, which some may have, that, while disparities in power and de facto authority may be problematic, disparities in consideration as such are not.)

In any event, this account of social inequality is only a first approximation. I do not mean to suggest that social inequality, at least of any objectionable kind, arises whenever there are inequalities in power, authority, and consideration. As we will see shortly, other factors, involving voluntariness and the finality of authority, also come into play. Nor is this to say what, if anything, unequal opportunity for influence over

political decisions might have to do with social inequality. This preliminary account simply tells us where to look: not at who has what, but instead at who enjoys power or authority over, or greater consideration in comparison with, whom.

Nevertheless, this first approximation suffices to explain some observations made earlier. First, it explains why a failure of equal concern for independent claims is not necessary for social inequality. Since those with greater power and authority may nonetheless exercise it in accord with equal concern for independent claims to means, there can be disparities of power and authority even though there is equal concern for independent claims to means. Such was the case with our ascetic warriors. And while giving weight to someone's independent claims to means is *one* response constitutive of consideration, there are *other* responses constitutive of consideration, such as deference and intimidation. So there can be disparities of consideration even when there is equal concern for independent claims to means.

Second, this preliminary account explains why a failure of equal concern for independent claims to means is not sufficient for social inequality. No matter how unfair the resulting disparities in means, the absconding collaborators at least raise no question of social inferiority or superiority. Since there is no further interaction between them, the theft does not produce any disparity in power or authority *over* their victims. And it cannot result in any disparity of consideration. In order for there to be disparity in consideration, there needs to be a common judge, who gives greater consideration to the social superior and less to the inferior. But the absconders and their victims live too far apart to come under the same appraising eye.

V. SOCIAL INEQUALITY: NOT INSTRUMENTAL, OR EXPRESSIVE, OR A SPECIAL CASE

So much, for the moment, for what relations of social inequality are. I argue—or, rather, I propose for consideration, since it is not the sort of claim that admits of much articulate argument—that we have reason to avoid relations of social superiority and inferiority for their own sake, not simply as a symbol of, or means to, something else. Simply to restate the thought, and not to give it a deeper explanation, one might say that relations of social inferiority and superiority are inappropriate among

distinctive goods, formed by life within such communities, may provide members not only with overriding reasons *against* seeking to ameliorate the bads on which the goods constitutively depend, but also with exclusionary reasons against even ambivalence: against seeing such bads as bads at all. Their attachments give them compelling reasons, if not to believe a falsehood, then at least not to give thought to a truth: that disability or social inequality is, in itself, something to be regretted.[15]

VI. WHY ARE POLITICAL DECISIONS SPECIAL FOR SOCIAL EQUALITY?

Suppose, then, that—whether from sincere conviction or only from a polite gameness—the reader grants a concern for social equality. The question is then why equal opportunity to influence political decisions should be a particularly important component of social equality.[16]

The start of the answer is easy: To enjoy influence over a decision that has power and de facto authority over others is itself a kind of power and de facto authority over others. Moreover, it is constitutively a form of consideration, insofar as others are disposed to comply with one's proposals, and being so disposed is itself a consideration-constituting response. And it can be expected to bring in its train other such responses, and so other forms of consideration. The obvious problem, though, is that the same can be said of any number of nonpolitical decisions: say, in churches and universities. Yet we do not seem as troubled by inequalities of influence over those decisions.[17] To be sure, the point should not be overstated. We are troubled by inequalities of

15. To be clear, I do not claim that this view of deafness is correct. Deafness may simply be a difference, not a bad. I claim only that this view is coherent, which is all that the analogy requires.

16. The idea that a concern for social equality implies a concern for democracy is often suggested in the literature. See, in particular, Elizabeth Anderson, "Democracy: Instrumental vs. Non-Instrumental Value," in *Contemporary Debates in Political Philosophy*, ed. John Christman and Thomas Christiano (Oxford: Wiley-Blackwell, 2009), pp. 229–43. It remains somewhat unclear to me, however, how Anderson thinks the implication runs. She appeals to a number of different values. Some of these do not seem to require democracy (in our sense): such as counting others' interests and claims equally and expressing the fact that one counts them equally. Other of these values (though they may be otherwise appealing) have little directly to do with social equality: positive self-government, participation, discussion, experimentation.

17. For forceful statements of this objection, see Richard Arneson, "Democratic Equality and Relating as Equals," *Canadian Journal of Philosophy*, supp. vol. 36 (2010): 25–52; and Arneson, "The Supposed Right to a Democratic Say," in Christman and Christiano, *Contemporary Debates in Political Philosophy*, pp. 197–212.

influence over many nonpolitical decisions, especially in relationships whose value constitutively depends on a certain degree of equal standing. Such relationships include friendship and loving marriage or partnership, at least as these are understood in our place and time. But, all the same, we are not troubled in the same way in many other nonpolitical contexts.

One might reply that even those inequalities of influence are objectionable as such, but that we tolerate these departures from the egalitarian default because the objections are outweighed by other values. Some inequality in decision making is the tragic price of efficiency. Or some inequality in decision making may be constitutive of certain social forms that we find valuable in themselves. But this reply puts the justification of political democracy in jeopardy, or at any rate does not explain what needs to be explained: why we are not as troubled by inequalities of influence over the decisions of nonpolitical associations. For on the assumption that some alternative procedure of political decision making, such as Mill's plural voting scheme, would be substantively better, we have compelling reason to depart from the egalitarian default there too. So why not be just as tolerant of departures from the default in the political case? For this reason, we need to see whether we can identify certain special features of the political: if not unique to the political, at least not shared by those nonpolitical associations whose inequality does not trouble us in the same way.

