

# Democracy and Proportionality\*

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## I. INTRODUCTION

**D**EMOCRACY is commonly conceived of in political theory in terms of *equality* of power among the relevant population.<sup>1</sup> This conception of democracy is, however, known to be plagued with difficulties. In particular, democratic equality is typically associated with some use of the majority rule, and is thereby linked to the related conundrums: unleashed majorities may oppress minorities and crush basic liberal rights; majority cycles may lead to chaotic decisions. Such likely unfairness and inconsistency of majoritarian decisions question the status of democracy as a normative ideal and complicate the relationship between democracy and liberal theories of social justice. It is often considered that there is a tension between democracy and justice, in spite of the central role played by the value of equality in both.<sup>2</sup>

In this article we propose to replace the principle of equality by a principle of *proportionality*. In a nutshell, the basic principle of democracy that is examined here states that power should be distributed in proportion to people's stakes in the decision under consideration. Stakes, here, measure how people's interests are affected by the options available in the decision, and are understood in terms of human flourishing rather than in narrow financial terms—we will defend the thesis that interests should be evaluated in connection with a conception of social

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<sup>1</sup>Democratic elections are those which are based on universal, equal, free, and secret suffrage'; Hans Kelsen, 'Foundations of democracy', *Ethics*, 66 (1955), 1–101 at p. 3. 'Equal votes' is the first of the five democratic criteria in Robert A. Dahl, 'Procedural democracy', *Philosophy, Politics, and Society*, 5th series, ed. P. Laslett and J. Fishkin (New Haven, CT: Yale University Press, 1979).

<sup>2</sup>See, e.g., Philippe van Parijs, 'La justice et la démocratie sont-elles incompatibles?' *Revue Européenne des Sciences Sociales*, 31 (1993), 133–49; Keith Dowding, Robert Goodin, and Carole Pateman, eds, *Justice and Democracy* (Cambridge: Cambridge University Press, 2004).

justice. We think that this proportionality principle would not only provide better guidelines for the definition of a democratic ideal in theory, but would also help understand existing institutions and practices which involve proportionality. We even believe that the proportionality conception of democracy corresponds better to how democracy is intuitively understood by many people nowadays. Therefore, we may not be doing much more than bringing theory closer to practice and lay intuition, but hope that this is useful. In particular, we show below that important difficulties associated with the standard egalitarian view of democracy and its majoritarian implications are substantially alleviated by this alternative approach.

The article is organized as follows. We first introduce a stylized definition of the proportionality principle, describe some of its common applications, and show how it opens the way to reconciling disparate practices and ideas about democracy and rights that are often thought to be in conflict. We then examine in more detail the normative foundations of the principle that involve procedural and consequentialist considerations. In particular, we show how the classical difficulties with the simple majority rule in which all voters have equal power can be alleviated when proportional weights are introduced in the voting rule. Finally, we study how the notion of power should be understood in applications of the principle, and how the stakes should be measured and related to a theory of distributive justice. We end with some further discussion of the scope of application of the proportional conception of democracy.

## II. THE PROPORTIONALITY PRINCIPLE

The basic principle we are interested in is this:

*Power in any decision-making process should be proportional to individual stakes.*

Later on we will examine how the notions of power and stakes should be understood if the principle is to be used as a guide for devising ideal democratic institutions. Before that, we will only try to show how such a principle can be helpful in understanding some prevailing practices and ideas. For this purpose, it suffices to understand power as some kind of institutional influence on the decision, such as voting power, veto right, exit right, and so on, and to understand stakes as some measure of how the decision differentially affects the interests of the individuals, where interests are conceived broadly and not exclusively in terms of subjective preferences or states. In typical applications of the principle, as presented below, it does not suffice to feel strongly about an issue to be given additional power.

With this preliminary formulation, one can already examine various practices and ideas in a new light. For instance, the standard egalitarian theory of democracy can be accepted as a particular instance of the principle that fits the case when stakes are roughly equal. As one may reasonably consider that, for important electoral decisions such as usually made in the political arena, all

citizens have comparable stakes, it is then acceptable at the bar of the proportionality principle to grant equal voting power to all citizens. But the proportionality principle suggests that the scope of the egalitarian conception of democracy is limited, as we illustrate below.

Another implication of proportionality is a principle of inclusion that is now endorsed in some form or another by many democratic theorists.<sup>3</sup> The proportionality principle implies that all individuals with a positive stake should have *some* power. Conversely, it also implies that individuals with no stake should be excluded from the formal decision-making process. This implication supports the principle of subsidiarity<sup>4</sup> that has been adopted, for instance, in European institutions, but also underlies the decentralized allocation of competence at the local level in various countries.<sup>5</sup> While democratic theory usually separates the issue of allocating power in the demos from the issue of determining the composition of the demos, the proportionality principle allows us to address both issues simultaneously.

Geographical decentralization of power is an important example showing that, in a rough form, the proportionality principle is widely applied whereas the egalitarian conception is not. If democracy were really a matter of equality of power among all citizens, as democratic theory claims, then all important electoral decisions should be made by all citizens of the world. While the division of the political game in nations, regions, towns, and other geographical units does not make much sense for an egalitarian view of democracy, it is an obvious consequence of the proportionality principle: decisions that affect an area should be made by the citizens of this area. This is not to say that the current geographical organization of political power is optimal. Quite to the contrary, we believe for instance that the proportionality principle cries out for the establishment of some kind of world government because many issues now have world-wide consequences. Our limited claim here is just that the principle of

<sup>3</sup>The principle of inclusion is largely advocated by democratic theorists. 'Everyone affected by the operation of a particular domain of civil society should be presumed to have a say in its governance', according to Ian Shapiro, *Democracy's Place* (Ithaca, NY: Cornell University Press, 1996), p. 232; see also his *Democratic Justice* (New Haven, CT: Yale University Press, 1999) and *The State of Democratic Theory* (Princeton, NJ: Princeton University Press, 2003). Inclusion is the fifth criterion of democracy in Robert A. Dahl, 'Procedural democracy'. Robert Goodin, 'Enfranchising all affected interests, and its alternatives', *Philosophy & Public Affairs*, 35 (2007), 40–68, also endorses inclusion, even with the alleged implication that the demos should be universal. Close to our approach is Gustaf Arrhenius, 'The boundary problem in democratic theory', *Democracy Unbound: Basic Explorations 1*, ed. F. Tersman (Stockholm: Filosofiska Institutionen, Stockholms Universitet, 2005). A critique of inclusion can be found in Carl Cohen, 'Have I a right to a voice in decisions that affect my life?' *Noûs*, 5 (1971), 63–79. Most of his argument, however, is against equality of power among all concerned rather than against giving some power to each of them.

