

Part I

Procedural Fairness



Democracy As Equality

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Society is organized by terms of association by which all are bound. The problem is to determine who has the right to define these terms of association. Democrats state that only the people have a right to rule over the society. And they argue that citizens ought to be equals in important respects in making these decisions. What is the basis of these views? We have seen that liberty accounts of democracy fail to provide a thorough understanding of the foundations of democratic decisionmaking. In large part this failure is due to the dependence of these conceptions on consensus within the society. They are unable to account for the basic democratic principle that when there are disagreements over what the terms of association are to be, that view that secures support from a majority of the citizens ought to be chosen. This is the problem of incompatibility. These theories also fail to account for the interests persons have in democratic decisionmaking that explain why a person ought to be allotted equal shares in political rule. This is the problem of trade-offs.

Although liberty over the common social world is incompatible with democracy, equality on its own may provide the basis. After all, democracy implies commitments to equality, such as equality in voting power as well as equality of opportunity to participate in discussion. Egalitarian theories attempt to derive a conception of democracy from a principle of equality among persons. They acknowledge fundamental conflicts of interests and convictions in society and assert that because of this lack of consensus, each person may demand an equal share in political rule.

At the same time an egalitarian conception of the foundations of democracy must include an important component of liberty views that is often left out by egalitarians. It ought to accommodate and explain the importance of the convictions citizens hold and the role of public discussion in democracy. Democratic decisionmaking is not merely a matter of each person

voting his or her preference. Individual citizens' preferences are formed in society as a result of social interaction they have with others and the institutions that structure social interaction. It is important for them to reflect critically on and improve their preferences so as to have a sophisticated appreciation of their interests and ideals. A democratic theory ought to have something to say about what constitutes a reasonable and just context for the formation of these preferences. . . .

In this section we will look at an egalitarian approach to democracy that requires that each person's *interests* ought to be given equal consideration in choosing the laws and policies of a society.¹ This approach begins with Thomas Rainsborough's observation that "the poorest he that is in England has a life to live as the greatest he."² It goes on to claim that democracy is founded on this principle of equal consideration of interests.

Let us explore the distinction between judgments and interests and show how it is related to the principle of equality as well as sketch the relation of judgments and interests to democracy. First, an *interest* is something that is a component of a person's overall well-being. I have interests in pleasure, friendship, knowledge, health, and so on. I am better off when my interests are satisfied and worse off when they are not. An interest is not the same as the satisfaction of desire. I may desire many things that do not contribute to my own good. I may desire that peace and justice reign forever over the world, but I am not better off if ten thousand years from now there is peace and justice, though this does satisfy my desire. I may knowingly desire things that harm me because I am addicted to them or simply because I have been raised in a way that encourages masochism. Interests also differ from judgments. An interest is something that can be attributed to me whether I believe it or not. Someone can coherently say of me that it would be better for me if I had more pleasure in my life even if I, because of certain religious convictions, abhor pleasure and believe it to be bad. In this case, I may judge falsely what is in my interest. A judgment is a belief about a fact of the matter or a principle of justice or one's interests. Interests are one kind of fact about which we make judgments. Judgments can be correct or incorrect, whereas interests are not correct or incorrect; they are simply attributes of a person.

Equal consideration of interests means that advancing the interests of one person is as important as advancing the interests of any other person. There is no reason why one person should have a fundamentally better life than others, because "each has a life to live." To the extent that social institutions have a great influence on how people's lives go, they are unjust when they unnecessarily make some people's lives go worse than others.

It is an elementary requirement of justice that individuals ought to be treated equally if they are equal in the relevant ways and may be treated unequally if they are unequal in a relevant way. Each person has an equally important life to live, so there is a strong presumption in favor of his or her interests being given equal consideration. Furthermore, there is no good reason at the outset for arranging things so that some persons' lives will go better than others. Let us consider why some have thought that the lives of some individuals ought to go better than the lives of others. Some have maintained that race or sex ought to determine how a person's life can go. They have thought that women's or blacks' interests are less important than those of men or whites because of the natural differences between them and that the lives of these could be worse without injustice. But this is false; the fact that someone is a woman or black is of no relevance to issues of justice. They each have a life to live and interests to satisfy, and it would be unjust to treat their interests as less important. Social institutions that systematically make it harder for women or blacks to live flourishing lives than for others to are unjust. Others have thought that there is no injustice in the fact that the children of poor parents are not likely to do nearly as well as the children of the wealthy. That growing up in poverty and without the benefits of education makes it much harder and much less likely for a child to live a satisfying life implies that the institutions that permit these great disparities are unjust. The wealth or poverty of the family into which one is born hardly seem relevant to whether one's life ought to go well or not. This kind of argument can be generalized. We find injustice in any society that systematically ensures that some persons' lives go worse than others'. Thus, if we take the standpoint of considering each person's life as a whole, we see no relevant reason for treating anyone's interests unequally.