Returning to the paradigms that provoke anxiety about social inequality, we can observe, first, that one way of avoiding, or at least moderating, what would otherwise be a relation of social inferiority is being able to escape it at will. If one can exit a slave "contract" at will, either because, as one knows, one can void it at will, or because it is already void (that is, will not be enforced by third parties), then it is not clear in what sense one really is a slave. More generally, what seems to matter for relations of social inferiority and superiority is not so much equality in *actual* power, authority, and consideration, but instead equality *of opportunity for* power, authority, and consideration, where equality of opportunity is understood not as equal ex ante chances, but instead as *ongoing freedom (both formal and informal) to exit relations of inequality*.[18] As far as

18. As Anderson stresses, a concern for social equality does not support a "starting-gate" theory (Anderson, "What Is the Point of Equality?" pp. 308–9), but instead requires access "at all times" (p. 289). This point may, however, be in tension with her suggestion

standing with others as an equal is concerned, *opportunity*, rather than the *exercise* of opportunity, is what matters. The point is not that while nonpolitical social inferiority is always a burden, one forfeits one's complaint when the burden is self-imposed. It is rather that the freer one is to exit what would otherwise be a relation of social inferiority, the less it seems a relation of social inferiority in the first place.

However, one typically cannot escape the effects of political decisions at will, or at least not without high cost or difficulty. By contrast, escaping subjection to the decisions of nonpolitical associations (at least in nonslaveholding or nonfeudal societies) can be freer. Of course, it need not be freer.[19] But, in that case, worries about social inequality in those nonpolitical relations intuitively *do not* seem out of place. This is not an objection to the account, but rather an implication of it: that disparities of power in employment, or in the family, may be as threatening to social equality as disparities of political power when, like political power, they cannot be voluntarily escaped.

To illustrate a second way of avoiding, or at least moderating, what would otherwise be a relation of social inferiority, suppose that lord and servant set terms at the start of each year, somehow with genuinely equal influence, over how the lord is to boss the servant around. Of course, this may make the labels "lord" and "servant" less applicable, but that is the point. In such a case, the fact that they have equal influence (with one another and with whoever else might have such influence) over decisions higher up, as it were, the chain of command, which set the terms for how other, lower-order decisions are to be made, plays a role in avoiding, or moderating, the social inferiority that unequal influence over those decisions would otherwise entail. To be sure, equal influence over setting the terms may not be a *sufficient* condition for such avoidance or moderation. Perhaps the lower-order inequality must have a

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that the objection to hierarchy is answered by the "fair opportunity principle" (Anderson, *The Imperative of Integration*, p. 107).

19. Moreover, the freedom to exit any particular relation of subordination to any particular superior may not suffice for what matters for social equality: a freedom to exit all such relations. It might be like the relation between the proletarian and the capitalist class depicted by Marx. Or it might be like the relation between women and men, in a society where each woman has the right to divorce her current husband, but is expected to be subservient wife of *some* husband.

justification based on equal concern for independent claims. Or perhaps it must not shore up, or be predicated on, relations of social inferiority (such as between men and women) elsewhere. The suggestion is just that equal influence over setting the terms is one *necessary* condition for such moderation or avoidance, absent standing freedom of exit. Without that—if the lord continues to set the terms for how he himself bosses the servant around, without ceding any influence to the servant, and if the servant has no escape—then it is hard to see how the servant can have equal standing in their relations.

Now, this moderating maneuver may be possible with nonpolitical decisions. But it is not going to be possible with political decisions. This is because political decisions, characteristically, issue commands that are claimed to be and are generally (if not exceptionlessly) treated as overriding or nullifying any other decision. That is, they have *final* de facto authority.

There are really two points here. The first is simply that the fact that the threat to social equality posed by unequal influence over political decision making cannot be moderated in this way, since there is no higher court of appeal, makes equal influence over political decision making particularly important. It becomes our only option.

The second point is that if we do have equal influence over political decisions, and those decisions have final authority over nonpolitical decisions, then that itself contributes to moderating the threat of social inequality posed by unequal influence over nonpolitical decisions. Thus, the fact that we do not see those decisions as striking against our social equality is not surprising. The threat to social equality that hierarchy would otherwise pose, one might say, is moderated by the fact that whatever hierarchy there may be is ultimately regulated or authorized from a standpoint of equality. This is closely related to a point made by Rawls and Joshua Cohen in defense of the priority of basic liberties. The common status as "equal citizens" that equal basic liberties provide makes the other inequalities, not simply in income and wealth, but also in positions of authority and responsibility, more tolerable than they would otherwise be.[20]

20. As Rawls notes, equal basic political liberties are particularly central to this status: "When the principle of participation is satisfied, all have the common status of equal citizen" (Rawls, *Theory of Justice*, p. 227). In a sense, this article is an attempt to come to

Finally, although there are many kinds of power that one person can have over another, the power to subject another to physical force—to literally "push another around"—is especially important to relations of social superiority and inferiority. Perhaps force is special because it is the primitive starting point in thinking of relations of interpersonal power: the sort of thing that even a child (or, in its way, a pecked chicken) can understand. Or perhaps force is special because it preempts rational persuasion, and so relates to the target as a brute or thing, a relation of superiority if ever there was one. I suspect, though, that force is special because, as a contingent matter, the power to use force is the "final" power, in a sense analogous to the "final" authority just discussed: the power that usually determines the distribution of other powers. In the normal run of human affairs, one cannot reliably have superior powers of other kinds over others where they have superior powers to subject one to force. For example, one cannot have the power to withhold certain goods from them, since, if need be, they will take those goods by force.

If asymmetries in the capacity to use force are distinctively important for social equality, then asymmetries in influence over political decisions will be important to social equality in a way that asymmetries in influence over nonpolitical decisions are not. For whereas nonpolitical decisions do involve certain kinds of power, political decisions characteristically involve force, for example, through commands ultimately backed by threats of force.[21]

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terms with the chord struck by this remark. See also Joshua Cohen, "The Natural Goodness of Humanity," in *Reclaiming the History of Ethics: Essays for John Rawls*, ed. Andrews Reath, Barbara Herman, and Christine Korsgaard (Cambridge: Cambridge University Press, 1997), pp. 102–39, at pp. 120–21.