<sup>4</sup>The standard principle of subsidiarity is more complex, as it also involves a comparative evaluation of the ability of different decision bodies to cope with issues, and the idea that the most able should take over whenever possible. See Stefan Gosepath, 'The principle of subsidiarity', *Real World Justice: Grounds, Principles, Human Rights, and Social Institutions*, ed. A. Føllesdal and T. Pogge (Dordrecht: Kluwer and Berlin: Springer, forthcoming).

<sup>5</sup>The two principles of inclusion and subsidiarity are jointly defended in G. Arrhenius, 'The boundary problem in democratic theory'.

geographical decentralization, which is widely applied in the world today, finds a direct inspiration in the proportionality principle.

An additional illustration of the power of the proportionality principle relates to a classical problem of democratic theory, namely, the fact that majority rule may lead to decisions which are in violation of basic human rights, or which ignore the interests of minorities in an oppressive way. This is often presented as a tension between democracy and liberalism, and the only plausible solution, in this perspective, is to put liberal constraints on democratic procedures.<sup>6</sup> Armed with the proportionality principle, we approach this problem differently because liberal rights can be viewed as inspired by the same ideal as the proportionality conception of democracy. We shall argue for this in section 7. Here it is sufficient to observe that human rights typically involve the protection of the autonomy of the individual over issues in which only she has a stake—her thoughts, her movements, her physical and moral integrity—or the protection of the freedom of groups over issues in which only they have a stake—their joint activities. The proportionality principle is not restricted to power sharing among collectivities and applies equally well to decisions affecting only one individual. Letting other individuals decide what one must think, or where one must live, or whether one should be beaten, would be a blatant violation of the proportionality principle.<sup>7</sup> Considered thus, democracy and liberal rights do not clash; they both derive from the principle of proportionality.

Human rights do not grant full autonomy over personal decisions which have an external impact. Freedom of movement and activity may be restricted when they are likely to harm others, as in the case of criminal activities or hateful political activism, or simply in contexts of pollution and congestion. Other activities may be encouraged or subsidized when the consequences are likely to be beneficial to others. These limits, the contours of human rights, conform with the demands of the principle of proportionality.

The issue of the protection of minorities offers a similar outlook. Simple majority rule may produce a situation in which a majority of individuals with little stake in a decision impose a great loss on a minority. All attempts to circumscribe the brutal force of majoritarian ruling, e.g., by giving greater

<sup>6</sup>This issue, highlighted by de Tocqueville, is examined in Hans Kelsen, 'Foundations of democracy'; R. A. Dahl, *A Preface to Economic Democracy* (Cambridge: Polity Press, 1985), ch. 1; Giovanni Sartori, *The Theory of Democracy Revisited* (Chatham, NJ: Chatham House, 1987), vol. 1. In 'Democracy and social justice', *British Journal of Political Science*, 8 (1978), 1–19, David Miller analyzes the converse fact that democracy involves more egalitarian requirements than in the 'classical liberal' conception of social justice; this tension fosters the development of new, liberal-egalitarian, theories of justice.

<sup>7</sup>William A. Galston, 'Democracy and value pluralism', *Democracy*, ed. E. Frankel Paul, F. D. Miller and J. Paul (Cambridge: Cambridge University Press, 1999) quotes not only liberty but also truth as a value which overrides democracy. By this he means that 'the political sphere has no rightful authority over the internal processes that guide the quest for truth' (p. 260). He is obviously right, but notice that the proportionality principle actually vindicates the individual freedom of thought that underlies the method of scientific inquiry. In our opinion, letting the majority choose what any particular individual should believe implies a violation of democracy properly construed.

attention to the minority's interests in parliamentary committees and debates, by such practices as logrolling, or by such institutions as judicial review or the bicameral system, can find support in the proportionality principle. Section 4 illustrates further how a more direct application of proportionality, through unequal voting weights, can help to solve this problem and related classical problems associated with the simple majority rule.

### III. NORMATIVE FOUNDATIONS

So far, we have explained how the principle of proportionality can shed light on various interesting principles and practices: equality of power in general elections, inclusion and subsidiarity (with geographical decentralization as a key example), liberal rights, and protection of minorities. This tells little, however, about the possible status of the principle in a normative theory of democracy.

We do not think that the principle stands on its own as an obvious and irrefutable axiom of fairness in the allocation of power. Although it may have a lot of intuitive appeal, it must be derived from more basic principles. We think that it can be given support from three different angles. These are only briefly sketched here, for lack of space.

A first line of argument in favor of the principle can invoke the ideal of equal respect. Many democratic theories put a great deal of importance on the idea of equal respect and on the egalitarian consequences of this idea. The "one man, one vote" slogan is often directly derived from this kind of argument. Reference is then made, as an example of the opposite perspective, to J. S. Mill's proposal to give several votes to every educated person. This proposal was grounded on the alleged fact that educated people have a better view of the issues to be decided and a greater ability to reach an impartial viewpoint. Mill's scheme of plural voting is indeed unacceptable. Obviously, however, the fact that one scheme of plural voting is unacceptable does not imply that all such schemes must be rejected and the next section will illustrate this. The proportionality principle, we claim, is actually a better implementation of the idea of equal respect than egalitarian rules. Let us take for granted that the obligation of equal respect supports an obligation to ensure that the institutions we share with others are basically democratic and give equal consideration to their interests. The standard argument that goes from equal respect to equal power generally considers a context in which, implicitly, stakes are roughly equal, as for general issues of political organization. In situations where stakes are blatantly unequal, the argument becomes much less compelling. It is then an equal allocation of power which appears disrespectful to those who are thereby unduly submitted to the will of the unconcerned or the less concerned.

