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*Political Theory* 2013 41: 441 originally published online 26 February 2013

DOI: 10.1177/0090591713476872

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# Procedural Democracy, the Bulwark of Equal Liberty

Political Theory  
41(3) 441–481  
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DOI: 10.1177/0090591713476872  
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**Maria Paula Saffon<sup>1</sup> and Nadia Urbinati<sup>1</sup>**

## **Abstract**

This essay reclaims a political proceduralist vision of democracy as the best *normative* defense of democracy in contemporary politics. We distinguish this vision from three main approaches that are representative in the current academic debate: the epistemic conception of democracy as a process of truth seeking; the populist defense of democracy as a mobilizing politics that defies procedures; and the classical minimalist or Schumpeterian definition of democracy as a competitive method for selecting leaders.

## **Keywords**

procedural democracy, epistemic democracy, populism, minimalism, representative democracy, pluralism, equal liberty

In this essay we reclaim the proceduralist vision as the best *normative* defense of democracy in contemporary politics. We distinguish it from three main approaches that are representative in the current academic debate: the epistemic conception of democracy as a process of truth-seeking; the populist defense of democracy as a mobilizing politics that defies procedures; and the classical minimalist or Schumpeterian definition of democracy as a competitive method for selecting leaders. In contrast with these visions, proceduralism defines democracy as the very political process that it puts in motion;

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democracy's normative value resides in the process' unbeatable capacity to protect and promote equal political liberty.

Since its classic Athenian origins,<sup>1</sup> what characterizes democracy as a distinct form of government is the pursuit of equal liberty, defined as the (direct or indirect) participation of all citizens in the process of making the laws they obey through their equal contribution to the establishment of the majority view.<sup>2</sup> The proceduralist vision insists that equal political liberty is the most important good for which democracy should strive. And it posits that the modern democratic procedure—based on every individual's equal participation in fair and competitive elections for selecting political representatives and thereby contributing to the production of decisions via majority rule—is the best way of respecting equal liberty in a context of pluralism and dissent.<sup>3</sup> Equal liberty implies not only the right to participate in politics via voting and freely expressing one's mind but doing so under equal conditions of opportunity, which entails protecting civil, political, and basic social rights with the aim of ensuring a meaningful equal participation.<sup>4</sup>

In contrast with minimalist conceptions,<sup>5</sup> proceduralism imposes a robust normative standard for democracy, which goes beyond the overcoming of violence among factions. However, in contrast with epistemic stances, for procedural democracy, the normative standard of equal political liberty is robust enough, and it should not be subordinated to other normative standards such as the political outcomes' proximity to truth. Since participating in democracy involves diverse, at times irreconcilable, opinions, imposing a substantive standard to democratic decisions may threaten freedom. Against epistemic critiques,<sup>6</sup> the search for equal liberty does not abjure a proceduralist stance, since it is the intrinsic characteristics of the democratic process and its institutions that are thought to be conducive to freedom, without there being anything external to the process that can evaluate the quality of its outcomes. In this sense, we defend an immanentist foundation of democratic legitimacy.

In contrast with populism, procedural democracy claims that, in a context of pluralism and dissent, following (instead of transgressing) the democratic procedure is the best way of achieving or approaching equality without violating freedom. Populists' strive for an all-encompassing unity of the people beyond procedures and against political representation<sup>7</sup> denies and harasses disagreement instead of overcoming it. Procedural democracy offers instead an antagonistic stance that takes dissent as the main feature of social relations, and expects politics and procedures to reflect it meaningfully.<sup>8</sup> Like minimalist democracy, proceduralism understands conflict channeled through political institutions as a basic trait of democracy; but, in contrast with minimalism, it explicitly recognizes this process's potential for safeguarding freedom.

In what follows, we substantiate these claims by justifying the current need to defend procedural democracy from a normative perspective, critically analyzing alternative definitions of democracy and their relation to equal freedom, and spelling out the traits of the democratic procedure that render it prone to protect equal freedom.

## Procedural Democracy and Its Critics

In its origins, the procedural notion of democracy had the purpose of portraying democracy as a bulwark for liberty. Early in the twentieth century, democratic procedures were being fiercely challenged from the left and the right<sup>9</sup>—the former criticized democracy's incapacity to deliver redistribution, the latter its failure to maintain stability. Against those challenges and the defenses of autocratic regimes they often entailed, theorists like Hans Kelsen and Norberto Bobbio defended procedural democracy from a normative perspective, arguing that it was the best (or perhaps the only adequate) way of protecting the political freedom of all members of society. We take their ideas as our primary guide.<sup>10</sup>

Despite the robust challenges they faced, democratic procedures achieved full practical recognition in the late twentieth century. Paradoxically, however, their normative justification became marginalized in democratic theory.<sup>11</sup> Procedural democracy was too readily associated with Joseph Schumpeter's realist definition of democracy as an elite competition for power, which became predominant in American political science.<sup>12</sup> Partly as an attempt to distance itself from Schumpeterian democracy, normative political theory began to focus less on the democratic process itself and more on the morally correct disposition of its participants and the *quality* of its outcomes.<sup>13</sup>

Prominent theorists like John Rawls and Jürgen Habermas acknowledged the importance of procedures, but considered them insufficient on their own for a normative justification of democracy. Rawls recognized that political groups are inevitable in the electoral arena; however, he considered that a democracy which merely consists in a bargain among groups is unsuited to a just society because it induces citizens to “take a narrow or group-interest standpoint,” instead of aiming at a conception of the common good.<sup>14</sup> More far-reaching was Habermas's critique, which identified proceduralism with Schumpeterian realism, and hence, with a method that was morally skeptical. For Habermas, although “public controversies among several parties” are a necessary condition for democratic decision making, they do not guarantee results with “reasonable *quality*.”<sup>15</sup> Therefore, Habermas proposed to identify the conditions under which autonomous deliberation could be achieved

through democratic procedures, such that the latter could offer a path towards a “rationally motivated *consensus*.”<sup>16</sup> Contemporary theorists of deliberative democracy have followed Habermas in that search. Though they defend democracy in procedural terms, deliberativists stress the substantive goals that procedures should achieve and focus on the (ideal) conditions under which they could be achieved.<sup>17</sup>

Nevertheless, the normative goal of deliberative democracy is not so different from that advocated by procedural democracy. For Habermas and many of his followers, the main goal of the democratic process is autonomous decision making—that is, the public discussion of decisions with freedom from coercion and socioeconomic subordination.<sup>18</sup> The idea that democracy can produce good-quality outcomes and approach consensus is subservient to (and a derivative of) autonomy, since the latter will enable reason-based, and hence consensual-prone, decisions. Furthermore, a decision made under the procedural conditions that enable autonomy is legitimate, regardless of its content, which cannot be judged by an external standard.<sup>19</sup> Thus, Habermas’s notion of autonomy is akin to procedural democracy’s equal liberty, which also focuses on individuals’ capacity to rule themselves through political participation,<sup>20</sup> and acknowledges that such capacity is dependent upon their freedom from coercion (ensured through equality under the law and civil and political rights) and their equality of opportunities (ensured through basic social rights).<sup>21</sup> Just as in Habermas’s co-originality theory, the rights that promote and protect equal freedom are necessary for democracy to operate adequately, and should be understood as intrinsic to it.<sup>22</sup>