How does all of this apply to democracy? Democracy gives individuals equal abilities to advance their concerns when decisions concerning the terms of association are made. For instance, each person is provided with an equally weighted vote in deciding the outcome of an election. We cry "foul play" when some are prohibited from voting or when the votes of some are not counted. Also, the democratic method is usually to decide by majority rule. Whichever alternative gets the most votes is implemented. Majority rule is a genuinely egalitarian rule because it gives each person the same chance as every other to affect the outcome. Thus each person's concerns are treated equally by this method. In addition, each person is thought to have an equal opportunity to run for office and to have a say in public debate. Those who are systematically unable to make themselves heard because of poverty or race or sex are treated unjustly. If nothing else,

democracy is a deeply egalitarian method of organizing social decisionmaking.

It is important, however, to get clear on the relation between democracy and the principle of equal consideration of interests; a large part of this chapter will pursue this issue. We might understand the principle to imply that everyone's interests are to be equally advanced or that everyone is to be made equally well-off by decisions. This is the *equal well-being* interpretation. On this account, justice demands that each person lives a life of the same total level of well-being as everyone else. But if we interpret the principle of equal consideration of interests as recommending that everyone be equally well-off, then the relation between it and democracy is rather unclear. Democracy is a method for making collective decisions in which everyone has an equal right to play a role. Democracy is an arrangement in which individuals have some equality in political power. But the principle of equal well-being is not concerned with the *method* by which decisions are made. It does not say anything about who has a right to rule. And it does not say anything about the distribution of power. Policies can be designed with an eye to making everyone equally well-off without their being democratically chosen. Such equality of well-being may be a good thing, but it is not the same as democracy. Democratic processes may be good methods to ensure that everyone's interests are equally satisfied, but such an argument for democracy would be instrumentalist and not an intrinsic argument of the sort we are pursuing. Again, to use a worn illustration, equal well-being is compatible with the institution of benevolent dictatorship.

So if we are to understand democracy as based on a principle of equal consideration of interests, we must have a different interpretation of that principle to work with. After the next section, I will lay out a different interpretation of equal consideration that provides a more defensible version of equality as well as a proper basis for democracy. . . .

Some have supposed that democratic participation is really a matter of formulating judgments about the best way to organize society. They argue that a democratic society is one in which I live under institutions that correspond to my judgment of what is best. I am free on this account when the institutions that constrain my life accord with my freely arrived at judgments about what is best. But in order for this approach to be relevant, there must be substantial consensus of judgment on the proper terms of association we live under. This condition, however, flies in the face of the common and pervasive experience we have of disagreement and conflict in society and thus, must fail as a strategy for defending democracy.

From the failure of the last view, we know that our conception of democracy must not ignore the facts of deep disagreement on matters of

principle in modern society. We have seen that some egalitarian theorists of democracy have tried to accommodate the idea that participation is based on judgment with the fact of disagreement. Disagreement on matters of principle, they argue, must be resolved by fair compromise. Such a fair compromise is that each has a say in making decisions. A number of difficulties afflict this view, but the most serious is that it is self-defeating. If all disagreements on matters of principle are to be met with fair compromise, what are we to do if there is disagreement on what the fair compromise ought to be?

An Egalitarian Defense of Democracy

There are four steps in the basic argument that democracy is defensible in terms of a principle of egalitarian justice. First, justice requires that individuals be treated equally with regard to their interests. Second, there is a special category of interests that are deeply interdependent, so that what affects one, affects all; these are interests in the collective properties or features of society. Third, these interests can generally only be served through a collectively binding procedure. Fourth, the principle of equal consideration of interests requires equality of means for participating in deciding on the collective properties of society. Democratic decisionmaking is the embodiment of this equality of resources. Votes, campaign finances, and access to sources of information are all the kinds of resources that must be equalized in the process. Therefore, the principle of equal consideration of interests requires democratic decisionmaking on the collective attributes of society.

Collective properties

Let us start with an explanation of the interest in collective features of society. Examples of collective properties are the arrangement of public symbols and spaces, the level of environmental protection, the geographical disposition of various elements of the community by means of zoning laws, the system of defense, the system of education, the laws regulating property and exchange as well as the enforcement of these institutions, and finally the method by which all the above activities are financed. We also have to include the distribution of wealth in society and the basic structure of civil rights of citizens. A society can have any one of a variety of collective features. With regard to property, one collective feature is a highly regulated system of private property, an alternative feature would be an unregulated

system, and another yet would be a system of collectivized property. With regard to environmental protection, a society can have regulations that limit the amount of pollution or it might choose to permit a considerable amount of pollution. A society must make choices among the above institutions. And the set of collective features is what defines the common world that people share in a society.