Thomas Christiano, for instance, argues for an egalitarian principle of the distribution of political power by appealing to a foundational principle of equal consideration of interests. The core idea is that individuals have interests in

matters which are irreducibly collective, and that equal consideration of these interests requires that each individual have equal power over those matters.<sup>8</sup> But, in so far as people have unequal stakes in matters that are irreducibly collective, their interests will not be satisfactorily considered when they have equal power, because greater stakes will be buried under lesser stakes. To be more precise, the issue is not only that of equal respect but also that of how much respect is given. The above example of geographical decentralization is a case in point. By forcing local communities to obey decisions on local issues made by the whole nation, a centralized system may display equal respect to everyone, but at a low level. A greater respect to everyone is expressed by a decentralized system which grants autonomy to local communities. So the proportionality principle fits Christiano's justification of democracy better than the more usual egalitarian principle.

A second, related line of argument involves the notion of autonomy that was just alluded to. An individual's autonomy is obviously enhanced when she is left to decide on matters which concern only herself and no other person. By extension, for issues which affect several individuals, it is better for their autonomy if those with greater stakes in some issues have greater power in the related decisions. Equal autonomy could perhaps be achieved by giving equal power to all in every decision, but it would be a low degree of autonomy, because everyone would be under the dominion of the collectivity.<sup>9</sup> Starting from this low point, a proportional allocation of power is bound to enhance autonomy. In this way the proportionality principle appears to give flesh to the notion of self-government at all scales, from the individual to the whole population.

A third line of argument in favor of proportionality is of a consequentialist sort and relies on a result introduced in section 4: under certain assumptions, a majority rule in which voters may have unequal votes (i.e., unequally weighted votes) is able to systematically rank the options in the way advocated by a consistent notion of social good. In other words, the proportionality principle embodied in a weighted majority rule can guarantee the best social outcome among those which are submitted to the electorate.

#### IV. PROPORTIONALITY IN VOTING WEIGHTS

From the Condorcet paradox to Arrow's impossibility theorem, the theory of voting is replete with paradoxes pointing to the defects of the majority rule. It

<sup>8</sup>*The Rule of the Many* (Boulder CO: Westview, 1995).

<sup>9</sup>There is a very interesting embarrassed discussion of the tension between autonomy and equal distribution of power in William N. Nelson, *On Justifying Democracy* (London: Routledge, 1980), p. 47: 'No doubt something like this—control over one's life, or 'self-government'—is one of the main aims behind the principle of equal participation. Consider this question: would people have more control over their lives if the general right of equal participation were instituted, or are they more in control in the present system in which they are able to gain complete control over some decisions that particularly concern them? The answer is surely not obvious.' For a similarly convoluted discussion of the relation between democracy and autonomy, see Carol C. Gould, *Globalizing Democracy and Human Rights* (Cambridge: Cambridge University Press, 2004), pp. 31 ff.

is often considered that these defects reflect internal limitations (if not inconsistencies) of the democratic ideal.<sup>10</sup> Let us briefly recall three representative paradoxes.<sup>11</sup> First, the Condorcet paradox shows that majoritarian decision may be cyclic under a certain configuration of preferences because different majorities may form over different issues: a majority may prefer option A to option B, another may prefer B to C, and yet another may prefer C to A. Second, the paradox of the referenda is that a sequence of referenda on separate issues may lead to a package of decisions which is considered worse, by every individual in the population, than the opposite package. For instance, “no” may obtain a majority on every issue in spite of the fact that “yes on all issues” would be unanimously preferred to “no on all issues”. This may happen even when individual preferences are separable (voting yes or no on an issue, then, does not depend on the other issues). Again this is because different majorities form over separate issues. The third paradox is that in a context of multi-dimensional issues, it may be possible, for a fixed profile of preferences, to pick arbitrarily two decisions (each consisting on a particular subdecision on every dimension) in a wide set, and to go from the first to the second by a series of majority votes. Here again the key factor is the possibility to have different majorities at each step in such a series.

In all of these paradoxes, the problem comes from the fact that different majorities are formed, composed of individuals with low or high stakes. But, inevitably, some majorities in the paradoxical sequences are composed of individuals with relatively low stakes imposing their will on minorities with greater stakes. The legitimacy of the majority rule in such cases is therefore dubious. Recording the unequal stakes and giving unequal voting weights to the voters is a way of avoiding those paradoxes. We present a very simple theorem which illustrates this statement in a clear-cut way.

*Theorem:* Consider a prioritarian criterion maximizing the sum of  $f(I_i(x))$  over all  $i$ , where  $f$  is a concave function and  $I_i(x)$  measures the situation of individual  $i$ 's interests with option  $x$ . Suppose that the options are ranked by application of the weighted majority rule over every pair of options, individual weights being specific to every pair of options and being computed as the absolute value of the difference in  $f$ -transformed individual interests between the two options in a pair (i.e.  $|f(I_i(x)) - f(I_i(y))|$  is the weight of individual  $i$  for application of the majority rule to the decision between  $x$  and  $y$ ). Then, assuming that every individual always votes

<sup>10</sup>William Riker, in *Liberalism Against Populism: A Confrontation Between the Theory of Democracy and the Theory of Social Choice* (San Francisco: Freeman, 1982), relies on such paradoxes to argue that constitutional constraints are necessary to prevent democratic procedures from going astray.