Perhaps the main difference between Habermas and his deliberativist followers, on the one hand, and proceduralist democrats, on the other, is that the former focus on an “ideal speech situation” where autonomy can be said to exist and consensus likely to happen, and take that situation to be a regulative ideal that real political processes should “mirror”; procedural democrats, instead, believe that equal freedom can be strived for in non-ideal scenarios even if deliberation does not take place and if consensus is not approached because bargaining and voting are also legitimate mechanisms for expressing the majority view, especially in contexts of deep disagreement.<sup>23</sup> However, in recent works Habermas has recognized that, in scenarios where autonomy is lacking and deliberation may be distorted, his regulative ideal may be relaxed to prevent it from being counterproductive—for instance, deliberation may be replaced by bargaining or simply voting.<sup>24</sup>

Consequently, procedural democracy is compatible with deliberative democracy, and the latter could benefit from its contributions.<sup>25</sup> However, by inaccurately identifying it with Schumpeter’s model, the deliberative critique

wrongly portrayed procedural democracy as a functionalistic method devoid of normative value.<sup>26</sup> The result of this move was that procedural democracy was neglected by democratic theory and became the realm of empiricists, who care little about its normative nature.<sup>27</sup> Further, procedural democracy became an easy target of populism, which exploited the deliberative critique to make a dramatic attack against anchoring political activity to rules and procedures.

At the end, the criticism of deliberativists became a self-fulfilled prophecy: because democratic theory was retrieved from the actual operation of democratic societies, democracy's normative value became irrelevant, and studies of democracy became mainly descriptive and atheoretical.<sup>28</sup> But a reprisal of the normative justification of procedural democracy is today more relevant than ever. Democracies are being threatened from within in part because the use of electoral procedures without the awareness of their significance for liberty renders them inane. Proceduralism is still the most adequate *normative* definition of democracy. The pursuit of equal political liberty is what characterizes democracy as a distinct form of government.<sup>29</sup> It has been so since its Athenian origins,<sup>30</sup> and it should continue to be so today, given that politics are still characterized by pluralism and disagreement—the main factual conditions requiring democracy to fulfill liberty. Hence, all notions of democracy that undermine, contradict, or neglect liberty are not normatively adequate. That is the main problem of epistemic and populist conceptions, which put liberty to the service of truth and the unity of the collective respectively.

A procedural approach is also most adequate because it does not demand from democracy anything *other* than the protection of equal freedom—which is, of course, a lot already. Requiring that democracy fulfill other substantive ends may turn it into something different—a technocracy for instance, or a mass regime. And it may lead to a permanent criticism of democracy's unfulfilled promises—such as “correct” decisions, redistribution, or the “true” representation of preferences.<sup>31</sup> We defend a minimalist notion of democracy, but unlike most realists—who defend minimalism because of its usefulness for empirically analyzing democracy<sup>32</sup>—we do so mainly for normative reasons.

## Democracy as Episteme

Epistemic democracy emerged as a branch of deliberative democracy, but it has gone beyond this conception, since it attributes the democratic process the main purpose of producing “correct” decisions. For epistemic theorists, democratic procedures have the potential not only of producing better-quality—that

is, less partial—decisions<sup>33</sup> but also decisions that approach truth according to standards that are independent from those procedures.<sup>34</sup>

Epistemic theorists express dissatisfaction with “intrinsic” justifications of democratic procedures, which privilege arguments regarding the values that they can protect over those regarding the outcomes that they can produce.<sup>35</sup> They are concerned with the lack of objective standards from which democratic choices can be evaluated. This concern also applies to Habermas’s theory, to which David Estlund refers as “deep proceduralism—his version of the no-truth arguments.”<sup>36</sup> According to Estlund, such proceduralism is a form of “nihilism”; its content-indifferent formalism makes democracy neither admirable nor valuable enough for citizens.<sup>37</sup> Instead, epistemic theorists propose that democracy be judged for its capacity to promote laws that, overall, satisfy or approach an independent standard of correctness.<sup>38</sup> Only thus can democracy illustrate the dignity of the “crowd,”<sup>39</sup> and its superiority over the rule of the few.<sup>40</sup>

Epistemic doctrine advances two projects that directly clash with democratic proceduralism: transforming political decision making into a chapter in the search for truth, and subjecting the democratic process to a criterion of judgment that transcends it. The first project challenges democracy’s promise of protecting equal liberty. Against aristocracy, democracy emerged as a struggle for the political participation of all, regardless of their status or competence, as the necessary condition for enjoying liberty. Democracy does not promise decisions that are more correct than those achieved by a group of experts, but decisions that express the choice of the many—while respecting everyone’s rights.<sup>41</sup> From this perspective, epistemic democracy is an oxymoron.

All epistemic theories assume some degree of individual competence—they speak of epistemic equality—even when they highlight the group’s competence as a whole.<sup>42</sup> This could imply a threshold for democratic participation<sup>43</sup> that would obviously violate equal freedom. Epistemic theorists claim to distinguish their view from “epistocracy,” or the rule of the wise, arguing that epistemic standards can be followed by anyone, and hence are not elitist.<sup>44</sup> However, this distinction is not based on solid grounds. If correct decisions are the goal of politics, why shouldn’t only the wisest rule? What is the point of including everybody to begin with? If the participation of citizens is necessary, it is presumably for reasons beside the correctness of outcomes—for instance equal liberty.

Estlund recognizes this, when he argues that any claim to authority must comply with a “general acceptability requirement,” and hence, that an epistemically superior government of the few is normatively precluded.<sup>45</sup> But then, what is the role of the epistemic criterion in Estlund’s justification of

democracy, if it cannot trump the equal participation criterion? Estlund has also argued that epistocracy is not epistemically superior to democracy because the wise may be disproportionately biased in normative issues not linked to their superior wisdom.<sup>46</sup> However, this argument rests on likely unwarranted empirical validation: Why will the wise be more biased than any other citizen on these issues? And, if they aren't, would they become more apt for making decisions? Further, the argument is based on the distinction between issues for which wisdom is relevant and value-issues for which it isn't, on the assumption that the former are more central to politics; but what if the latter are? Wouldn't this take us back to the relevance of procedural democracy in a context of pluralism?