21. I do not claim that it is necessary and sufficient for a decision's being political that it cannot be escaped at will and involves either force or final de facto authority. Some decisions count as political, or at least properly subject to democratic decision making, even though they neither use force or coercion nor issue commands. Consider decisions to alter the physical environment irrevocably, or make use of state property, or do or say things "in the name of the community." Such decisions, one might say, dispose of what all hold in common, of what is, in some sense, the joint property of every member of the community, even if they do not involve force, or coercion, or command. (Conversely, decisions that involve force, or coercion, or command need not only, or perhaps at all, dispose of what is held in common. Take a decision that merely commands certain patterns of human action and forbearance. These patterns of action and forbearance are not like the natural environment, or state assets, or the reputation of the community. My

VII. EQUAL OPPORTUNITY FOR INFLUENCE OVER POLITICAL DECISIONS AS A COMPONENT OF SOCIAL EQUALITY

The thesis, then, is that it is a particularly important component of relations of social equality among individuals that they enjoy equal opportunity for influence over the political decisions to which they are subject.[22] However, two parts of this claim—"particularly important component" and "equal opportunity for influence"—bear some clarification.

Equal opportunity for influence is a "particularly important component" in the sense, first, that it is necessary for full or ideal social equality. That is, where equal opportunity to influence political decisions is absent, there is at least some failure to achieve the ideal. Second, in a wide range of (although not necessarily all) nonideal circumstances—in which the addition of equal opportunity to influence political decisions

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actions may be part of the patterns, and the body by which I perform my actions may belong to me exclusively. But it is not as though each of us somehow jointly owns the pattern consisting in the actions performed by everyone else.)

If there are decisions that dispose of what is held in common, then there seems to be a fairly immediate explanation of why there should be equal opportunity for influence over them, which may need no recourse to considerations of social equality. Once it is established, by whatever argument, that these things really are ours, that they are our joint property, then that would seem already to entail that how they are disposed of should be in some way sensitive to our choices (whether or not our choices serve our substantive interests). And if these things are equally our property, then how they are disposed of should be equally sensitive to our choices.

22. In evaluating the claim that equal influence over political decisions is a particularly important component of social equality, one should not be misled by artifacts of salience. If members of a university department all give one another an equal voice on department affairs, a fair share of the collective benefits and burdens, and mutual regard and esteem, the suggestion that those of them who are not citizens of the state in which the university is located are somehow "subordinate" to those who are may not seem very plausible. (In part, this may simply be because the noncitizens on the faculty are noncitizens voluntarily and retain rights of citizenship in their home country. Things might already be different if they were refugees denied any path to citizenship in the new country or any right of return to the old.) But now suppose that during a period of nationalist hysteria, a referendum is proposed to jail or deport foreign intellectuals. The citizens on the faculty vigorously oppose it, and refuse to let it affect departmental governance, much less their face-to-face interactions. But now the mere fact that they share in an asymmetry of power over political decisions, decisions to which the noncitizens will be subject, generally becomes more salient, and it does raise a question of subordination. But, then, this asymmetry of power, and so the question of subordination it raised, was present all along. The deportation proposal simply made it visible.

cannot realize full social equality, because of other asymmetries in power, authority, and consideration—the addition of equal opportunity to influence political decisions nevertheless brings us closer to full social equality. And finally, as we saw earlier, equal opportunity to influence political decisions plays an important structural role in moderating the threat that other asymmetries would otherwise present to social equality, insofar as it ensures that whatever hierarchy there is is regulated from a standpoint of equality.

This is not to argue, by any means, that equality of opportunity for influence is sufficient for full social equality. It is easy to imagine any number of political decisions that, in their content, would strike against social equality, even if arrived at with equal opportunity for influence. To take the extreme, there might be a unanimous referendum to establish a hierarchical society. (This may be an important source of limits to democratic legitimacy and authority, although again such limits lie outside the bounds of this article.) Nor is it to deny that in some nonideal circumstances, striving for equal opportunity to influence political decisions may actually take us further away from full social equality. For example, giving greater opportunity to influence political decisions to members of groups whose acceptance as social equals is under threat in other domains, especially as a kind of temporary or remedial measure, may be warranted.

What is "equal opportunity to influence" political decisions? Note, first, that it is a matter of influence, not correspondence. One enjoys influence to the extent that the decision is reached by a process that is positively sensitive to one's choice or judgment, such as by a fair vote. By contrast, one enjoys correspondence with a political decision just when the decision *is* the one that matches one's choice or judgment. So long as one enjoys equal influence, whether or not one enjoys correspondence does not, in itself, bear on one's standing as a social equal.

Second, what matters is one's equal relative influence with others, not the absolute extent of one's influence. The fact that one does not have influence over the decision is not a matter of concern for social equality, so long as no one else has influence over it either. A decision made by no one does not represent the superior power or authority or any individual over any other.

Third, what matters is opportunity for influence, not the exercise of this opportunity. If I have the same opportunity as you have to influence

a decision, but choose not to take it, then there is no hierarchy or subordination between us, at least with respect to the making of that decision. Among other things, this means that nonparticipation in itself has no bearing on one's standing as a social equal.

Fourth, what matters is, specifically, equality of opportunity for *informed* influence. Suppose an asymmetry in influence over a decision would threaten social inequality between us. It scarcely defuses the threat that while both of us can, in a suitably objective sense, influence the decision, I know how to influence it in accord with my judgments, but you do not: your attempts at influence are, from your perspective, more or less random. To take an extreme case, a disparity of knowledge of this kind could be what makes you my slave; I know the code that unlocks your chains, whereas you can only enter numbers at random. The point is not that giving you as much information as I have will lead us to make a better decision—although it may well do that too. The point is instead that, whether or not it leads to a better decision, it helps to remedy the imbalance in power between us.