I define “collective property of the society” in the following way: A property of individuals’ lives in a society is a collective property or feature if and only if in order to change one person’s welfare with regard to this property one must change all or almost all of the other members’ welfare with regard to it. This definition implies that collective properties have the following four characteristics. First, they satisfy a condition of *nonexclusivity*. It is not possible to affect one person’s life without affecting the lives of the others. Pollution control is the most obvious example of this. One cannot generally limit pollution in a society for the benefit of some but not for others. Everyone benefits from pollution control or no one does. Of course, not all collective properties affect citizens in the same way; some collective properties may benefit some citizens and harm others. What is important is that everyone be affected by the change in a collective property. Zoning, or the lack thereof, is a property of the whole community in which it is done. When one zones a community, one arranges the various parts in a certain way. A change in a zoning law is a change of collective property for the community being zoned; in principle, everyone is affected by the change. The same is true for public monuments and institutions as well as limitations on publicly displayed behavior. These sorts of concerns are cultural in nature. They are collective properties, but there is conflict over the goods themselves.

The second condition is *publicity*. The point of saying that everyone’s well-being is affected rather than that their preferences are satisfied is that it rules out the possibility that the property satisfies purely nosy preferences. For example, it might be thought that homosexuality is a collective property when some members of the society desire that others participate in or abstain from this activity. But insofar as I can participate in, or abstain from, homosexual activities without affecting other people’s interests, I do not affect others’ welfare with regard to this property even if those others have preferences about what I do. Hence, collective properties must be public objects.³

Third, the fact that individuals share such a common world is *inevitable*. For example, every society has a public environment; we have no choice about whether our community will have air and water of some quality or another. That environment is characterized by its collective properties. It

can have different properties, just as a surface can be different colors. It will have some such properties necessarily.

Finally, the properties of this common world are *alterable*. The issue for us is which among the alternative possible properties society will have. We have no choice about whether the community is arranged geographically in a particular way, but we can choose which among the many possible ways it is arranged. Thus, we cannot avoid the existence of a common world in which each person shares, but we may be able to decide what that common world is like.

These four conditions describe a high level of interdependence of interests. To affect one person's interests is to affect everyone's interests. Individuals have interests in these properties of society because they play such an important role in defining the basic environment in which individuals live. The common world frames each's relations with others and structures the possible courses of life each can lead. These features are also a source of a sense of belonging inasmuch as citizens understand, recognize, and adhere to the cultural and moral norms of the social arrangements that frame their lives. They can also be a source of alienation to those for whom these conditions do not hold. For each person, there is a lot at stake in how the common world is arranged.

However, in modern society there is substantial conflict over what collective properties to bring about. There are disagreements about the norms of justice, there are different cultural traditions that citizens identify with, and there are disagreements about the appropriate level of provision of public goods. Finally, there is substantial disagreement as well as conflict of interest over the total packages of collective properties. Some may think that certain issues are more important than others. Thus there is no consensus on these goods.⁴ I will not go into what is the basis of this diversity in society except to observe that modern societies are the products of large movements of diverse peoples, they include highly differentiated divisions of labor, and they tend to be very large geographically. More generally, people are different from each other inasmuch as they flourish in different kinds of environments. To some degree these different needs can be handled in more private circumstances and voluntary associations without affecting the interests of others, so I do not wish to deny the private-public distinction or the importance of individual liberty. However, the whole environment of the society is at stake in many conflicts of interests in collective properties. So collective features are defined in terms of a deep interdependence of interests in certain features of society, though there is no consensus on which properties to choose for organizing the society.

One choice a community must make is whether to decide these issues in a centrally coordinated way or to leave the determination of these properties up to the free play of social forces. In the case of collective properties, the latter method will often lead to unpalatable results for all. To allow these to develop in an uncoordinated fashion will often lead to results of which no one will approve. For example, it is better to have some legal system of property than none at all. The absence of such a system would lead to confusion and uncertainty for everyone. The likely result will be worse for everyone than almost all the alternatives. In order to have a legal system, however, a society must have an authoritative process by which to decide on what the laws are as well as how to enforce them and judge when individuals have violated them. If a society is to advance the interests of all its citizens, it must have a collective decision-making procedure that binds citizens to its decisions.

So far, this collective decision-making procedure need not be democratic in order to play the role of choosing collective properties. Kings can choose collective properties; aristocracies can also do this. The question for us is, Is there anything special about democratic methods of making decisions on these matters? As we noted earlier, equality requires that citizens' interests be given equal consideration, but we have not shown yet why democracy is a unique embodiment of this equal consideration.

A defense of equal distribution of political resources

The problem we need to address is, Why does equal consideration of the interests citizens have in collective properties imply that they ought to have equal votes in the collective decision-making process that chooses those properties? How can citizens complain of injustice if they are not given the means with which to influence the process of decisionmaking? A crucial step in the argument for democratic decisionmaking is to move beyond mere equal consideration of interests to equality in the process of decisionmaking. The reason for this is that democracy involves not just any equality, it requires equality in certain kinds of instruments or resources for achieving one's ends. For example, democracy is commonly thought to require that each person have one vote. A vote is a kind of instrument or resource for achieving one's aims. A vote is not by itself intrinsically desirable; it is not a piece of happiness or well-being itself. But it might help us achieve what is intrinsically worthwhile to us. If we have a vote in a decision, this vote will help us get the decision that we think best. Having equality in votes does not imply that there is equality in well-being; and having equality in well-being does not entail that there is equality in the

vote. Our previous two conceptions of equality have failed to make the necessary move from equality to equality in the instruments for achieving one's aims that is required for a defense of democracy. Can this move be made? I believe it can.