Hélène Landemore seems to have acknowledged these problems, and therefore proposes to take Estlund's argument further, by claiming that democracy is superior to the rule of the few "on purely epistemic grounds"—that is, without commitment to a "framework for legitimate political authority."<sup>47</sup> In contrast with earlier epistemic theories, Landemore argues that democracy's superiority is based on the competence of the group as a whole. In turn, the latter is dependent on the group's cognitive diversity and the possibility of regularly updating it through democratic turnover.<sup>48</sup> While epistocracy could comply with cognitive diversity, it would have fewer incentives than democracy to renew such diversity over time, because of the lack of accountability.<sup>49</sup>

Landemore's perspective has the advantage of grounding epistemic democracy on the group's rather than on individual skills, thereby lowering the individual competence threshold that episteme could imply. However, for Landemore's argument to work, cognitive diversity cannot imply diversity of values,<sup>50</sup> even though democracy often addresses conflicts of value rather than differences in knowledge. Furthermore, by fully resting democracy's justification on its epistemic potential, Landemore's argument risks threatening equal freedom more than Estlund's. As Landemore recognizes, "oligarchies"<sup>51</sup> might be epistemically superior to democracies, even over the long run, in which case democracies would lose their normative ascendancy, absent the legitimacy criterion.<sup>52</sup>

The second epistemic project of subjecting democracy to an external standard violates the principle of immanence that characterizes democracy. The notion that democratic legitimacy depends on the epistemic qualities of procedures seems to rest on a hidden aporia: insofar as the reason for citizens to obey democratic decisions is that they are issued by procedures that tend to produce more correct decisions, legitimacy is made to rest on a proved outcome. Furthermore, it is made to rest on an external criterion for evaluating

that outcome. But who in a democracy can define the correctness of ordinary political decisions other than the people or their representatives? Democracy is a closed circuit, with no external reference point.<sup>53</sup> It need not advance linearly toward some truth; if ever, it is a pendulum, which sometimes gets it right and sometimes doesn't. But in either case it can protect equal liberty if its procedures are followed by all. These procedures protect the freedom to produce morally wrong decisions because democracy is not perfectionist, but virtue-less.<sup>54</sup>

Many epistemic theorists relay upon Condorcet's jury theorem when they argue that democratic procedures should tend to generate correct decisions.<sup>55</sup> But when Condorcet devised the constitution of republican France, he didn't choose the model of the jury. He recognized *disagreement* as the organizing principle of democracy<sup>56</sup> and foresaw the possibility of dissent over the interpretation of the constitution in the legislative process. He asked himself how the democratic process could be made less prone to contestation without resorting to nondemocratic or subversive strategies, and concluded that the object of democracy is opinion, not truth.<sup>57</sup> Once it is made the terrain of truth, politics becomes inhospitable to contestation and peace. Truth entrusts competence as authority, thereby making opinion pluralism transitory—Estlund's and Landemore's unease with disagreement over values illustrates this. Moreover, appeals to truth do not contribute to accommodation and compromise, so in a context of more-than-transitory pluralism, they foster intolerance and even violence.<sup>58</sup>

An additional question that can be raised to the epistemic conception is: When should we stop testing the "correctness" of a decision? Contrary to a court expected to produce a definitive verdict, democracy is an open game of making decisions and revising previous ones. It does not aim to fill a vacuum of knowledge in the future; democratic decisions occur in the time dimension of the present, and they do not promise a final solution to a given problem. The acceptance of legal change recognizes that democratic procedures regulate conflicts that persistently arise. Hence Condorcet's idea that democracy is a process of permanent emendation.<sup>59</sup> Hence also deliberative theorists' insistence on maintaining open the possibility to renew the debate at any time.<sup>60</sup>

The previous points do not deny that there should exist constitutional limitations to what the democratic procedure can decide upon. Democracy can be a permanent process of revision of the majority's opinion because it does not function in the void. Constitutional rules about procedures and basic rights enable democracy to operate without constantly putting these rules into question.<sup>61</sup> In that sense, those rules are partly inherent to the democratic procedure.<sup>62</sup> But they also impose substantive limits to democracy, since the

political interpretation of rights—which is a big part of what democracy does—cannot violate those very rights.<sup>63</sup> Constitutionalism guards democracy from violating rights; in so doing, it prevents democracy from producing “incorrect” outcomes, but this “correctness” doesn’t emanate from democracy’s operation, but rather from the constitutional checks imposed to the validity of its decisions.<sup>64</sup> Of course, determining the boundary where constitutionalism ends and democracy begins is a controversial topic that cannot be addressed here. But such boundary must exist because without some space reserved for constitutionalism, democracy simply cannot operate.<sup>65</sup> The quality of democratic outcomes should not be assessed with respect to any parameter other than constitutionalism.

Two further observations on the historical context of the epistemic view are in order. First, the attempt to place legitimacy in procedures rather than in the content of decisions was a strategy devised in the eighteenth century against the classic antidemocratic argument that democracy is the worst possible regime because the many are less competent than the few. With that strategy, Rousseau and Condorcet replaced the criterion of competence with that of equality and vote counting. What is the meaning of today’s attempt to bring the issue of legitimacy back to the content? Doesn’t it imply making democratic legitimacy subservient to the aristocratic principles it once rejected?

Second, theorists who defend democracy on epistemic grounds like to cite Aristotle’s critique of Plato’s epistocracy.<sup>66</sup> The reason is that although Aristotle purported democracy as a degeneration of constitutional government, when he had to evaluate the role of the multitude, he acknowledged its deliberative proficiency in the public assembly and the jury in law-courts. However, this doesn’t mean that Aristotle thought the many were competent in making laws. They were better than the few in making judgments on individual cases by judging their conformity with already existent laws made by the legislator.<sup>67</sup> But the many weren’t good in making laws.<sup>68</sup> Virtue, a quality more easily found in the few, was the condition for lawmaking; and the many, according to Aristotle, used consent (not virtue) to make political decisions.<sup>69</sup>

Relying on Aristotle is however crucial for another reason that epistemics don’t consider. In a democracy, participation of the many is essential to attain another important condition: liberty. As Aristotle explains, citizens’ participation protects liberty in two ways: first, their great number is an important obstacle against corruption (not even the richest citizen can buy a majority in the court or assembly); second, they are able to act together, which shows that while each is individually weak, the inclusion of all makes them able to rule themselves. While the government of the few relies on exceptional individualities, the many have the advantage of making decisions in concert—cooperation, more than

knowledge, is their skill.<sup>70</sup> Hence, the many do not compete with the few in the matter of correctness of decisions. They compete with them in the matter of liberty, by claiming they are able to rule themselves although they have no special quality or virtue.<sup>71</sup>

The problem with arguing that democracy is epistemically better than, say, aristocracy, is that it risks exposing democracy to a new vulnerability. Democracy may (and often does) err. It may not even systematically tend to approach correct outcomes. However, this doesn't make democracy normatively inferior as a form of government because its main normative goal is not truth, but equal liberty. Democracy is better than any other form of government not because it produces good decisions, but because it allows us to feel directly responsible for the decisions we make. We are autonomous under democracy because we obey our own laws, and also because we "set the agenda" concerning the types of problems that we want to decide upon. Democracy isn't simply a method for solving problems, but for selecting problems and transforming them into issues worthy of public discussion and decision.<sup>72</sup>

## **Democracy as Populism**

If epistemic theory ascribes to the many the virtue of knowledge, populism gives them a mobilizing function. Populist theory reclaims the priority of the visible unity of the people against both its translation into deliberative speech and its electoral representation and the conflict of interests it entails.<sup>73</sup> Whereas epistemics are dissatisfied with procedural democracy because it neglects the quest for truth, populists disclaim proceduralism in the name of a more spontaneous and direct consensus than that achieved by the rules of the game. The former indulge in excessive rationalism, the latter in excessive irrationalism.