Finally, what matters is equal opportunity not only for informed influence, but also for autonomous influence: influence knowingly in accord with judgments that are themselves reached by free reflection on what one takes to be relevant reasons. It scarcely defuses the threat of social equality if I can manipulate the judgments that underlie your vote.

VIII. AN EQUALITY CONSTRAINT AND AN ANSWER TO INSTITUTIONS

How, then, do we ensure equal opportunity for informed, autonomous influence over political decisions among people who do have ongoing social relations?

One possibility, in principle, would be anarchism: that no political decisions are made at all. Perhaps we can imagine a state of nature where no one has final de facto authority over anyone. It is harder to imagine a state of nature where no one is exposed to force or coercion (say, in the form of deterrent threats of self-defense). But if all were suitably symmetrically situated and independent, then perhaps no one would be exposed to the superior capacity for force or coercion of any other individual (which means, among other things, that no one ever joins forces with another to expose a third party to force or coercion over which he

has no influence). It is hard to see why there would be relations of social inferiority and superiority under such conditions, at least with respect to the making of political decisions. So there is no argument, here, that social equality requires the state, only, as we will see, that it is compatible with the state.

Let us, however, make the entirely safe, factual assumption that more substantial political decisions will be made. Then one possibility, already broached in passing, is to ensure that no individual has any opportunity for influence over those decisions.

To some extent this is realized by the "rule of law," which is often tellingly contrasted with the rule of men.[23] To the extent that the greater power, authority, and consideration (the "majesty" of the law) really do reside in the law, and not in any individual, none of us is ruled by any other one of us. Indeed, I suspect that this is the source of much of the appeal of the ideal of the rule of law: not simply its regularity or predictability, but also its impersonality.

The difficulty is that the rule of law, on its own, is insufficient. The laws themselves must come from somewhere. And if the laws come from only some of us, then the rule of law will seem merely like a particularly efficient and self-disciplined way of subordinating the rest of us. The rule of law, one might say, realizes the rule of those, if any, with the power to determine what the law is, to the extent that they have the power to determine it.[24]

In principle, laws, or political decisions more generally, might be made by *someone*, but not by someone with whom any of us, who are subject to the decision, has ongoing social relations. In that case, that person's greater opportunity to influence decisions would not threaten social equality. At first glance, though, it may be obscure how this could occur. Rule by a colonial power will not fit the bill, since only the narrowest conception of "social relations" would deny that there are social relations between colony and imperial center.

23. This is an important current in Arthur Ripstein, *Force and Freedom: Kant's Legal and Political Philosophy* (Cambridge, Mass.: Harvard University Press, 2009). A distinction between "offices" and "persons" is often invoked in a similar spirit. See Anderson, *The Imperative of Integration*, p. 106.

24. However, this means the rule of law has a crucial role to play in ensuring social equality. Social equality is not achieved if, while our opportunity to influence the making of the "law" is equal, we are ruled by something other than this law that we make.

However, if one looks across time, rather than space, then the phenomenon comes to seem pervasive. To a great extent, the accumulated body of law to which we are subject was made by those no longer living. In this way, we are subject to political decisions of the dead. Now, perhaps we have the sort of ongoing social relations with the dead that make our social equality with them an object of concern. But perhaps not. Perhaps their relation to us is like the relation of the absconding rabbit hunters to their victimized colleagues, or like posterity's relation to me. On this view, Thomas Jefferson's suggestion,[25] in his letter to James Madison of September 6, 1789,[26] that every generation should draw up its own constitution, on the grounds that " 'the Earth belongs in usufruct to the living'; that the dead have neither powers nor rights over it" would be not simply unworkable in practice (as the more reliably earthbound Madison tactfully observed in his reply of February 4, 1790[27]) but also wrongheaded even as a matter of theory.

The basic point is this. If our concern were for correspondence, or some kind of absolute influence, then Jefferson's proposal would be the obvious ideal. By contrast, if our concern is social equality, then perhaps there is no objection to rule by the "dead hand of the past": where all are committed to following whatever law may have been bequeathed to us, just as we might all be committed to following whatever law a majority of us chose. At least it is an open question. And if there is no such objection, then this may be one respect in which human mortality is not entirely to be regretted. It gives us intelligent decision making without the threat of social hierarchy.[28]

25. A suggestion sympathetically explored by Michael Otsuka, *Libertarianism without Inequality* (Oxford: Oxford University Press, 2003), chap. 7.

26. www.let.rug.nl/usa/presidents/thomas-jefferson/letters-of-thomas-jefferson/jefl81.php.

27. www.constitution.org/jm/17900204_tj.txt.

28. If we accept that rule by the dead is compatible with social equality, why not also rule by God, or—for that matter—rule by substantive correctness? Why can a cleric not say to dissenters: "Listen, *I* don't make the rules, I just read them out, and then obey just like you. We're all *equals under Him*. Take your complaint to the Guy upstairs." And why can the philosopher king likewise not say: "Listen, *I* didn't invent the Form of Justice. We're all equals *under It*. Take up your complaint with the Order of Things." As with rule by the dead, these procedures may well be substantively problematic, because of limited foresight and conflicts of interpretation. But do they threaten social equality?

It depends on what these procedures come to. Consider "rule by substantive correctness." On one variant, this might amount to following a specified code, whose

The difficulty, of course, is that this inheritance, as rich as it may be, is neither perfectly prescient nor perfectly self-interpreting. Decisions may be substantively poor, and conflicting interpretations may lead to coordination failures, with ensuing substantive losses. New decisions will need to be made, and old decisions will have to be disambiguated.