What is the difference between equality in well-being and equality in resources? Here are some examples of this distinction. Well-being is usually thought to involve happiness, health, knowledge, friendship, pleasure, self-respect, and the respect of others, as well as a sense of belonging and community with others and a variety of other things that people desire for their own sakes. These are what make up a good life. They are the most basic interests that people have. On the other hand, resources are money, power, liberty, and opportunity, as well as votes and information that people usually desire for the sake of achieving greater well-being. They may be described as tools, instruments, or means for pursuing our aims. They do not by themselves make for a good life, but they are useful in helping us satisfy our interests.

Equality of well-being is equality in those things that make for a good life. Each person, in such a view, would have equal totals of pleasure, happiness, self-respect, and so on. Clearly the idea of equal consideration of interests is closely related to equality of well-being. However, equality of resources involves the equal distribution of money, power, opportunities, and so on. The relation between equal consideration of interests and equality of resources is more obscure. At the same time it is clear why democracy might constitute at least a partial realization of equality of resources since democracy involves the equal distribution of those means (e.g., votes) for influencing the collective decision-making procedure. We should note here that though resources themselves are not intrinsically desirable, equality in the distribution of resources may well be intrinsically just and valuable. If we start with a principle of equal consideration of interests, it is essential that we show that equality of resources is really the most plausible interpretation of this ideal.

Not only does equality of well-being not provide an account of democracy, I argue that egalitarian justice under circumstances of substantial disagreement and pluralism about well-being is best understood as equality of resources.⁵ The problem with equality of well-being is that it runs afoul of a basic constraint in political theory. It appears to be a reasonable interpretation of the principle of equal consideration of interests, but upon closer inspection it is not. In political philosophy we cannot assume an equal well-being approach because we cannot make clear sense of the comparisons of well-being that must be made in order to sustain it. There is too little information about the alternatives and their comparisons, and

there is a great deal of disagreement as to how they should be compared. First I will show how these claims are true, and then I will demonstrate their importance.

Three considerations motivate the rejection of equal well-being as a political principle with which to evaluate social and political institutions. The incompleteness of knowledge, the changeability of preference, and the contestability of comparisons of well-being all show that the distribution of well-being is not a reasonable standard for assessing social institutions. The main point is that equality of well-being and indeed any notion of equality in the satisfaction of interests is unintelligible as a political ideal. Thus it cannot provide an interpretation of equal consideration of interests for a political society.

The *incompleteness of knowledge* is that individuals do not have clear or fully worked out ideas of what their overall interests are. And no one else can have such an understanding about what individuals' overall interests are. But only if we do have such an understanding can we make sense of equality of well-being among citizens. There are two basic reasons for the incompleteness. The first reason is that human cognitive capacities are simply too weak to formulate such complex conceptions about all the possible interests persons have in all the relevant circumstances. The alternatives are themselves quite complex, and the number of possible different alternatives is very great, too great for a single mind to grasp. Let each person attempt to rank the goods I adumbrated above in all the different combinations in which they might arise. Each will find that they only have extremely crude ways of comparing the goods of love and self-respect as well as knowledge and pleasure. These ways are completely inadequate for attempting to evaluate many of the circumstances in which we find ourselves. This is so even when limited to the sphere of interests over collective properties of society.⁶ It is not that we haven't tried to do this, it is simply that it is beyond our capacity to conceive of such a complicated ranking of all the different combinations of the things we think are important.

The second reason why knowledge of interests is incomplete is that individuals do not have complete understandings of most of their particular interests. Individuals are constantly in a process of improving and completing their judgments about what is good and just, and they do not come to an end in this process. It is ongoing and incomplete because of the cognitive limitations on persons. Much of our lives consists of learning new things about our good. None of us would claim that we have a full understanding of even the elements of our good. And if this is true of our knowledge of ourselves, it is even more true of our understanding of other people's interests. But if our knowledge of our own interests is so incomplete, then

even if we have a metric for comparing interests, we do not have even the beginnings of a clear idea of what we are comparing. And if we do not know what we are comparing, then we certainly cannot say when we have equal amounts of those things.

To be sure, if we think of equal well-being as equal satisfaction of preferences, at least the second part of the above argument can be answered. It simply says that we ought to advance each person's preferences equally. But the *changeability* of preferences undermines this possible response. The problem is that persons base their preferences on their understanding of their interests and they are constantly changing their conceptions of their interests. Their understandings change as a consequence of the process of learning from experience and discussion with others, as well as from other causes. Their lives cannot be evaluated in terms of how well they live up to a preference ordering over a whole life because they cannot be identified with any single set of preferences since they change over time. Thus, even if we were to have a metric for measuring relative levels of preference satisfaction, we would not be able to figure out what equality of preference satisfaction for lives amounts to, given the mutability of these preferences.