There is thus unpredicted vicinity between epistemic theory and populism. Both reject procedural democracy in the name of a superior and extrinsic value. Further, both defy pluralism, the main component of democratic politics from which conflict emerges and proceduralism acquires justification. Diversity of opinions is a transitory phenomenon that should be overcome: for epistemic theory, by merging consent and truth; for populism, by reaching a deeper unification of the masses, preferably under a charismatic leader. While epistemic theory is head-less, populism can hardly be conceived without a politics of personality.

Populists praise polarization as a cathartic moment in the unification of the people.<sup>74</sup> Electoral competition is a means for mobilizing one faction against another for the sake of an overwhelming victory, which then transforms the winner into the catalyst of all factions. But those factions should be

transient because their endless litigiousness weakens the unity of the collective sovereign. Hence, populism is suspicious of electoral representation and the multiparty system.<sup>75</sup>

The friction between procedural democracy and populism is most clearly illustrated by the significance that each gives to representative institutions. For populists, electoral competition has merely instrumental value, since it is the people who directly legitimize political institutions with no other mediation than its actual and expressive will. “Against the will of the people,” wrote Carl Schmitt, “especially an institution based on discussion by independent representatives has no autonomous justification for its existence.”<sup>76</sup> By denying representative institutions an independent justification,<sup>77</sup> populism seems to aim at assimilating sovereignty and government—or in Rousseau’s terms, the “will” and its actuating “force.”<sup>78</sup>

Procedural democracy is the most direct adversary of populism because it articulates the people into parties that compete for power and thereby defies the notion of the people as an en masse homogeneity that “must be beyond victory and defeat.”<sup>79</sup> As Bobbio noted, procedural democracy defies the mythical notion of a people that obtains visibility through a charismatic leader or party platform; instead, it depicts politics as an arena where antagonism between interests and ideologies, represented through parties that compete for power, is the only unifying medium.<sup>80</sup> Similarly, Kelsen argued that the unity of the people is an ideological construct with no sociological embodiment other than the submission of all citizens to the laws created through a process of interest compromise mediated by parties and justified by equal participation in voting.<sup>81</sup>

Populists think, on the contrary, that beyond elections and representation, there is a substance called “the People,” which is made—in the words of Jeffrey Edward Green—of “the mass of ordinary, non-office-holding citizens taken in their collective capacity,” and which has a spectator-like participation akin to the Roman populace’s *contio*.<sup>82</sup> The populist strategy is essentially anti-parliamentary; it consists in a rhetorical practice of inflaming anti-multi-party politics in the name of the “people,” defined beyond counting procedures and class cleavages—which are supposed to be first accentuated to mobilize excluded groups, but later overcome by the hegemonic image of an all-encompassing people.

How should we normatively evaluate populism? Despite its appeal to the people, why is populism’s membership in the democratic tradition so unpersuasive? Scholars haven’t yet been able to answer these daunting questions. The distance between European and American interpreters contributes to populism’s persisting ambiguity. American historian Michael Kazin considers

populism a democratic expression that is needed to rebalance the distribution of political power for the benefit of the majority.<sup>83</sup> The same insight shapes Ernesto Laclau's interpretation of populist movements in Latin America as processes that rebalance the power bloc of oligarchs. These processes operate through hegemonic parties that incorporate the interests of traditionally excluded groups through an ideological narrative that gives a central role to the working class, while exalting the unity of the masses even beyond class cleavages. This enables, in Laclau's view, a more egalitarian politics than that obtained through ordinary representative democracy, which can be sustained in time through the direct support of the masses to a visible leader.<sup>84</sup>

In these accounts, populism has two characteristics: polarization (the few versus the many) and the siding with the democratic flank (the many). These characteristics have led scholars to argue that populism can be compatible with democracy insofar as it claims that it speaks in the name of the large majority.<sup>85</sup> As Margaret Canovan has written, against the pragmatic and skeptical politics of ordinary democratic procedures, populism promotes a "redemptive politics."<sup>86</sup>

It is true that, as a movement of contestation against an established leadership, populism can play a democratizing role because it may mobilize excluded groups who do not feel represented by existent political parties and institutions. However, populism can also have quite negative effects on democracy if—as it often does—it translates into a proposal for replacing representative institutions with more direct or plebiscitarian forms of participation. As Bobbio and Pierre Rosanvallon noted, populism can be the most devastating corruption of procedural democracy because it transforms the opinion of the people from a negative power that monitors and judges elected leaders into a call for immediate assertive power that rejects the rules of the game in the name of a deeper unity.<sup>87</sup> Even though at first sight this may seem to empower the people and give it a more active political role, it actually gives the people the role of a passive and reactive audience, rather than of a political agent.<sup>88</sup> Therefore, populist mobilization does not deliver what it promises.

Theorists of populism claim that an individual leader is not essential to promote populist politics;<sup>89</sup> historical records show, however, that populism has rarely grown without the active propaganda of a charismatic leader.<sup>90</sup> There is an underlying logic to this, which populism can hardly escape: the populist claim that the people's will can be cogently expressed without the mediation of representative institutions requires an individual who has the last word about the meaning of that will, and who therefore enacts it. Thus, even if a populist party exists, in the last stance, its authority depends on the existence of a visible leader who can credibly claim to identify with

the will of the people, and who therefore becomes the symbolic link between the party and the people.

This shows that populism entails a very different notion of representation from that of procedural democracy, since it assumes a perfect identification between the people and the leader who claims to represent it. The true representative of the collective is he or she who succeeds in appealing to the sentiments of the people beyond rules and parties in order to achieve the identification of “what constitutes the totality.”<sup>91</sup> Like Carl Schmitt, Laclau regards representation essentially as a strategy for creating a collective under a single leadership. According to Laclau, the latter can effectively represent the collective if he or she is able to combine homogeneity (the project of unifying different citizens) with heterogeneity (allowing their plurality of interests to be voiced). However, Laclau’s theory gives priority to homogeneity over heterogeneity, since populism’s main goal is to achieve a strong authority (or to subvert an existing one) rather than governing the flux of ever-recurring conflicting interests. The main difficulty with the classical theory of political representation, writes Laclau, is that it “reduces the ‘people’ to a pluralism of interests and values,” because it makes of power an “empty place” occupied by formal rules of the game.<sup>92</sup> Populism is meant to bring the substance of democracy back to politics, which thus becomes a fight for occupying the power of making decisions and dominating the rules. Now, once power is occupied by the hegemonic collective under the representation of a charismatic leader, pluralism must dissolve either by being incorporated into the collective, or by being stigmatized as its foe, since the notion of representation leaves very little room for opposing or criticizing that collective, let alone challenging it through effective political contestation.<sup>93</sup>