<sup>11</sup>Syntheses on such paradoxes are in: Hanna Nurmi, *Voting Paradoxes and How to Deal with Them* (Berlin: Springer, 1999); and Donald G. Saari, *Decisions and Elections: Explaining the Unexpected* (Cambridge: Cambridge University Press, 2001).

according to his interests, the options are ranked in agreement with the prioritarian criterion.<sup>12</sup>

This theorem connects the proportionality principle to the family of prioritarian criteria. A precise criterion in this family is specified by how “interests” are measured and by the degree of priority for the worst-off embodied in the concavity of function  $f$ . As it is well known, it is possible for  $f$  to incorporate any finite degree of priority for the worst-off.

Let us examine the logic of the result in more detail. The fact that options are ranked in the way described in the theorem guarantees against any of the above paradoxes. A cycle cannot occur in such a numerical ranking. A unanimously preferred option is necessarily ranked higher; a sequence of weighted majorities can only go one way, namely up the scale of the prioritarian sum. The theorem itself can be explained as follows. The option which wins is such that the sum total of weights of those who vote for it is greater than the sum total of weights of those who vote against. Since weights equal stakes, and stakes equal the differences in  $f$ -transformed individual interests, this directly implies that the sum of  $f$ -transformed interest differences is greater for those who gain with this option (compared to the alternative option) than for those who lose. And this is equivalent to saying that the sum of  $f$ -transformed individual interests is greater with the winning option.

It is well known that voting problems epitomized in the Condorcet paradox or in Arrow’s impossibility theorem can be avoided by resorting to interpersonal comparisons of utilities and this simple result is not much more than another illustration of this idea. But the idea that interpersonal comparisons can be incorporated in a voting rule and put in practice in a concrete allocation of power (as opposed to the mere computation of an abstract social welfare function) does not seem to have attracted much attention.<sup>13</sup> The above theorem appears helpful in making it more concrete why taking account of unequal stakes in the decision procedure (not just in the computation of social welfare) can be helpful in making collective decisions not only more equitable but also more consistent.

<sup>12</sup>Further explorations around this result can be found in Marc Fleurbaey, ‘Weighted majority and democratic theory’, mimeo. The link between majority rule and social welfare is usually examined with respect to the simple majority rule. Jonathan Riley, ‘Utilitarian ethics and democratic government’, *Ethics*, 100 (1990), 335–48, for instance, proposes an informal theorem according to which when interpersonal comparisons of utility cannot be made, the simple majority rule is the best rendering of the utilitarian criterion. Sven Danielsson, ‘Two papers on rationality and group preferences’, *Filosofiska Studier*, 21 (Uppsala: Philosophy Department, University of Uppsala, 1974) proves that the (possibly intransitive) ranking produced by the simple majority rule maximizes the sum of utilities, when individual utility is defined as the proportion of pairs of options over which the individual’s preferences agree with the social ranking.

<sup>13</sup>The issue of giving different weights to representatives as a function of the utilities of their constituents is studied in Salvador Barberà and Matthew Jackson, ‘On the weights of nations: assigning voting power to heterogeneous voters’, *Journal of Political Economy*, 114 (2006), 317–39 and Claus Beisbart and Luc Bovens, ‘Welfarist evaluations of decision rules for boards of representatives’, *Social Choice and Welfare*, 29 (2007), 581–608—where one finds references to related papers of these authors who have pioneered this approach.

Another interesting lesson of the theorem is that the measurement of stakes must be made separately for every pair of options. This makes sense. If an individual has a great stake on A vs. B but is almost indifferent between B and C, it would be strange to say that she has a medium stake on A,B,C. This would lead the process to misrepresent her stakes both over the A vs. B issue and the B vs. C issue (as well as on the A vs. C issue). This observation may seem sobering because in applications it may be difficult or tedious to decompose every set of issues into pairs of options. But we do not claim that the proportionality principle is always easy or simple to apply. It can serve as a useful guideline and may contribute to reducing some of the most grievous problems of majority procedures, even when a full-fledged application is out of hand. Let us however insist once again on the fact that all elections in the world so far have relied on unequal weights. Therefore the weighted majority rule is by far more popular in practice than the simple majority rule. Certainly, most applications of the weighted rule involve equal weights for a restricted demos and zero weights for the outsiders. But more thorough applications are commonly observed, such as shareholder votes proportional to equity shares.

Some might doubt the connection between the theorem and the proportionality principle on the ground that, for the weighted majority rule, power measured as the capacity for a voter to influence the outcome is typically not proportional to voting weights.<sup>14</sup> For instance, a voter with a single vote facing three other voters with two votes each has no power in spite of having one vote to cast. The theorem therefore suggests that, in the context under consideration, voting *weights* rather than voting *power* should be proportional to stakes.<sup>15</sup> We believe, however, that the proportionality principle should not be cast in stone as an exact mathematical requisite involving a rigid notion of power. It should rather serve as a general guideline with multifarious possible applications in different contexts. What is essential in the principle is the positive relation between power and stakes, not a specific notion of power or an exact proportionality. In the voting context, the theorem suggests that the best application of proportionality concerns voting weights rather than another measure of voting power such as the Banzhaf or the Shapley-Shubik index. The difference between these indices and voting weights is, in fact, not so important for large electorates, and voting weights are then a reasonable measure of power. Besides, for small electorates, voting power as measured by the Banzhaf or the Shapley-Shubik index cannot be allocated in a flexible way between voters. For instance, with two voters, there are only three possible allocations of power:<sup>16</sup> full

<sup>14</sup>An excellent synthesis on voting power is found in Dan Felsenthal and Moshe Machover, *The Measurement of Voting Power* (Cheltenham: Edward Elgar, 1998).

<sup>15</sup>This issue is discussed by G. Arrhenius in 'Democracy and the measurement of influence', mimeo (2007).

<sup>16</sup>This statement is true for simple voting games (in the two-voter case, a simple voting game is defined by the fact that each voter votes for one option and unanimity is respected). Other kinds of voting rules may allow for additional distributions of power.

power for voter 1, full power for voter 2, or equality of power. So the principle of proportionality would not make much sense if one wanted to implement it in terms of such power indices. It is actually comforting that the proportionality principle finds a better application in the proportionality of weights, which are easy to allocate.