This can be done without giving any of us any opportunity for influence, such as by lottery, or it can be done by giving each of us some positive, but equal, opportunity for influence, such as by voting. The concern for social equality thus functions as an Equality Constraint, which is satisfied by equal democratic decision making, as well as by positive democratic decision making.

Needless to say, this does not rule out other arguments, which appeal to something other than social equality, for positive procedures over merely equal procedures. One argument is simply instrumental: namely, to appeal to the following:

> *Constrained Reliability Thesis*: As things actually are, or could reasonably be expected to be, some positive procedures that satisfy the Equality Constraint are more substantively reliable than any nonpositive procedures that satisfy the Equality Constraint.

This strategy of argument for positive democracy, which combines the Equality Constraint with the Constrained Reliability Thesis, has a distinguished pedigree, to which I am indebted.[29]

One might suggest that there are also noninstrumental reasons for positive democracy. Perhaps, to take a possibility briefly explored in the companion article, it is valuable, in itself, for a collective to make

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interpretation leaves little room for judgment, which, as it happens, reliably arrives at the correct answer. This would indeed give everyone equal opportunity for autonomous influence, by giving them none at all. On another variant, however, this might amount to relying on the judgment, or interpretation, of some sage, who, as it happens, reliably arrives at the correct answer. This would not give everyone equal opportunity; it would give the sage greater opportunity than others to influence the decision in line with his autonomous judgment. Moreover, the substantive good typically radically underdetermines the choice of policy. So, even if the sage were consulting the Forms themselves, with eyes seasoned to the glare, he would find much left to his discretion.

29. See Rawls, *Theory of Justice*, p. 221; Charles Beitz, *Political Equality* (Princeton, N.J.: Princeton University Press, 1989), p. 113; and David Estlund, *Democratic Authority* (Princeton, N.J.: Princeton University Press, 2009).

political decisions on the basis of reasoned deliberation, and we have interests in participating in this activity. Or perhaps we have other interests served by opportunity for positive influence over political decisions. Indeed, perhaps the mutual recognition of such interests is even a constitutive part of relations of social equality. The present account does not rule out these possibilities. However, on grounds explored in the companion article, I am pessimistic that we can identify interests of the right kind. Moreover, the instrumental case for positive democracy better coheres with certain intuitions than a noninstrumental case, which argues for positive procedures even when merely equal procedures are substantively more reliable. For instance, there is the intuition that, when it comes to deciding who is to be drafted, a fair lottery is better than a vote. A lottery fully satisfies the substantive claims of each—namely, that he should have an equal chance of avoiding the draft—whereas a vote only introduces the possibility of substantive unfairness (for example, that voters gang up on a salient or disliked candidate). If we accept that the argument for positive procedures in general is purely instrumental, then we can explain why, in this case, in which positive procedures are less substantively reliable, merely equal procedures are intuitively preferable. By contrast, if we insist that there is a noninstrumental argument for positive procedures, that some important value of "self-governance" always argues in favor of a vote, then we need to explain why, in this and all similar cases, that value is overridden in favor of a lottery.

Even if we leave unresolved whether there is a noninstrumental case for positive democracy, we still have an answer to Institutions. We should see to it that people follow democratic decision-making procedures, on grounds of social equality, with the choice between equal or positive procedures being settled on other grounds, principally perhaps grounds of substantive reliability.

IX. A SOLUTION TO THE BRIDGING PROBLEM AND ANSWERS TO LEGITIMACY AND AUTHORITY

Recall that to answer the question of Institutions is not immediately to answer the questions of Legitimacy or Authority, in part because of the Bridging Problem. Suppose, to take the case of Authority, I face a choice on some particular occasion of implementing either the democratic decision or a substantively superior decision. If the only reason for

is one of our incidents of social inequality. But the first objection—that they have been deprived of their fair share of means—can be pressed without saying anything about social equality. And this objection has nothing in particular to do with serving as a political representative. It would apply with just as much force if women were categorically denied the opportunity to pursue a career in medicine or law.

XI. WHICH DEMOCRACY? EQUAL A PRIORI CHANCES OF DECISIVENESS AND MAJORITARIANISM

What does equal opportunity for influence, understood as a component of social equality, require of formal procedures? These formal procedures govern both the "electoral system" (the casting and counting of ballots in elections and referenda) and "parliamentary procedure" (how representatives, if any, reach final decisions).

At this point, it will help to distinguish three different forms of influence. First, one is *decisive* when, had one's choice or judgment been different, the decision would have been different. For example, under majority rule, one is decisive when and only when there is a tie or one is a member of a majority that wins by a single vote. Second, one has *control* over the outcome to the extent that one's judgment or choice would be decisive over a wide range of changes in relevant conditions, including, especially, the choices and judgments of others. "Wide," as vague as it is, will serve our purposes. An effective dictator, for example, has control over the outcome. Now, it might seem that one has influence only when one is decisive. But this hardly seems a conceptual truth. There is, third, also a notion of *contributory influence*, which might be understood on a model of applying a vector of force, which combines with other vectors to determine a result. The result is sensitive to this vector of force, and the vector remains the same in its "magnitude" and "direction," no matter what other vectors are supplied. Images of placing equal weights on scales, or applying equal tension to a rope in a game of tug of war, suggest themselves.

For reasons that will become clearer, equal opportunity for influence, of the kind relevant to social equality, is best *interpreted* as equal opportunity for contributory influence. How should equal opportunity for contributory influence be measured? My view is that by X-ing, I exercise equal contributory influence over a decision just when my X-ing has

equal a priori chances of being decisive over the decision, that is, has equal chances of being decisive on the assumption that no pattern of X-ing by others is more likely than any other pattern.[35] If, as it were, the weights are equally heavy, then everyone should have the same chance of tipping the scales, assuming that no placement of other weights is more likely than any other placement.