Populism radically denies the modern doctrine of representation, which rests on free mandate and thus makes citizens the final judges of the work of their representatives. Free mandate is grounded on two things: the separation between the state as a legal persona and individual agents as private wills, and the notion that the representative character of the leader derives from her adherence to the former, not the latter. With populism, the sources of validity of representation become instead the substantive and personal attributes of the leader, not her legal authorization to represent—which is dependent on those attributes. Consequently, the articulation of political programs and ideas tend to be displaced by images of the mesmerizing power of leaders, employed to create support for their agendas—be their content what it may.<sup>94</sup>

The populist critique of representation in the name of a more unified and immediate voice of the people threatens equal liberty. From the point of view of populism, representative institutions—notably parliamentary politics and

multiparty competition—illegitimately restrict the will of the people by checking the power of the majority and empowering minorities. In a context of pluralism and disagreement, such a stance can easily lead to the oppression of dissenters, who can be labeled as the external enemies of the hegemonic party or leader in power. From the point of view of populism, opposition and dissent are only transitory or apparent phenomena in the face of an ever-growing popular unity. However, the continued existence of opposition to—which has always existed to some extent under populist regimes—constantly proves such claim wrong, and leads populists to justify the restriction or suppression of dissent as the enemy of popular will. In doing so, populists attack the basis of their own power, since they show that pluralism indeed exists, and hence that the unity of the people is much weaker and less consensual than they argue.

Populism and the crisis of parliamentary institutions have marched together in several important and tragic historical moments. As Gaetano Mosca commented in one of those moments—the fall of Italian democracy into fascism—the actual scenario behind the subversion of representative institutions is the emergence of a new-born oligarchy that profits from popular dissatisfaction in order to penetrate the existing ruling class and substitute for it.<sup>95</sup> From this point of view, populism is a way for new elites to acquire power quickly and in a concentrated manner, without waiting for a gradual increase in their popularity through elections. Under this strategy, despite the populist appeal to the common people as the protagonist of politics, the people are just an instrument. Like the Plebs in the decline of the Roman republic, they offer a source of support to new leaders who aspire to attain power only to be soon marginalized from the political arena once the new leaders achieve their goal.

The populist threat to procedural democracy is not a thing of the past. Recent experiences in Italy, Hungary, Venezuela, and Argentina show that technological innovation of the means of communication and concentrated economic power may revamp populist politics in spectacular ways, jeopardizing constitutional democracy without necessarily promoting the interests of the many. This threat can have momentous implications for democratic theory, as shown by the current boom of populist and plebiscitarian accounts, which criticize the liberal strategy of division of powers and argue that an “executive-centered government,” with several consecutive terms, can better push the interests of the many.<sup>96</sup>

## **Minimalist Democracy**

The classical minimalist and realist conception of democracy is also different from the view of procedural democracy defended here. It was first inaugurated

by Joseph Schumpeter as a reasoned answer to totalitarian forms of mass democracy that thwarted the European continent in the first half of the twentieth century. Against eulogistic visions of mass mobilization, Schumpeter defined democracy as an institutional arrangement for arriving at political decisions “in which individuals acquire the power to decide by means of a competitive struggle for the people’s vote.”<sup>97</sup> Against the eighteenth-century republican myth of a “general will” that political leaders could detect and implement, and in contrast with the democratic conception of self-government as participation, Schumpeter believed that democracy should not be defined by the values it serves but by the *method* used for selecting the political class in charge of making decisions.

At first sight, the Schumpeterian definition isn’t so different from procedural democracy, also definable as a method by which political decisions are made. However, Schumpeter explicitly renounced the normative value of the democratic method. For him, not even as a method could democracy be considered an end in itself.<sup>98</sup> A critic of the idea that politics can be a domain of liberty, Schumpeter avoided defining democracy in terms of the people’s capacity to rule themselves.<sup>99</sup> He offered, instead, a definition in terms of the people’s participation in the selection of leaders and in their eviction from power, which could facilitate the distinction between democratic and non-democratic regimes. Schumpeter’s definition had the purpose of being empirically accurate—not normatively superior—and it portrayed democracy as an instrument devoid of intrinsic worth.

As Przeworski observed, however, Schumpeterian democracy inevitably involves a normative dimension.<sup>100</sup> The mere fact of calling electoral institutions *democratic* entails value connotations, so Schumpeter’s isn’t just a definition but a conception whose endorsement requires a defense of its normative worth. Przeworski engages in such defense by defining democracy both as a “system in which rulers are selected by competitive elections” and, following Bobbio, as the “only system in which citizens can get rid of governments without bloodshed.”<sup>101</sup> The democratic method is normatively defensible because it replaces violence (though not conflict) with votes, which—using Engels’ beautiful image—are like “paperstones.”<sup>102</sup>

For Przeworski, it is because of this capacity to replace violence that democracy is worthy of being called such, even if it doesn’t fulfill any other values (like rationality or preference representation), or generate any other outcomes (like economic equality or redistribution). Making political decisions through elections is valuable in itself, especially in societies with insurmountable conflicts of value and interests. Elections avoid violence by enabling opposing groups to alternate in power, while giving losers

incentives to wait until the next election instead of opposing the winner through violence—which happens if winning is truly possible in the next round, and if the payoffs for winning in future rounds are greater than those of immediate violence. Moreover, alternation can induce moderation in office when rebellion is sufficiently costly, such that even a ruler who could manipulate rules in her own interest would not do so in order to avoid violence.<sup>103</sup> In this sense, democratic uncertainty is crucial for preventing violence—alternation cannot be replaced by a pre-agreement because the ruler could always manipulate its enforcement. Under these conditions, democracy is a “self-enforcing equilibrium.”<sup>104</sup>

Przeworski’s normative defense of the Schumpeterian definition illuminates a crucial value of the democratic procedure: its capacity to prevent violence. Nevertheless, it neglects the also crucial value of equal political liberty, which has inspired the struggles for democracy throughout centuries, and which is the main reason why procedural democracy was normatively defended by authors like Kelsen and Bobbio. Przeworski’s disregard for liberty is puzzling because his account of democracy as a self-enforcing mechanism entails to some extent the protection of freedom. Indeed, democracy’s capacity to internalize threats of rebellion and to induce incumbents’ moderation implies an implicit capacity to limit power. True, elections allow a temporal majority to rule over minorities and to impose their particular preferences. However, under the democratic equilibrium, this dominant stance is restricted by the existence of an opposition that may, someday, become the majority. This can lead the numerical majority to be aware, while in power, of the possibility of becoming a minority in the future, and therefore to respect the rights of the current minority with the expectation that it may be similarly treated when it becomes the minority. Hence, democracy as a self-enforcing equilibrium does not only impede violence, it also constrains power.