Others might doubt the relevance of the theorem on the ground that if the stakes could be measured as precisely as required by the theorem, there would be no need to vote because the best decision would be known. This claim is incorrect because the stakes measure the intensity but not the direction of individual interests. In many contexts—in particular in the examples of applications of the proportional principle given in Section 2—the relative size of stakes is roughly known but not the preferences of the individuals, so that a vote is needed to reveal the latter.<sup>17</sup>

## V. COMPETENCE AND THE MEASUREMENT OF POWER

If the principle is to be used as a normative guide for the definition of the democratic ideal, adequate notions of power and stakes are needed. This is the topic of this section and the next two.

One might consider extending the idea of proportionality from stakes to competence. This idea is akin to Mill's scheme of plural voting, and appears to be a mistake. Technical expertise in itself is no reason to be given more *de jure* power, because knowledge does not by itself confer any right to represent others' interests. That some are more technically competent gives them a greater ability to assess whether the means publicly chosen will be effective in pursuing certain goals, but it does not necessarily give them a greater understanding of others' interests or, *pace* Mill, an inclination to advance those interests. On the other hand, it is entirely predictable, and not at all contrary to the principle of proportionality, that experts have more *de facto* influence than ordinary people in the deliberation process.<sup>18</sup> This kind of influence is different from decision-making power. If the influence of experts is mediated by their having provided good reasons and good evidence for their views, then it enters the formal decision-making process not as their own power, but as that of voters they have persuaded. At this point it is useful to list the various sources of influence

<sup>17</sup>Observe that once the weights are determined, the weighted majority rule is no more manipulable than the simple majority rule. It is a dominant strategy for voters to vote sincerely.

<sup>18</sup>Obviously, in the different context of pure epistemic democracy (all voters having common interests but differential information or competence), it may be acceptable to grant more power to the more informed. In this context there are results similar to our theorem (see Ruth C. Ben Yashar and Shmuel I. Nitzan, 'The optimal decision rule for fixed-size committees in dichotomous choice situations: The general result', *International Economic Review*, 38 (1997), 175–186). But as soon as interests diverge, we tend to think that the legitimate extra influence of better informed voters should operate in the deliberation process rather than through unequal power in the decision itself.

and define the notion of power we consider appropriate in applications of proportionality.

Many factors influence the final outcome of a decision.

- Charisma and reputation: an individual may influence other people just because of such characteristics, which may stem from fame, technical expertise, recognized moral virtue.
- Political skill: the ability to identify relevant issues, to identify people's stakes, to bargain.
- Manipulative skill: for example, the ability to set up events so as to put adversaries in embarrassing situations; the ability to present oneself in the most attractive light; an understanding of the psychological effects of certain kinds of behavior in the broadcast media. ("Spin" is the contemporary term.)
- Threat and bribe: a more basic form of manipulation.
- Associational strength: there are increasing returns to political action, so that people belonging to groups above a critical mass have more leverage (access to the media, momentum, etc.). This is independent of the fact that above the critical mass they, obviously, have more voting power and hence are, other things being equal, more likely to win votes.
- Ability to give reasons: that is, to put forth convincing arguments in the deliberation process (this may come from technical expertise or other knowledge).
- Formal power: voting share, veto right, direct access to certain decisions (political representatives have more power than those who elect them), etc.

There are still other kinds of influence, such as that underlying the power of exit from certain contractual relations, which will be discussed in the last section. The proportionality principle does not apply to power defined as the sum of all such influences that an individual might exert on a particular decision. Instead, we propose to apply it only to power defined as the sum of formal power and all "illegitimate" sources of unequal power, namely: charisma and reputation, manipulative skill, threat and bribe, association. It is legitimate for people with greater political skill or a greater ability to give reasons to have *de facto* influence greater than is proportional to their stakes, when the source of that greater influence is their greater political skill or ability to give reasons, and when it is exercised through the judgments of others. The criterion which distinguishes legitimate from illegitimate sources of unequal influence is just this: those which are legitimate are those where the influence of the person influencing the process of political deliberation is transformed into the authentic influence of the audience at the voting stage, because the voter has accepted publicly articulated reasons on the basis of rational reflection.<sup>19</sup>

<sup>19</sup>Thomas Christiano, *The Rule of the Many*, ch. 4, has argued that all options should be given equal voice in the deliberation process, in a political democracy. This would in particular mitigate

We lack a way of operationalising this, and in practice, it is unrealistic to imagine that shares in formal power could be adjusted to take account of all “illegitimate” influences. It is uncontroversial that some illegitimate influence can and should be straightforwardly prohibited: bribing or blackmailing elected officials or civil servants would be unacceptable, even if it were offset by lack of formal influence. As far as possible, illegitimate influences should be eliminated or counteracted.<sup>20</sup> The proportionality principle would then simply apply to formal power.

Another issue: is it enough to provide *access* to participation in the decision, or should participation be *required*? From the standpoint of basic procedural fairness, access may seem to suffice, but recall that the justifications of the principle have to do with consideration of interests. Non-participation sometimes distorts the decision by under-representing some important interests. On the other hand, when power is shared equally, abstention may sometimes lead to an outcome approximating what the proportionality principle would have produced. For instance, assume that a 40% minority with high stakes would lose under simple majority. If the non-participation rate of the 60% majority with low stakes is high enough, the minority will win the vote, as should be the case under proportionality. The issue of non-participation has to be assessed in view of the proper representation of interests.

## VI. MORAL COMPETENCE AND SURROGATE POWER

We started the previous section with the question of technical competence. Moral competence is a different matter which deserves special scrutiny. In many contexts moral competence is unequal: children, future generations, cognitively disabled people, and some criminals are usually considered incompetent (or, in the case of future generations, are simply absent).<sup>21</sup> Animals could also be put on this list. To make matters worse inequality in moral competence is pervasive. People differ in their abilities to recognize and promote their own interests, and in their abilities and inclinations to identify and act on the interests of others. Should power vary with moral competence? Assume for a moment that it should: then power should be proportional to stakes and to moral competence. But

some illegitimate influences, for instance the association effect. This principle of equal voice is essentially independent from the proportionality principle. It could be combined with essentially any democratic sharing rule for power. Its purpose is simply to make the deliberation process as efficient as possible in order to help people shape their own preferences and compare the various options.