The point, I stress, is that formal procedures should realize equal a priori chances of decisiveness as the natural *measure* of equal contributory influence. I am not suggesting that voting rules should realize a priori chances of decisiveness because what most fundamentally matters to each individual is equal *actual* decisiveness. That suggestion would invite the reply: "If what matters is equal decisiveness, then why should anyone care about equal chances of decisiveness under the utterly artificial and unrealistic assumption that no pattern of votes is more likely than any other? What we should seek to realize is equal actual decisiveness: that, given how everyone actually votes, either everyone is decisive or no one is."

Of course, one might argue on independent grounds that equal actual decisiveness is what we should seek to realize: that it represents a better interpretation of equal opportunity for influence than equal opportunity for contributory influence. It might seem to be somehow more realistic, more attentive to the facts on the ground.

In one way, however, this alternative interpretation makes no difference. As things are, electoral systems that realize equal a priori chances also realize equal actual decisiveness, because they almost never leave anyone decisive. Steven Lee expresses a common, but mistaken, view in writing:

> Under "one person, one vote," individuals who are constantly in the voting minority do indeed have an equality of potential influence, in the sense that, independent of knowledge of the constellation of interests among voters, they would be seen as as likely to cast the deciding vote as anyone else. But, given the particular constellation of interests

35. This is in the spirit of L. S. Shapley and Martin Shubik, "A Method for Evaluating the Distribution of Power in a Committee System," *American Political Science Review* 48 (1954): 787–92. Forceful criticisms of the use of the Shapley-Shubik index for other purposes—such as Brian Barry, "Is It Better to Be Powerful or Lucky? Parts 1 and 2," *Political Studies* 28 (1980): 183–94, 338–52—do not apply to the present, limited application of their basic idea.

> among voters that results in certain individuals being constantly in the voting minority, the actual influence of those individuals is clearly not equal.[36]

On the contrary: under "one person, one vote," what Lee calls "actual influence"—what I call "actual decisiveness"—is almost always equally zero. One person's vote almost never makes a difference, whether she is in the minority or the majority. It is true that the satisfaction of interests in correspondence, if there are any, will be unequal. Those in the majority will have those interests satisfied, while those in the minority will not. And it is likely that the satisfaction of substantive interests will also be unequal. But those are different questions.

In another way, however, the interpretation makes a difference, for the worse. Many systems that realize equal actual decisiveness do not realize equal a priori chances. With selective disenfranchisement, or with plural voting, in which some have additional votes, no one is almost ever decisive either. For example, even if the schooled were to have two votes to the unschooled's one, it would still almost always be the case that no one, schooled or unschooled, was ever decisive, since it is almost as rare for vote tallies to differ by one or two votes as it is for them to differ by only one. So, according to the actual decisiveness interpretation, equal opportunity for influence would still be realized, counterintuitively, in these cases. This is one reason for favoring the a priori interpretation.

There is another reason why equal actual decisiveness seems untenable as an interpretation of equal opportunity for influence exercised by voting. It violates the following:

> *Compossibility Principle*: Equal opportunity for X-ing should not be understood in such a way that *whether* equal opportunity for X-ing obtains among individuals depends on *how* any of those individuals exercises the opportunity to X.

For example, a rule permitting everyone, including the guy with a megaphone, to speak at the same time may be said to give everyone

36. Steven Lee, "Democracy and the Problem of Persistent Minorities," in *Groups and Group Rights*, ed. Christine Sistare, Larry May, and Leslie Francis (Lawrence: University Press of Kansas, 2001), pp. 124–36, at p. 128. Compare Beitz, *Political Equality*, pp. 10–11.

equal opportunity to speak at that time, but not equal opportunity to be heard. For if Mr. Megaphone exercises his opportunity to be heard, no one else will have that opportunity. Suppose, turning to the case of voting, that there are two more "Yeas" than "Nays" under plurality rule. Equal actual decisiveness is achieved in this case, because no one is decisive. However, if one "Yea" had abstained, then equal actual decisiveness would not have been achieved, since the "Yeas," but not the "Nays," would have been decisive. So interpreting equal opportunity for influence as equal actual decisiveness would violate the Compossibility Principle.

Equal a priori chances for decisiveness—in the sense of each person being decisive in the same number of possible "profiles" of votes (assuming a finite number)—do not imply "neutrality" among decisions: that for any two decisions, each is produced by the same number of profiles of votes. So it does not rule out supermajority requirements, against the common view that political equality somehow demands majority rule. Supermajoritarian requirements give everyone equal a priori chances at decisiveness, but are not neutral. Fewer profiles produce a change than reproduce the status quo.

However, it is often said that such rules are incompatible with political equality. Thus, Peter Jones writes: "To allow the will of the minority to prevail would be to give greater weight to the vote of each member of the minority than to the vote of each member of the majority, thus violating political equality."[37] But why should this be? Doesn't everybody's vote have equal weight under a supermajority rule? Even with supermajority requirements, for any given decision, every person has the same opportunity to influence the adoption of *that* decision as has any other person—even if the (equally enjoyed) opportunity to influence the adoption of *that* decision is greater or less than the (equally enjoyed) opportunity to influence the adoption of some other decision. Such a rule *gives people* equal opportunity to influence decisions even though it is not neutral *among decisions*. Presumably, what matters for social equality, which is equality among people, is that people have equal opportunity to influence decisions, not that decisions have equal opportunity of being made.

37. Peter Jones, "Political Equality and Majority Rule," in *The Nature of Political Theory*, ed. David Miller and Larry Seidentrop (Oxford: Oxford University Press, 1983), pp. 155–82, at p. 160.

Jones's thought must be: "Such a rule does *not* give people equal opportunity for influence. For, holding fixed the decisions that people favor, the rule gives some people greater opportunity to influence the adoption of the decision *that they favor* than it will give others to influence the adoption of the decision that *they* favor."