The *contestability of comparisons argument* proceeds from the claim that there is considerable disagreement in any democratic society about what interests are most important as well as how to compare the relative worth of satisfying those interests. What constitutes an equal distribution for one person may not be equal in another's eyes. How to compare interests among individuals will be a deeply contested subject. The ideal of equality of well-being must be essentially ambiguous in a complex society. The same is true for any conception of welfare. What constitutes welfare is a matter on which persons will have serious disputes, and the metric for determining when people's interests are met is itself a matter of deep contestation.⁷

Hence, egalitarian institutions cannot depend on the notion of equal well-being to serve as a principle for solving political disputes. The metric for defining how much a person has gotten out of the democratic process must be essentially undefined since individuals cannot have fully articulated or constant preferences over results in general. There also cannot be uncontested accounts of the bases of comparison on which any notion of equality of results must depend.

These difficulties may be thought to show that an outcome view like equality of welfare is a first-best solution, which, though unattainable, must be approximated by some second-best solution. On such an account equal well-being would be an unattainable but desirable political ideal and democratic equality would be merely a necessarily imperfect means to such an

outcome. This would be much like a trial procedure which is thought to be an imperfect means to discovering the guilt or innocence of a person. Or some may think that economic markets are means for achieving efficient allocations of resources as well as technological progress. The market arrangement is not in itself just, these proponents would say, it is merely a good way to achieve good outcomes, given the ignorance of persons in figuring out how to do it in some other way. Similarly, these thinkers would argue that democratic institutions are not intrinsically fair or just, they merely are the best way to ensure a fair distribution of well-being. The fact that we do not know what such a fair distribution looks like in advance does not imply that it cannot produce it. Our ignorance is merely a contingent obstacle that ought not to come in at the level of defining the political ideal.

But in my view the rejection of equal well-being as a political ideal is not merely a matter of contingent fact. We are not merely ignorant of what the ideal would look like; we are ignorant of what increasing approximations to the ideal look like except in fairly crude cases. It is certainly as fundamental a fact as any that human beings are not able to come up with clear conceptions of their own interests and that they cannot compare those interests in any precise way amongst themselves. It would be absurd to evaluate political institutions on the basis of so unfathomable a standard.

One reason why this is absurd is that just institutions must not only be just by some standard, they must be capable of being manifestly just to each of the members. Partly this is because the justice of a social order ought not to be a complete mystery to the citizens of the society. No standard of justice can be in principle beyond the capacity of citizens to ascertain. It must be something they have a chance of knowing and celebrating; the justice of a society is a feature of that society that individuals can recognize and by which they can acknowledge each other as equals. Furthermore, each member of an egalitarian society has an interest in their equal public status being manifest to themselves and to everyone. Such *manifestness*⁸ in equal status does not arise with the use of the inscrutable standard of equality in well-being or preference satisfaction for the various reasons identified above. But there is some reasonable chance that the manifestness of equality can arise as a consequence of the implementation of equality of resources. I can see if I have an equal vote with others. I can know if I am being discriminated against in an electoral scheme. I can have a sense of when the promotion of my interests and point of view have far less financial backing than those of others. Indeed, these are the stuff of the standard complaints of politics in a democratic society. These publicly observable inequalities are often raised against political systems as affronts to the

principle that each person is to be treated and acknowledged as an equal citizen. But these complaints are related not to the distribution of well-being in the society but rather to the distribution of resources in the society. Hence, an egalitarian will be concerned to determine collective properties in accordance with an equality of resources scheme. That each person has a vote, has adequate means to acquire understanding of their interests, and has the means for making coalitions with others as well as getting equal representation in a legislature is a publicly manifest phenomenon. Without such manifest equality citizens cannot be assured of their membership in an egalitarian society.

Moreover, observe how we actually do evaluate institutions. Part of the function of political institutions is to distribute resources for collecting and processing information about interests. Ignorance is one of the reasons why human beings need political institutions. They serve as contexts in which individuals may learn about their interests. Institutions of education, deliberation, and communication are designed in part to help individuals determine where their interests and values lie. Because institutions are to provide the basis for discovering one's interests, and those institutions must treat individuals as equals, the idea of equality for such institutions must be defined in some other way than directly in terms of equality in interests. Indeed, the ideal of equality must be defined partly in terms of the resources that are necessary to undertake these learning tasks. Consider primary education. We do not evaluate it on the grounds of its ability to ensure that each has equal well-being in the end; that would be simply impossible. We judge the justice of primary educational institutions on whether they give each child an equal chance to learn. Generally we judge these institutions on whether they have devoted equal resources to each and every pupil. Sometimes we think more resources ought to go to the students who need more help as a result of previous deprivation in their backgrounds, but this involves compensating the students for the lack of resources in the past. Beyond that already difficult task we cannot go.