<sup>20</sup>In the case of association, however, it is hard to imagine how this could be totally prevented without harming some basic interests of freedom of association. It appears nonetheless possible to counteract the other illegitimate sources of influence.

<sup>21</sup>On the representation of future generations, see Gregory Kavka and Virginia Warren, ‘Political representation for future generations’, *Environmental Philosophy*, ed. R. Elliot and A. Gare (University Park: Pennsylvania State University Press, 1983) and Torbjörn Tännsjö, ‘Future generations and the all affected principle’, *Democracy Unbound: Basic Explorations I*.

measuring moral competence is a highly controversial exercise, and, moreover, for most ordinary individuals, having a publicly acknowledged low moral status would seriously hurt their recognitional interests.

Therefore, we propose to apply the proportionality idea only when moral competence can be measured in publicly defensible ways.<sup>22</sup> So for example age is, for children, a publicly defensible way of evaluating competence. As children get older they acquire different competences, and different rights (including rights to the exercise of power in collective contexts) can be granted as standard benchmarks for competence are passed. Of course, age is an imperfect proxy for competence, but two considerations recommend it. First, the risks to the individual child of acquiring some rights before they are competent are much greater than the risks of having to wait some time to exercise the right after they have already become competent. Second, while there are outliers, most children acquire competences at similar ages and therefore using an age as a threshold implies no stigma on those who are excluded from the use of the conferred right.

Criminals and the cognitively disabled are usually thought to be excludable, but it is reasonable to think that, in contrast to the case of children, stigma will attach to their exclusion. First take the case of criminals. Criminals are stigmatized in various ways. They are deprived of liberty and many of the ordinary rights of citizenship. Much in these deprivations and stigma is arguably inappropriate, even in those cases where patterns of incarceration do not reflect some serious underlying injustice in the social fabric. The reason is this: criminals, when engaging in serious criminal activity, may forfeit some of their rights of citizenship, but they retain stakes in many of the decisions that are made in politics, especially those which will affect them when they recover their freedom. As a consequence, the common practice of depriving them of their right to vote is usually unjustified. The case of persons with serious cognitive disabilities is more difficult. There are many different kinds of cognitive disabilities, and some are more serious than others. At one end of the spectrum, individuals are unable to assess and advance their own interests, so it appears inevitable that they should be excluded from the right to vote, even though this may involve some degree of stigmatization. At the other end of the spectrum individuals have a good deal of capacity to conceptualize and advance their own interests, and we suspect that modern societies are insufficiently enlightened and overly paternalistic. It would be appropriate to accord most or all of the standard rights of citizenship to people at this end of the spectrum.

Our answer to the problem of varying moral competence, then, is this: a threshold of competence is set, and discriminations may be made below that

<sup>22</sup>In this we follow David Estlund, 'Making truth safe for democracy', *The Idea of Democracy*, ed. D. Copp, J. Hampton, and J. E. Roemer (Cambridge: Cambridge University Press, 1991); and 'Beyond fairness and deliberation: The epistemic dimension of democratic authority', *Deliberative Democracy*, ed. J. Bohman and W. Rehg (Cambridge, Mass.: MIT Press, 1997).

threshold. But above that threshold, although there is variation, there is no publicly acceptable way for discriminations to be made. Therefore, above the threshold all are treated equally.

This leaves the problem of taking into account the interests of morally incompetent individuals. The fact that future generations for instance are necessarily out of the decision-making process does not mean that their interests should be neglected. Likewise, the motivation for excluding the seriously cognitively disabled is precisely that including them will mean that their interests are not represented well. We believe that a more basic principle lies behind our proportionality principle:

*All individuals should have their interests effectively represented in proportion to their stakes.*

The proportionality principle can be viewed as the combination of this principle with the additional “respect and autonomy” requirement that *whenever possible the individuals should represent themselves*. Assuming that morally competent individuals are adequate trustees for themselves supports the principle of power allocation stated above. When less than adequately competent individuals are involved, we propose to give them power in proportion to their competence, and to let the remainder of their share be taken by appropriate trustees, whose power share is thereby increased. An “appropriate” trustee is one who is the most likely to correctly take account of the incompetent person’s interests.<sup>23</sup>

The idea of increasing the power share of trustees might seem odd. It is nonetheless obvious that the interests of mentally disabled persons are better taken into account if their share of power is indeed preserved and given to trustees pushing their interests. Now, should parents have more voting power than the childless, if they are the trustees of their own children? It is true that for many decisions, parents are the best trustees of their children. But parents need not have more political power than singles, or parents with many children more than parents with few children. A morally incompetent individual must not necessarily be represented by the same trustee in all spheres of decisions. Regarding intellectual education, for instance, the power of parents is quite limited by the control of the state and its delegated experts: teachers, administrators, and psychologists. It also seems to us that for the main political issues, the representation of children can be spread equally over the whole electorate and ought not to be captured by their parents. While it seems entirely reasonable to think that parents are well positioned and inclined to identify and pursue their particular child’s short-term interests, thus making it reasonable to give them great latitude in that function, it is less reasonable to think that they are in a privileged position with respect to the long term political interests of children

<sup>23</sup>We concur in this case with Richard Arneson’s view that ‘rights to power over others are rights to serve as steward for interests of the affected parties’ (‘Defending the purely instrumental account of democratic legitimacy’, *The Journal of Political Philosophy*, 11 (2003), 122–132, at p. 126).

and how best to advance them. The case for allowing the interests of future generations to be represented by the electorate as a whole is still more compelling: only those who have no children and are beyond child-bearing years can be assumed to have no direct genetic interest in the interests of future generations, and to build into the design of institutions the assumption that they have no moral interest in the interests of future generations would be both insulting and, possibly, self-fulfilling.