There are, however, two reasons to resist this reply. First, when we consider, for the purposes of a broadly liberal political morality, how to meet people's equal claims, it seems appropriate to view them as free: as not bound by, or identified with, any particular choice, judgment, or outlook. So conceived, there are no grounds for saying that the rule treats them differently. A well-known debate between Rawls and Thomas Nagel provides an analogy. Nagel observed that a well-ordered society, as described by Rawls, was not *neutral among conceptions of the good*, since it might be a society in which some conceptions flourished and others did not.[38] Rawls replied that while the theory was not *neutral among conceptions*, it was nonetheless *fair to persons, viewed as free*.[39] For any given conception, it ensured that no person had (unfairly) greater opportunity to pursue successfully that conception *than any other person*—even if it did not ensure that each person would have the same opportunity to pursue successfully some conceptions *as that person would have to pursue another conception*.

Second, the interest that underlies some liberties is an interest in what exercise of those liberties guided by the agent's attitudes constitutes or secures. Suppose that, with respect to such a liberty, one has less opportunity to exercise it guided by the attitudes that one in fact has than others have to exercise that liberty guided by the different attitudes that they in fact have. For example, with respect to freedom of movement, Wander may have less opportunity to exercise it guided by his desire to go greater distances than Homebody has to exercise it guided by his desire to go shorter distances. In such a case, Wander might protest that Wander's interest in the liberty is not as well satisfied as Homebody's interest in the liberty.[40] But this protest does not get off the ground where

38. Thomas Nagel, "Rawls on Justice," *Philosophical Review* 82 (1973): 220–34.

39. John Rawls, "Fairness to Goodness," *Philosophical Review* 84 (1975): 536–54, at p. 554.

40. For evaluation of the prospects of such an argument, see Alan Patten, "Liberal Neutrality: A Reinterpretation and Defense," *Journal of Political Philosophy* 20 (2012): 249–72.

social equality is concerned. For the interest in social equality is not an interest in something that political influence guided by certain attitudes constitutes or secures. It would be satisfied equally well by one's having no influence at all—so long as no one else had any influence either. It is an interest simply in the relations that one has to others insofar as one shares equal influence with them.

Are we to conclude, then, that, as far as social equality is concerned, anything that gives equal a priori chances of decisiveness will do?[41] Almost, but there is perhaps one further constraint. To illustrate, suppose that the ostensible system is majority rule. While X wins on the first ballot, the X-supporters would have implemented the X decision anyway, even if X had lost. In such a case, one wants to say, the X-supporters were not following majority rule, but instead the rule of imposing their own judgments or choices. This is decidedly not a rule that gives equal a priori chances. But now consider another case. The X-supporters foresee that in the future, X will start to lose out under majority rule, but not under plurality rule. (This is because X will defeat a divided opposition in the first round, whereas the opposition would unite to defeat X in a runoff.) So, they use their present majority to switch to plurality rule. Here too, one wants to say, the X-supporters were following not majority rule, but instead the rule: in each given case, follow that equal a priori chances rule which is most likely to ratify my own judgment or choice in that case. While this *is* a rule that gives equal a priori chances, it is hard to see how a rule with a rider that makes specific reference to ratifying one's own judgment or choice can be compatible with social equality, with a willingness to cede to everyone else the same degree of influence over political decisions that one enjoys. This suggests that merely following an equal a priori chances rule may not be enough for social equality. The rule followed must also be suitably impartial, free of any self-referential rider.

Even so, social equality, taken on its own, would require very little of formal procedures. Even unanimity requirements to depart from the

41. Still, "Political Equality and Election Systems," p. 382, and Christiano, *Rule of the Many*, p. 234, suggest that political equality also requires "anonymity": roughly, that any two profiles of votes that differ only in the identities of the voters deliver the same outcome. This is a significant constraint; it rules out district systems. However, it is hard to understand what the concern about nonanonymity could be, if not a concern about inequality in actual decisiveness, which we have already addressed.

status quo decision are compatible with it. The choice among such systems will rest on other, principally substantive considerations. Perhaps proportional systems give greater voice to the interests of dispersed minorities that would otherwise be submerged, or make the representative body an image in miniature of the electorate as a whole—leading to substantively better decisions. Or perhaps district systems give greater voice to distinctive regional interests that would otherwise be submerged, or facilitate communication between constituents and representatives, or lead to more stable governments—leading to substantively better decisions. And within district systems, drawing boundaries so as to give greater voice to otherwise submerged groups may also lead to substantively better decisions. Presumably, the concern for substantive reliability will sometimes favor and sometimes oppose neutrality, depending on the kinds of decisions being made. For certain questions of policy, interests in stability and resistance to passing temptations may argue for supermajorities (as with, say, constitutional amendments), or special conditions may make consociational structures particularly desirable. On other questions of policy, simple majorities may tend to produce better results, by making representatives more responsive and accountable. All of this is compatible with equal a priori chances of decisiveness.

XII. WHICH DEMOCRACY? PERSISTENT MINORITIES

One might object that this permissiveness is unacceptably complacent about "persistent minorities": more or less stable groups whose members are consistently outvoted. Why, though, are persistent minorities cause for concern?