Furthermore, democratic institutions provide the means for fairly deciding on the relative importance of various interests once discussion and deliberation have failed to produce consensus. The question must be, when we must make a collective decision, How do we decide in the light of the fact that we disagree about considerations of justice as well as about the relative importance of various kinds of interests? If fairness in the method by which we decide these issues is important, it must be that the fairness is to be implemented by means of a distribution of resources and not on the grounds that one method is more likely to achieve the equal well-

being outcome. The latter is something deeply contested, and the contest is part of the reason why we must make a decision.

We have shown the impossibility of establishing what people's interests are and the contestability of our ways of comparing people's interests, as well as the function of justice as publicly establishing the equal worth of the interests of each citizen in the society. The only publicly accessible way to implement equal consideration of interests is to give each citizen the means for discovering and pursuing his or her own interests. The only reasonable implementation of such a principle must be in the equal distribution of resources for making collective decisions. Such a distribution permits each of its members the chance to enhance their understanding of their interests as well as justice on a publicly available equal basis.

Justice, collective properties, and political equality

Now we are in a position to bring the strands of our argument together. A society must make certain collectively binding decisions about its collective properties in which each citizen has distinct and substantial interests. But consensus is not possible in a society; disagreement is inevitable. So how should that authority be shared among the citizens? Equal consideration of interests is a solution to the problem of the just division of benefits and burdens when there is a scarcity of goods. There is scarcity when the interests of individuals conflict and they cannot all be satisfied. For collective properties there is a serious problem of scarcity. For example, there is conflict over the level of provision of pollution control insofar as different levels of provision have different costs. In the case of the cultural goods, there is conflict over the very goods to be provided as well as the level of provision. And in the case of the laws of property and exchange, there is considerable disagreement as to what ought to be chosen. These concerns determine the whole nature of the community. Insofar as there is a diversity of opinion among the citizens on the issues of which collective properties to implement, few will get their way on any particular issue. Hence, there is a high demand (relative to what can be supplied) for having one's preferred possible collective property implemented.

These last claims provide reasons for thinking that collective properties ought to be subject to principles of just distribution. What does justice require in these circumstances, and why are properties that are not collective to be treated differently? Justice, we have seen, requires that each person's interests be given equal consideration. This equal consideration of interests implies that individuals be given equal resources with which to understand, elaborate, and pursue their interests. Insofar as individuals'

interests are deeply interdependent concerning certain features of society and individuals cannot avoid conflicts of interests over those features, there ought to be collective decisionmaking about those features. Inasmuch as everyone has interests in making these decisions, the ideal of equality of resources ought to be applied to the collective decision-making procedure. Thus, each citizen ought to have equal resources to affect the outcomes of the collective decision-making procedure. This implies roughly that each ought to have an equal vote and other resources for participating in the collective decision-making procedure. This is the principle of *political equality*. Political equality implies that each and every citizen ought to have a say in the choice of collective features of society in a common decision procedure. Thus the principle implies a version of the idea of popular sovereignty. Who ought to make the decisions? The answer is, the people. How should they make these decisions? They ought to make the decisions in accordance with a principle of political equality so that each citizen has an equal say. To say that the people are sovereign is not to say that they all agree or that they all have a common will. It merely implies that all the citizens ought to come together in one group to make decisions together as a group.

Inevitably, many readers will have complaints with the argument that I have given. In what follows, I will show how my view avoids difficulties, such as the problem of regress and the trade-off problem, that I have observed in the other theories. I will show how justice in the distribution of resources for collective decisionmaking relates to issues of justice in the distribution of economic resources as well as civil justice. And I will show how my conception of democracy implies the best view of the function of social deliberation in democracy. After addressing these potential sources of difficulties, I will give a fuller elaboration of the nature of political equality, and, finally, I will show how my view avoids one of the main recent criticisms of democracy, the impossibility theorem of social choice theory.

Interests, Judgments, and Conflicting Conceptions of Justice

Democracy is a just way of making laws in the case of collective properties because citizens' interests are opposed on them. But here a difficulty arises. Society must make decisions on matters of civil and economic justice too. Citizens disagree on the justice of the laws of property, exchange, taxation, and the rights of citizens as well, and, clearly, these laws are about collective properties. But conceptions of civil and economic justice are not opposed in the same way that interests are. On the one hand, when there is a

controversy on civil and economic justice, individuals try to get others to give up their conceptions by means of rational persuasion. Their first concern is to arrive at the right conception. So when two people disagree they are not primarily concerned that their own conception be advanced but that the right conception be advanced. Conceptions of justice are a matter of judgment. They can be correct or incorrect. The first interest of each person is to have the correct judgment. By analogy, if you and I disagree on the solution to a mathematical problem, we advance opposed conceptions of the solution. What we try to do is figure out who is right, if either of us is right. Our first interest in discussion and debate is not to advance our own view but to discover what is right. Each is willing to give up his or her view if he or she can be shown to be wrong. So it appears that there is no ultimate conflict of interest involved in controversies on civil and economic justice.