As Bobbio argued against theorists who countered liberalism and democracy, the latter is a form of politics that incorporates within itself a power limitation; it is, in that sense, a constitutionalized form of politics. To posit democracy as brute power that only liberalism can tame is to misrepresent democracy. Although historically democratic movements had to fight—even violently—to make liberalism accept democracy, the latter is a “natural extension” of liberalism.<sup>105</sup> Grounded on opinion pluralism and vote-counting, democracy entails the open expression of dissenting views and the existence of a majority–minority divide—it thus entails civil and political rights.<sup>106</sup>

The minimalist conception of democracy also disregards equality as a key dimension of democracy.<sup>107</sup> For both Schumpeter and Przeworski, democracy should only be defined as political competition. Equality cannot be a

defining characteristic because democracy always entails some degree of discrimination in suffrage—of foreigners at the very least.<sup>108</sup> For Przeworski, such degree of discrimination, as well as the extent to which participants in a democracy are willing to respect the rules of the game, depend on underlying power relations. So it is those relations, and not the democratic method, that determine whether democracy will last and the scope that it will have.

Surely, as Przeworski claims, in the end, the efficacy of liberalism in a democracy depends on the factual condition that most individuals living under the democratic pact are better off respecting the pact (even when they lose) than recurring to violence to subvert it. Democracy only continues to operate when the numerical minority is strong enough to believe it can win in future rounds so it is worthwhile to wait instead of rebelling; and also when, because of the minority's strength, the majority is willing to cede power when it loses instead of maintaining it by force. However, even if those limits to power are entirely endogenous at the beginning, they can have a causal impact of their own once in place. The operation of democracy may change to some extent the power relations that underlie it. By giving the minority the possibility of participating, democracy can make it hope for a (even distant) triumph, and hence motivate it to organize and struggle to achieve it. This, in turn, can make the majority more aware of the existence and strength of the opposition, of the possibility that it may eventually become a majority, and hence of the convenience of treating it moderately. The potential impact of democratic institutions on power relations is something that the minimalist conception of democracy does not capture entirely.

Clearly, democratic emergence and consolidation are easier when power relations are more evenly distributed such that the minority is not permanent but has a real chance of accessing power in the future. However, in situations where this isn't the case, the operation of democracy can make its widening or consolidation more likely. In contexts of uneven distribution of socioeconomic power, the granting of political rights to some (more powerful) disenfranchised groups might change the expectations of other (weaker) disenfranchised groups, making them willing to organize and fight for their enfranchisement. This doesn't mean that institutions in themselves will change the weakness of the disenfranchised, but they may change their incentives for mobilizing. It also seems plausible that weak democracies may become stronger as a result of the operation of democratic institutions: although democracies can be more prone to falling into authoritarianism when minorities are weak, democracy's functioning might also generate an incentive for minorities to organize and struggle to make their participation effectively matter.

The democratic process can thus open the door to an endless process of democratization as contestation against new forms of unequal distribution of power. Democracy allows people to see certain issues, which for a long time they might have considered natural or unchangeable, as problems that affect them and that should be addressed through political change.<sup>109</sup> What seems to be at work here is the “equalizing force of democracy.” As Tocqueville argued, once democratization starts, it can hardly be stopped because it gives people a sense of entitlement that pushes them to fight for the acquisition of similar political rights. Equality, Tocqueville pointed out following a long and honorable tradition from Aristotle and Machiavelli, is a strong passion that drives people to attain what others have if there are reasons to believe that they deserve it as much.<sup>110</sup> That is precisely the type of reason that democracy gives, when it identifies freedom as the justification for the participation of all in political decision making: nobody can claim to deserve more political power because of being more competent or prominent. Freedom makes disenfranchisement much harder to justify, since it imposes a very low threshold of inclusion.<sup>111</sup>

Historically, the establishment or widening of democracy has typically involved the exclusion of some—the property-less, women, or currently immigrants. But such exclusion has been difficult to maintain and has often ended up being transitory. Once granted, democratic concessions signal to the excluded that they, too, could be their beneficiaries. This can lead them to feel wrongly excluded and motivate them to struggle for inclusion. Democracy is thus expansive by nature.<sup>112</sup> As such, although democratic procedures provide stability to the competitive political system, they do not foster the status quo. To the contrary, they are safe and predictable tools for changing an established majority, which give citizens the sense of having the capacity to be in control of their society.

Equal political liberty (what the Athenians called *isegoria*<sup>113</sup>) is the foundation of democracy. It impedes liberty from being the privilege of the few, and instead makes it a condition for the public life of citizens. This means both that democracy pushes for equalization or the expansion of political participation and that, once acquired, such participation must be exercised under equal opportunities so as to respect freedom. In that sense, excluding equality from the definition of democracy, like the classical minimalists do, misses out on a crucial dimension. As Dahl noted, the development of a political system that allows for competition between a government and its opponents is an important aspect of democratization, but so is its level of inclusiveness, that is, “the proportion of the population entitled to participate on a more or less equal plane in controlling and contesting the conduct of the government.”<sup>114</sup> The

latter implies the existence of equal opportunities to formulate preferences, signify them by individual and collective action, and have them weighted equally by the government, as well as the existence of institutions making those equal opportunities effective—such as freedom of expression and organization, the right to vote and be elected, alternative sources of information, free and fair elections, and policies based on citizens' votes.

In Dahl's conception of democracy, equality is relevant both for the expansion of political participation—which entails the extension of suffrage but also rules making it easier or less costly to exercise—and for the existence of institutions making that participation possible and meaningful. However, the definition of democracy remains proceduralist, insofar as equality is a condition for political liberty and it does not command the production of specific substantive outcomes. It merely requires that the procedure be accessible to all and that its application does not entail any unjustified advantage or preferential treatment for anyone. While Dahl's conception has been mostly defended because of its descriptive or operative advantages, we believe it should be defended mostly because of its normative virtue: the aim of assuring equal liberty to all citizens, regardless of their socioeconomic and cultural power, through a competitive and inclusive democratic process.

## **Political Equality and Democracy**

As we indicated throughout this essay, Kelsen and Bobbio defined democracy as a set of procedural rules—including the majority principle and the protection of minorities' rights—which determine who can make political decisions and what guidelines should be followed in making those decisions. For them, the democratic procedure is the best form of collective decision making, above all, because of its potential for expanding and strengthening political freedom, so as to assure it equally to all those concerned. Majority rule maximizes freedom because it chooses decisions that satisfy the opinions of the greater number of participants, while offering those who disagree the easiest path to change those decisions and providing power-limitation mechanisms that protect them in the meantime.

Under this view, political minorities are crucial actors, not mere subjects of lawmaking. Without them, we cannot even talk about democracy, since majority rule requires a minority counterpart, which doesn't only obey the majority's decisions but also critically analyzes and in many cases challenges them, thereby contributing to their making. As Kelsen put it, "The will of the community, in a democracy, is always created through a running discussion between majority and minority, through free consideration of arguments for

and against a certain regulation of a subject matter.”<sup>115</sup> Hence, political minorities must always exist and their rights be protected. This is ensured by equal political participation.