## VII. DEMOCRACY AND SOCIAL JUSTICE

Let us now turn to the measurement of stakes. Because the determination of stakes is intimately connected to the evaluation of individuals' interests, the best approach is to rely on a general conception of justice that compares individual situations and evaluates the general allocation of resources and well-being. The theory of fairness in power sharing, therefore, derives its substance from its association with a particular theory of justice.<sup>24</sup> Any attempt to define stakes independently of a general conception of interests and social justice will make the proportionality principle sometimes work against the promotion of social justice, and it is hard to see why this would be appealing when a simple reconciliation of democracy and justice is possible.

Even if the proportionality principle is a priori compatible with many conceptions of the individual stakes, however, it appears to be best connected to a liberal egalitarian conception of social justice. The autonomy line of argument in favor of the principle is totally congruent with the ethical ideal of a society in which every individual is a master of his or her own life. It seems, in the light of the proportionality principle, that the concerns for basic freedoms, autonomy, and democracy are simply different facets of the same ideal of self-government of one's life by everyone. The argument based on equal respect is also well in line with such a view. And the consequentialist theorem shows that if stakes are measured by the impact of decisions on individual advantage as properly defined by the theory of social justice, the decision process will spontaneously select the best options. In particular, as already explained, it is perfectly possible to define stakes in a way that gives priority to the worst-off to any desired degree.

Although it may seem odd to consider giving more power to the poor, recall that in the ancient voting systems people without property had no voting right, and this did more or less rely on some rule of proportionality, because it was considered that only taxpayers were concerned with political decisions (having property was also a criterion for moral competence). Therefore, making political weight depend on wealth or income is not exactly a new idea. In an egalitarian society, however, there would be no poor and therefore much less need to

<sup>24</sup>For a similar viewpoint, see Willaim Nelson, *On Justifying Democracy*, and Charles R. Beitz, *Political Equality: An Essay in Democratic Theory* (Princeton: Princeton University Press, 1989). The opposite view is defended in G. Arrhenius, 'The boundary problem in democratic theory'.

distribute political power in relation to wealth. This means that the ideal political system is indeed, as described by most theorists of democracy, roughly egalitarian in the distribution of power, at least for the basic issues where stakes are roughly equal. It is not obvious whether the proportional system based on wealth is a good remedy to the situation of inegalitarian societies, and we do not examine the problem of the transition to the egalitarian institutions in this article.

We do not claim that the proportionality principle provides a ready-for-use method for the implementation of justice. It only shows a general direction in which one may find greater compatibility between justice and democracy than is usually thought. Difficulties abound, of course, in the application of this ideal. For instance, one has to face the possibility that individuals will not vote according to their correct interests. This may happen in a variety of ways. First, when casting their vote, individuals may care not only about their personal situation but also about the social good. This need not be problematic because, on the whole, it will reinforce the weighted majority in favor of the good options. Second, individuals may make mistakes of two sorts. They may have wrong beliefs about the consequences of different policies; a well-designed deliberative process in which informed opinions about facts can be elaborated can help to address this possibility. When individuals have conflicting beliefs which are all reasonably informed, there is nothing objectionable, or so it seems, to let them express their preferences on the basis of such beliefs. The other sort of difficulty consists in individuals having conflicting normative views about personal interest or social justice. In many theories of justice, the notion of interest is to a substantial extent supposed to depend on the individuals' own view of what is important or best for them. This partly alleviates the difficulty. Moreover, democracy, on the argument we have made for it, is not just a convenient tool for implementing the ideal objective of maximizing some (prioritarian) sum of interests; it is also an essential way to respect some other basic interests of individuals, namely, their recognitional interests (to be recognized as autonomous moral agents), and their agency interests (to conduct their own life), and it is also an essential way to promote social relations with enough respect for individuals' freedom and responsibility. A full theory of justice should explain whether it is best to let democratic outcomes stand or to depart from them.<sup>25</sup> If, because of the basic values they represent and promote, democratic outcomes merit respect, then the notion of interest that underlies the conception of justice has to incorporate these values. The apparent conflict between justice and democracy should be treated as an internal conflict that must be solved within the theory of justice itself.

<sup>25</sup>The case of adaptive preferences is particularly difficult. When women expressly support decisions that confirm their dominated situation, what is the proper democratic attitude? See in particular: Jon Elster, *Ulysses and The Sirens* (Cambridge: Cambridge University Press, 1984); Martha Nussbaum, *Women and Human Development* (Oxford: Oxford University Press, 2000); and Cass Sunstein, *The Partial Constitution* (Cambridge, MA: Harvard University Press, 1994).

## VIII. THE SCOPE OF DEMOCRACY

The theory of democracy generally focuses on the political sphere. But the proportionality principle sees “*any*” decision as raising issues of fairness in the distribution of power. Whether it is about scratching one’s nose or pushing the nuclear button, there is an issue of who should be the decision-makers, and how power is shared among them. On this perspective, the scope of the theory of democracy is extremely large.

This is obviously controversial, especially in relation to the question of whether it is permissible for people to relinquish their democratic rights within voluntary private associations. Examples include the capitalist firm, the family, and all sorts of private clubs and associations, notably religions and sects. Freedom of exit is sometimes regarded as an adequate form of power, and some regard freely chosen constraints as legitimate, even when they involve being submitted to the undemocratic authority of others, without easy exit. We consider these two points in turn.

Exit and voice are indeed two modes of exerting pressure, and therefore of exercising power.<sup>26</sup> The basic theory of democracy is about voice which, in this particular context, refers to the formal expression of opinion in a decision process (as opposed, for instance, to the mere exchange of views in the deliberation process). In the discussion of power and influence in a previous section, we mostly focused on voice. Voting is a voice mechanism, for instance, but so is the annual general meeting of shareholders in a public company. The availability of exit may influence decisions in subtle ways, and in some contexts it is also a legitimate means of pressure (consumer choice in a well-functioning market, for instance).