On the other hand, when our interests are genuinely opposed, there is no further possibility of rationally persuading one person to give up his or her interests as there is in the case of judgments. My interests are not correct or incorrect as judgments are. And it is precisely this irresolvability that leads to attempts to resolve the conflict by fair means of accommodation. For example, if two people go out while it is raining and they have only one umbrella, they have a conflict of interest in not getting wet. It would not make sense for one person to attempt to resolve the matter by persuading the other that her interest is incorrect or that she should give up her interest. What the two must do here is accommodate the opposing interests in some way.

So although the principle of equality applies to conflicts of interest and democratic decisionmaking is appropriate in these contexts, it is unclear how the principle applies to controversies over civil and economic justice. Since everyone has the same interest – to find the right conception of justice – there is apparently no conflict. If this is right, then the scope of democratic decisionmaking is severely limited since the issues of property, exchange, and taxation play a role in virtually every decision and these issues are almost always connected with matters of justice. If democracy is intrinsically just only in matters unrelated to civil and economic justice, then the thesis of the intrinsic justice of democracy is not a very important one. The effort to improve on Singer's idea of democracy as a fair compromise has eviscerated the view.

The way to show that the principle of equal consideration of interests does apply to such conflicts is to show that important interests do conflict when citizens advance opposed conceptions of justice. There are really four such interests. First, there is the interest in recognition. Each person has an

interest in being taken seriously by others. When an individual's views are ignored or not given any weight, this undermines his or her sense of self-respect, in which each has a deep interest. Each has an interest in having his or her conception of justice heard and taken into account when there is irresolvable disagreement. These interests in recognition obviously conflict to the extent that individuals advance opposing conceptions of justice. Second, conceptions of justice often reflect disproportionately the interests of those who hold them. There is a tendency to cognitive bias in articulating and elaborating conceptions of justice, particularly in contexts of actual political conflicts. Cynicism is not necessary to observe this. Cognitive bias is natural given that individuals are likely to be more sensitive and understanding towards their own interests than those of others. And in a complex society where individuals' positions in society are quite different, this tendency to bias is increased. If many advance conceptions of justice that reflect their interests, those who lack opportunities to advance their own will lose out. To be sure, the process of rational persuasion should eliminate some of this cognitive bias, but it is unlikely to eliminate it all. Thus, serious conflict of interest is likely to accompany controversies on justice. A third interest associated with advancing a conception of justice is that a person will most likely experience a sense of alienation and distance from a social world that does not accord with any of her sense of justice. She will have a sense of nonmembership. That individuals have these kinds of difficulties can be seen from the experience of indigenous peoples in societies that are radically different from theirs. But this sense of alienation can be experienced to lesser degrees when there are lesser disagreements. The interest in a sense of membership is a source of conflict as well. A fourth interest is related to the interest in coming to have the right conception of justice. If persons are to be rationally persuaded, the arguments that lead them to the new belief must start by appealing to their initial beliefs. Persons are not persuaded by arguments based on premises they do not believe. As a consequence, the views of each person in a process of social discussion must be taken seriously if each is to have the opportunity to learn from that discussion. But a person's views will not be taken seriously in such a process if that person does not possess the power to affect political decisionmaking. Why should others try to convince someone who has no impact on the decision when there is so little time to persuade those who do have power? So each person has an interest in having his or her own view taken into account in discussion, and citizens' interests conflict to the extent that there is a limited space in which to discuss all views. The only way to treat these interests equally is to give them equal shares in political authority. I explore equality in discussion in more detail later in this chapter [and in Chapter 8].

These four interests suggest that there is some similarity between advancing conceptions of justice and advancing one's interests. They suggest that there is some basis for applying a principle of equal consideration of interests when there is substantial disagreement over conceptions of justice. So democratic decisionmaking is the proper way of resolving conflicts over conceptions of justice.

To avoid misunderstanding here, when I say that individuals have interests in advancing their own conceptions of justice, I do not mean to say that their conceptions of justice are mere masks for their own interests. I also do not mean to say that individuals' conceptions of justice are mere tools for pursuing their own interests. I take it as a fundamental fact that human beings are deeply concerned with matters of civil and economic justice and are concerned with having the most accurate understandings of these matters. Conflict in political society is often generated by pervasive but sincerely based disagreement on these matters. The four kinds of interests that I described above are interests that individuals pursue when advancing conceptions of justice; they are interests that are assured by giving each an opportunity to advance his or her own conception of justice in a world where there is uncertainty about the truth of any particular conception.