In brief, proceduralist democracy is inherently liberal and egalitarian; its foundational value and guiding principle is equal liberty—the equal opportunity to express one’s voice in politics, and the equal weight given to that voice in decision making. Procedural democracy is minimalist in the sense that it refers only to the procedure and not the outcomes it may achieve; the only relevant traits of these outcomes are their compliance with procedural rules. But, contra Schumpeter, proceduralist democracy is explicitly normative and, contra Przeworski, it focuses not only on democracy’s capacity to replace violent politics but also and especially on its protection of equal liberty. Equal liberty consists not only in political competition between factions but also in the effective participation of all individuals in defining the results of that competition. Liberty is made possible through equality in political rights, which entails the right to participate through voicing opinions and organizing to make them effective, and a basic equality of opportunities that can make that participation matter evenly.

Democracy is not merely about replacing violence, but about doing so by distributing political liberty equally. Peace and political liberty are the two pillars of democracy: not peace alone. Although peace can be achieved through democracy, it can also be achieved by limiting the role of citizenship to subjection to the law—as in Hobbes’s theory.<sup>116</sup> For Kelsen and Bobbio, replacing stones with paperstones requires a political order that domesticates power. As Bobbio explained, democracy proposes a particular strategy of power containment: the equal distribution of political power. This strategy, which is different from (though complementary to) the peace strategies of republican and liberal traditions (division of powers and individual rights, respectively), makes peace pivot not only on liberty but also on equality.<sup>117</sup> Without equal liberty as its method and objective, democracy loses its capacity to preclude violence, while its decisions by majority lose legitimacy.<sup>118</sup>

Because of its commitment with equal political liberty, we believe that procedural democracy is the most plausible conception of democracy in contemporary political theory. We conclude by briefly spelling out its main features. These features can (and in our view should) be used as normative criteria for judging existing democracies in their capacity to protect equal liberty.

*Uncertainty.* Under proceduralist democracy, political competitors are never confident of what the outcome of elections will be. They may know by probability who has greater chances of winning, but they can never be entirely sure.

Uncertainty is a central trait for democracy to be competitive and self-enforcing.<sup>119</sup> In a democracy, there is no external authority arbitrating the result; parties themselves are each other's arbiter. They create institutions to ensure uncertainty because only thus can they avoid that the result be controlled beforehand. Following Przeworski, the best criterion for assessing uncertainty is that alternation in power between different parties exists, and more precisely, that incumbents step off from power after losing an election.<sup>120</sup>

*Openness and contestation.* Proceduralist democracy requires that at least two competitors exist, who are strong enough so that neither can impose her will on the other by force. Only thus will they prefer democratic uncertainty to authoritarianism. For this to be the case, the democratic game has to be truly open: a *meaningful* opposition and a *meaningful* pluralism of proposals must exist among which citizens can choose. The robustness of political conflict is good for democracy, since it illustrates that no group has sufficient power to excessively influence decision making. Conflict impedes that the opposition be bought, silenced, or rendered irrelevant. Both the few and the many should enter electoral competition and feel that the political forum is theirs. If either group had no hope for a winning game, then we would not be in the presence of democracy. Following Kelsen and Bobbio, the best criterion for assessing the strength of the opposition is the degree of partisanship in a society, as well as the capacity of institutions to preserve such partisanship without being their prey.<sup>121</sup>

*Participation and emendation.* Because democracy is an open game of uncertainty, political individuals and groups have incentives to participate in order to win or to contain the winner. There is a quest for revising and changing prior decisions, in a way that makes democracy focused on the present.<sup>122</sup> As said above, this bias towards change implies that the normative value of democracy is not grounded on its capacity to produce correct decisions. Democracy makes of fallibility a good, by making all decisions open to change, and hence preventing mistakes from becoming permanent. Democracy's lack of epistemic qualities entail a low threshold for political inclusion: people should participate in democracy not because they are capable of making correct decisions, but because their participation minimizes the risk of power abuses. Participation should be encouraged by the state through mechanisms that reduce or eliminate the costs of voting, which are especially burdensome for the poor. However, electoral participation alone is not sufficient indication of meaningful participation; the existence of institutions that allow dissent to be voiced must exist too.<sup>123</sup>

*Responsiveness.* As captured by May's theorem, what ensures that the majority will define the outcome in a democracy (and also that the minority will be willing to continue playing the game) is that the procedure is sensitive to the aims of participants, in the sense that their preferences and opinions are the main input of decisions. Criticized by epistemic theorists for referring to an extraprocedural value and by minimalist democrats for being difficult to achieve and therefore not necessary in the definition of democracy, positive responsiveness is a key trait of procedural democracy, since it can deliver its promise that votes will effectively matter. As Mackie has recently argued contra epistemic critics, responsiveness is intrinsically procedural, since the resulting substantive outcome is entirely derived from the rule.<sup>124</sup> Though there are stringent conditions for responsiveness to operate in practice—especially when conceived as a prospective mechanism—retrospective responsiveness occurs when citizens can discern whether the government has acted in their interest, and sanction it through reelection when it doesn't.<sup>125</sup> This minimal condition can and should be attained by democracies through institutions that ensure, among other things, that the opposition can monitor the government and inform citizens.<sup>126</sup>

*Nontriviality.* All the above features only make sense if democracy channels and decides most of the significant conflicts existing in society. As Kelsen put it, "The very existence of modern democracy depends on whether parliament proves to be a suitable tool for solving the social problems of our time."<sup>127</sup> Only thus will all stakes of parties be in the political game. If, despite the formal operation of democracy, the most relevant decisions of society are taken outside of it, democracy becomes trivial. This can induce citizens to think that participating in democracy is irrelevant for their interests or their liberty, making them apathetic and docile, and hence a potential instrument of the stronger. Democracy can thus become a façade for clientelism or technocracy,<sup>128</sup> and the representative system a theater for an audience that has no control, only visual attendance. Nontriviality is a procedural (not extraprocedural) characteristic because it depends on the effectiveness of the democratic process; the more effective a democracy, the more socially relevant problems will be brought to its forum instead of being solved through violence, money, or corruption.

## Conclusion

Although procedural democracy is often criticized for being too unexacting from the normative perspective, it actually demands a lot. Real-world

democracies, even the most enduring and consolidated ones, can hardly satisfy the former criteria continuously. These criteria are grounded on equal liberty as an ultimate value that might not be fully realizable.<sup>129</sup> But they also allow us to evaluate existing political systems in terms of the extent to which they fulfill or approach the standard of equal liberty, and hence of their “degree of democracy.” This is what the most recent empirical studies on “non-democracies” are attempting to do<sup>130</sup>—although often without explicitly referring to the normative conceptions of democracy to which they ascribe. Thus, both democratic theory and empirical studies of democracy may benefit from an engagement of political theory with the actual operation of democracy. This is the main aspiration of a political proceduralist vision of democracy.

### Acknowledgments

We started thinking and writing this article after a conversation that lasted an entire semester on the need of reviving and reinterpreting the procedural conception of democracy. Our debt of gratitude is to Juan González Bertomeu, Ian Zuckerman, Carlo Invernizzi Accetti, Giulia Oskian, and Andreas Avgousti. They read an early draft of the manuscript, discussed with us its main topics, and compelled us to a greater understanding of procedural democracy and its interpretations. In addition, Juan González Bertomeu and Ian Zuckerman offered us their generous help in revising and editing successive versions of the manuscript. We would also like to acknowledge the anonymous readers of the journal whose suggestions were an excellent guide to the final revision of the manuscript.