One might argue that the availability of exit makes voice less important, in other words, that exit and voice are substitutable.<sup>27</sup> We think that this claim must be qualified. It owes its plausibility to its application to large groups the members of which are symmetrically positioned, and in which the vocal people can be relatively invulnerable to those with whom they disagree. But in small groups it is often hard to express one’s voice anonymously. Married couples are a case in point. In such cases, the possibility of exit could not replace but can and does enhance voice and the quality of the processes involving it. Moreover, it is precisely in such small groups that voice is often much more efficient than the threat of exit because it conveys more information and allows the selection of options that cater more thoroughly to the interest of the parties. Easier access to divorce, especially for women who often have less than proportional power within the marriage, may have substantially increased the quality of negotiations in couples, and therefore the quality of the decisions themselves.

<sup>26</sup>Albert O. Hirschman, *Exit, Voice, and Loyalty* (Cambridge, MA: Harvard University Press, 1970).

<sup>27</sup>Richard Arneson, ‘Democracy in national and workplace settings’, *The Idea of Democracy*.

In conclusion, exit is a valuable alternative to voice in the exercise of power only when the decision does not have to reflect the parties' interests in a complex qualitative way, and for large anonymous groups in which the expression of voice is relatively costless. Otherwise, exit may only be a valuable tool, as a dissuasive threat, to enhance the quality of the voice mechanism, thereby increasing rather than diminishing the need for such mechanism.

The idea that the voluntary character of entry into an association justifies any kind of undemocratic power sharing, even in absence of easy exit, seems even more suspicious to us. Even in the case of productive firms, for which one might try to construct an argument that efficiency is enhanced by submission to the authority of technical experts, empirical evidence suggests that productive efficiency is actually enhanced by an atmosphere of autonomy and democracy. Workers are more motivated when they have the genuine feeling of working for themselves, and the useful influence of experts can still be operative within a democratic setting, as we have explained above.

It may also be noted that opponents of democratic requirements on private associations are often unduly optimistic about the possibilities of exit or the quality of free choices of adhesion. Justifying authoritarian management in firms by the possibility of exit is quite naive given the high costs generally borne by those who quit their job. Similarly, freedom of adhesion cannot really be asserted when, for instance, people are pushed by poverty to accept bad jobs, or are submitted to strong social encouragement to join religious groups.

All in all, joint activities within private associations are social relations, and must be evaluated at the bar of social justice. Libertarians say that all consensual activities between adults should be permitted. This is compatible with the proportionality principle only if one relies on a special definition of individual interests which gives priority to freedom of activity, understood in some *ex ante* sense as allowing for the freedom to enter subordination and to relinquish future freedom. For less extreme notions of interests, it will appear that some "free and consensual" associations do not respect the proportionality principle, in particular when they are managed in a dictatorial way, or impose some very precise rules of behavior or beliefs under the threat of exclusion (which may be very costly to individuals in terms of resources, of stress, or of social disruption). We believe that the current law of freedom of association, as implemented in most Western societies, does not sufficiently guarantee respect for democracy within associations. The main problematic cases are the capitalist firm,<sup>28</sup> the patriarchal family,<sup>29</sup> and religions and sects. From this standpoint, the ideal of

<sup>28</sup>Starting from John Stuart Mill at least, there is a long tradition of advocacy for worker democracy. Very useful syntheses can be found in Drew Christie, 'Recent calls for economic democracy', *Ethics*, 95 (1984), 112–28, and Gregory K. Dow, *Governing the Firm: Workers' Control in Theory and Practice* (Cambridge: Cambridge University Press, 2003). See also C. C. Gould, *Globalizing Democracy and Human Rights*.

<sup>29</sup>In the case of the family, authoritarianism is not just a matter of consensual activities among adults, since children suffer directly from externalities there. Additionally, although it is less direct,

democracy, far from having exhausted its progressive potential, still contains promises for further social improvements. This should not be surprising for a conception of democracy that comes closer to social justice than the standard notion.

## IX. CONCLUSION

Our ambition in this article was twofold. It was first to question equality as the distributive rule for power in a good theory of democracy, and to suggest proportionality as a superior alternative, even if one simply tries to make sense of prevailing practices and principles. Equality of power among the whole human population is never applied, and everywhere one sees unequal power in relation to unequal stakes: in liberal rights, in geographical decentralization, in the principles of inclusion and subsidiarity, in shareholder assemblies, etc. When equal power is granted to voters in some restricted groups, as in national elections, it is precisely when the presumption of equal stakes among them is plausible. This does not mean that proportionality is perfectly applied, and our second ambition was to examine how the proportionality principle could be incorporated in a normative theory of democracy and articulated to a general theory of justice. As we have suggested, the proportionality approach to democracy is supported by procedural considerations—respect for persons and for their autonomy—as well as by consequentialist considerations—the maximization of a prioritarian social objective. It radically reduces the tension between democracy and justice by incorporating the evaluation of individual interests and social priorities into its fabric. Liberal-egalitarian theories of justice, it seems to us, do not pay enough attention to the quality of social relations and especially to the power structure in collective ventures. For instance, Rawls' addition of the “prerogatives and powers of positions of responsibility” to the list of primary social goods does not suffice to take account of the importance of power—procedurally and consequentially—for the defense and promotion of individuals' interests. Something like the proportionality principle might be added to the principles of these theories of justice, and connected to them through the measurement of stakes in accordance with the degree of priority to the worst-off and the definition of personal well-being or advantage that such theories warrant.

what happens within private associations imposes externalities of this kind on relatives. Those who suffer from the stress of subordination generally impose a non-negligible cost on their relatives. Libertarians normally recognize externalities as a problem. See, e.g., Milton Friedman, *Capitalism and Freedom* (Chicago: University of Chicago Press, 1962), ch. 2, for valuable comments on the coercive character of negative externalities.