The contrast between interests and principles of justice drawn above was too great in another way. Citizens do not advance their interests directly; they advance what they believe to be their interests. So when there are conflicts of interests, they are conflicts between what citizens judge to be their interests. Of course, unlike issues of justice, they are not in conflict primarily because of disagreement as to how best to understand their interests; they are in conflict on the assumption that their conceptions of their interests are right. But the question still arises as to why it follows from a principle of equal consideration of interests that citizens ought to be given the right to advance what they *understand* to be their interests. Versions of the four reasons provided above give answers to this question. To treat a person as incompetent in discerning her interests is to undermine a fundamental support for her self-respect. It amounts to treating her as an inferior. Her interest in recognition gives us a reason to treat her as competent in judging her interests. Furthermore, individuals are more likely than others to understand their own interests. Obviously, each has a greater incentive to understand his or her own interests than those of anyone else. And each is better acquainted with the needs and vicissitudes of his or her life than anyone else. This is particularly true in a complex and highly diversified society wherein the contexts of people's lives are quite diverse.⁹ Furthermore, analogs of the feelings of belonging and alienation accompany the

lives of those who live in contexts that respond to their conceptions of their interests and those who live in circumstances that do not. Finally, people can learn best about their interests in discussions with others where their ideas are taken seriously.

We might ask what a person is more likely to understand about his interests than others. Some have a lot more technical and scientific knowledge than others. Many doctors probably understand many aspects of my health better than I do. But there are aspects even of my health that I understand best, such as how much time I wish to contribute to my health compared to other goods of mine or how well I feel. As Aristotle says: "There are some arts whose products are not judged of solely, or best, by the artists themselves, namely those arts whose products are recognized even by those who do not possess the art; for example, the knowledge of the house is not limited to the builder only; . . . the master of the house will even be a better judge than the builder . . . and the guest will judge better of a feast than the cook."¹⁰ Thus, though citizens may not be the best judges of their interests in an unqualified way because they have little knowledge of how to satisfy them or the conditions under which they can best be preserved, they are the best judges with regard to certain essential features of their interests. Not all the aspects of my interests are a matter of technical knowledge that can be had by anyone. Some knowledge of a person's interests is essentially more available to him or her than to anyone else. Though each can improve on his or her knowledge of interests by reflection and even discussion with others, others are not likely to be better informed in general. An important task of democratic theory is to separate out those aspects of a person's interests that a person is likely to be most knowledgeable about and those that he or she is not.

Notes

- 1 See Robert Dahl, *A Preface to Democratic Theory* (Chicago: University of Chicago Press, 1956), pp. 64–7; Dahl, "Procedural Democracy," in *Philosophy, Politics, and Society*, 5th Ser., ed. James Fishkin and Peter Laslett (New Haven: Yale University Press, 1979), pp. 97–133, especially pp. 99–101 and p. 125; and Peter Jones, "Political Equality and Majority Rule," in *The Nature of Political Theory*, ed. David Miller and Larry Siedentop (Oxford: Oxford University Press, 1983), pp. 155–82, especially p. 166.
- 2 In Thomas Rainsborough's "The Putney Debates: The Debate on the Franchise (1647)," in *Divine Right and Democracy*, ed. David Wootton (Harmondsworth: Penguin Books, 1986), pp. 285–317, especially p. 286.

- 3 This argument does not require that there be a private realm that is to be protected from paternalistic uses of public power. It merely denies that there is intrinsic justification for democratic decisionmaking in these contexts. The fact that someone does something in his home that I do not like or that I do not approve of is not a reason for me to complain of injustice. Only if his actions impinge on my well-being and that of others in a way that is hard to escape is there a genuine collective property. There may be grounds for criticism and intervention in private actions that are not related to collective properties, but those grounds are not that I or others have been unjustly treated.
- 4 Those recent thinkers, such as Michael Sandel and Charles Taylor, who agree with me in their emphasis on the importance and value of community in the lives of citizens, have failed to adequately deal with the diversity of people and the lack of consensus on what the community should be like.
- 5 See Gerald Cohen, "On the Currency of Egalitarian Justice," *Ethics* July (1989): pp. 906–44, for a critical discussion of many of the theories on this subject.
- 6 See Herbert Simon, *Reason in Human Affairs* (Stanford: Stanford University Press, 1983) for this kind of claim.
- 7 See Ronald Dworkin, "What Is Equality? Part I: Equality of Welfare," *Philosophy and Public Affairs* 10 (Spring 1981): pp. 185–246, for a similar kind of argument concerning the impossibility of defining an agreed-upon metric for equality of welfare. Of course, he is not concerned with democratic equality where I think this problem is the most severe.
- 8 See Joshua Cohen, "Deliberation and Democratic Legitimacy," in *The Good Polity: Normative Analysis of the State*, eds. Alan Hamlin and Philip Pettit (New York: Basil Blackwell, 1989), p. 19, for a discussion on this concept.
- 9 See John Stuart Mill, *On Liberty* (Buffalo, N.Y.: Prometheus Books, 1986), for this principle. See also his *Considerations on Representative Government* (Buffalo, N.Y.: Prometheus Books, 1991), for the application of this principle to democratic theory.
- 10 Aristotle, *Politics*, trans. Benjamin Jowett, Book 3 of *The Basic Works of Aristotle*, ed. Richard McKeon (New York: Random House, 1941), p. 1282a.