One cause for concern is obvious and, in the real world, of the utmost seriousness. The existence of persistent minorities may be expected to lead to outcomes that are substantively bad, and bad, in particular, because they disadvantage members of those minorities. When it is said that under polarization, "minority group interests" are not "represented," the root concern is often just that outcomes will tend to treat *members* of those groups—the *people* with those interests—badly in substantive terms.[42]

42. Compare Beitz, *Political Equality*, chap. 7.

This may be a compelling reason to alter our electoral system, within the wide latitude permitted by equal a priori chances, in ways that can be expected to produce substantively better outcomes. Take Lani Guinier's example of an "at large" vote on which songs will be played at the high school prom, which has the predictable effect that every song will be, say, "classic rock" and no song will be "urban contemporary." In this case, a "proportional party list" system would produce a better substantive outcome—a fairer distribution of musical enjoyment between classic rock and urban contemporary listeners—than "winner-take-all."[43]

However, suppose—departing, in a diagnostic spirit, from the real world—that the outcomes are substantively correct: members of the minority are in fact treated fairly, at least with respect to their substantive interests. Is there still some objection?

It may be objected that members of the minority do not enjoy what in Section VII we called "correspondence": a match between their choices or judgments and the decisions reached. But, first, as I discuss in the companion article, it is obscure whether people have interests in correspondence. While of course it matters whether a political decision treats people well in substantive terms, it is less clear why it should matter whether they *think* it treats them (or anyone else) well, independently of whether it does. And, second, although one way for someone's interest in correspondence to be fulfilled is for others to implement the decision that matches his attitudes, there is another way: namely, for him to revise his attitudes to match the decision that will be implemented. Accordingly, a question arises about who bears what responsibility for ensuring that a given person's interest in correspondence is satisfied. Suppose the members of the majority, whose views, we are imagining, are substantively correct, have taken great pains to explain to the minority why the substantively best decision is in fact substantively best, putting the minority in a position to satisfy their correspondence interests simply by following the arguments where they lead. However, the minority refuses to concede the point. Why is the fact that their correspondence interests go unsatisfied, even if regrettable, not their responsibility? Why at that point should they continue to have a claim on others to implement a substantively inferior decision to satisfy it?

43. Lani Guinier, *The Tyranny of the Majority* (New York: Free Press, 1994), pp. 2–3. At p. 14, however, she seems to deny that the problem is simply that the resulting distribution of musical enjoyment is unfair.

It is often said that members of persistent minorities do not enjoy equal influence.[44] But insofar as they have equal a priori chances, they have equal contributory influence. And, as we saw in Section XI, they will almost always have equal actual decisiveness, because almost no one, including any member of the majority, is ever decisive. It is common to dramatize the special complaint of members of persistent minorities by saying that their vote made no difference: that the outcome would have been the same no matter what they had done. But members of persistent *majorities* can almost always make the same complaint: that the outcome would have been the same no matter what they had done.

Two grounds for special complaint may remain, however. First, it remains the case that the majority *as a group* enjoys decisiveness—indeed, insofar as the polarization persists, control—whereas the minority *as a group* does not. And, in fairness, this is often how the point is put. Perhaps, in addition to caring that I not be subordinated as an individual to another individual with whom I have a claim of equality, I also care that the group to which I belong not be subordinated to another group, with which *it* has a claim of equality. To illustrate, suppose that the United States were to annex Iraq as the fifty-first state. Assuming that every member of the first fifty states stood as an equal with every other, it would seem that every member of the now fifty-one states stands as an equal with every other. Nevertheless, it would hardly seem unreasonable for Iraqis to object that a "relevant" *group* to which they belong had been subordinated to another *group*, the first fifty. Similarly, the members of the persistent minority might have reason to object that, whether or not the majority is substantively reliable, their group is subordinated to the majority, in virtue of the majority's control over political decisions.[45]

The challenge, if we appeal to vicarious, group subordination, is to specify the "relevant" groups. Why should any given member of the minority be counted as a member of the minority, rather than as a member of the electorate as a whole, or, indeed, of any number of other intermediate groups, such as the majority plus that individual? In our hypothetical case, the answer cannot be that members of the minority

44. See, for example, ibid., p. 14; Allen Buchanan, *Justice, Legitimacy, and Self-Determination* (Oxford: Oxford University Press, 2004), p. 361; and Still, "Political Equality and Election Systems," pp. 379–80.

45. I am indebted to Annie Stilz for discussion of these issues.

are presently treated unfairly in substantive terms, in comparison to members of the majority. For we have assumed that members are not treated unfairly in substantive terms. However, the divide between majority and minority may still track a divide between salient ethnic, racial, or religious groups, between which there has been a history of oppression, hostility, or mere separation, even if presently there is no substantively unfair treatment. It is certainly intuitive that such distinctions might plausibly make the majority and minority—the first fifty versus Iraq, polarized white voters versus black voters—"relevant" groups. But I do not propose a theory of "relevant" groups here. The present point is simply that nothing in the view that I have been presenting rules out that there may be this distinct concern about vicarious, group subordination.

The other possible complaint is not against the presence of a persistent minority as such. It is instead against the manipulation of formal procedures that often attends a persistent minority: where voting rules are changed, or districts are gerrymandered, to favor a specific person, group, or party. Take Guinier's example in which a board responded to the election of a member from an ethnic minority by replacing a requirement for certain motions from a single member's say to two members' say, effectively depriving the new board member of the power to make such motions.[46] And racial or partisan gerrymandering of districts, albeit within equal population constraints, seems structurally equivalent. In such cases, the rule being followed is to select whatever equal chances rule is most likely to ratify the choices or judgments of one's own group. And such self-referential riders are, as we noted earlier, at odds with social equality: with a willingness to concede to others as much influence as one enjoys over common affairs. If this is the residual, "procedural" objection to persistent minorities, then our account already accommodates it.

XIII. WHICH DEMOCRACY? EQUALLY POPULATED DISTRICTS?

In most respects, as we have seen, the concern about equal a priori chances is apt to be that it is too permissive. In one respect, however, equal a priori chances may seem too restrictive, and, moreover, in a way

46. Guinier, *Tyranny of the Majority*, p. 75. Indeed, much of Guinier's concern seems to be with "switching" (p. 7) or "rigging" (p. 8) the process to favor a particular group.