### Declaration of Conflicting Interests

The author(s) declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

### Funding

The author(s) received no financial support for the research, authorship, and/or publication of this article.

### Notes

1. For Aristotle, “The fundamental principle of the democratic constitution is freedom. . . . For democratic justice is based on numerical equality, not on merit.” Aristotle, *Politics*, 1317b, trans. C. D. C. Reeve (Indianapolis, IN: Hackett, 1998), 176; cf. Kurt A. Raaflaub, “Equalities and Inequalities in Athenian Democracy,” in *Dēmokratia*, ed. Josiah Ober and Charles Hedrick (Princeton NJ: Princeton University Press, 1996), 141–74.

2. We borrow this expression from Condorcet who was the first to define and translate it into constitutional norms. In 1793–1794, he wrote: “These common rules cannot possibly accord with the view of every individual. They must therefore be determined by the view of the majority. The preservation of freedom requires each individual to make an equal contribution to the expression of that majority view.” Marie Jean Antoine Nicolas Caritat, marquis de Condorcet, “On Freedom: On the Meaning of the Words Freedom, Free, a Free Man, a Free People” (1793–94), in *Condorcet: Political Writings*, ed. Steven Lukes and Nadia Urbinati (Cambridge: Cambridge University Press, 2011). In a similar vein, more than a century later, Kelsen spelled out why freedom was best protected by equal participation in the production of majority rule: “The majority principle certainly presupposes the equality of human wills. But this equality is only a metaphor. It cannot connote the ability to effectively measure and add those human wills. It would be impossible to justify the majority principle by saying that more votes carry a greater total weight than fewer votes. The purely negative assumption that the will of one person should not count more than the will of another does not entail the positive claim that the will of the majority should rule. A majority principle derived from the idea of equality would actually have the mechanical, even senseless, character attributed to it by the autocratic critique of democracy. It would simply be the poorly formalized expression of the experiential fact that the many are stronger than the few. . . . Instead, the only sensible premise for the principle of the majority is the idea that, if not all, then at least as many individuals as possible should be free. This means that the number of individual wills that are in conflict with the general will of the social order should be minimized. The fact that not just this or that individual—since one is not worth more than another—but rather that the greatest possible number of individuals should be free shows that equality constitutes an essential postulate of democracy. Under these circumstances, the fewer wills one’s own has to agree with in order to effect a change in the will of the state, the easier it is to achieve a concordance between the individual will and the will of the state.” Hans Kelsen, *The Essence and Value of Democracy*, trans. Brian Graf (manuscript to be published by Rowman & Littlefield) (we thank the translator for authorizing the citation), p. 2 and 9.
3. See, for all, Kelsen, *The Essence and Value of Democracy*; Norberto Bobbio, *Liberalism and Democracy*, trans. Martin Ryle and Kate Soper (London: Verso, 2005); Norberto Bobbio, *Il futuro della democrazia* (Einaudi, 1995, 3rd ed.; English ed. Richard Bellamy, London: Polity Press, 1987).
4. See Bobbio, *Il futuro della democrazia*, 6–7.
5. See notably Adam Przeworski, “Minimalist Conception of Democracy: A Defense,” in *Democracy’s value*, ed. Ian Schapiro and Casiano Hacker-Cordón (Cambridge: Cambridge University Press, 1999), 23–55.

6. See notably David Estlund, *Democratic Authority: A Philosophical Framework* (Princeton NJ: Princeton University Press, 2008), 74, who claims that for a theory to be truly proceduralist, there cannot be any independent standard of value from which it can be judged, including the “aggregativity” or positive responsiveness to individuals’ preferences of majority rule, which violates the principle of equal treatment of alternatives, and therefore imposes a substantive standard to democratic decisions, which can be more or less approximated in reality. For a compelling critique of this argument, see Gerry Mackie, “The Values of Democratic Proceduralism,” *Irish Political Studies* 26, no. 4 (2011): 439–53, who insists that, as shown by May’s theorem, positive responsiveness is an intrinsic property of the democratic procedure, which is independent but complementary to its other properties of neutrality (Estlund’s equal treatment of alternatives), anonymity and decisiveness. As Mackie claims (p. 444), Estlund’s argument that positive responsiveness is a substantive standard collapses the relevant distinction between proceduralist and pure outcome theorists: “EP’s [Estlund’s Epistemic Proceduralism’s] argument here implies that, when it comes to actual procedures, there can be no proceduralists.”
7. The “construction of the people,” writes Ernesto Laclau, is possible only if the sectorialization of needs and interests is overcome in a *reductio ad unum* of the many views that electoral politics produces into one ideological view that gives sense to the fragmented actual politics. This requires going beyond the particular demands that political parties produce in a parliamentary democracy; it is the goal of populism. Cf. Ernesto Laclau, *On Populist Reason* (London: Verso, 2005), 81–100; for a brief synthesis of his view see also “Populism: What’s in a Name?,” in *Populism and the Mirror of Democracy*, ed. Francesco Panizza (London: Verso, 2005), 32–49. For the inimical relationship between populism and representative democracy, see Benjamin Ardit, “Populism as an Internal Periphery of Democratic Politics,” in *Populism and the Mirror of Democracy*, 72–98.
8. Our antagonistic stance is akin to Chantal Mouffe’s notion of agonistic democracy, in that it positively values the existence and persistence of diverse and conflictive perspectives in the political arena; cf. Chantal Mouffe, *The Democratic Paradox* (London: Verso, 2000), particularly, 80–107. But we differ from Mouffe’s critique of democratic procedures and from her claim that democratic antagonism entails the construction of an “us/them” divide. For Mouffe, democratic procedures resemble empty rules that allow existing groups to clash and behave strategically with the purpose of finding a compromise among their irreducible views. Hence, Mouffe endorses the Schumpeterian interpretation of procedural democracy that we criticize in this essay because it ignores the *normative* dimension of procedural democracy that is based on equal political liberty. Furthermore, Mouffe claims that the divergence of political ideas embraced

by democratic adversaries implies the emergence of a divide between “us” and “them.” But given her idea of procedures as empty rules, it is evident that such divide is dependent on extraprocedural principles that can identify the “us” and the “them.” This is problematic from the point of view of antagonism, since it could imply the imposition of those principles to groups who do not agree with them. In particular, there can be (and often are) individuals and groups who do not agree that there is only one divide in politics and who may be willing to oppose a political faction in some cases and support it in others—and this can be motivated by ideology and class interests, not only by strategic behavior. But under Mouffe’s view, these individuals and groups could be permanently considered “them” because they do not agree with “us” in every issue. This is even more problematic given that, for Mouffe, antagonism does not require that antagonistic factions have a real chance of becoming the ruling “us,” but simply that they can express their disagreement. Therefore, in Mouffe’s view, minorities can be permanent without there being any attempt against democracy or any prospect to become majority. This goes against the idea that we defend in this essay according to which it is a crucial trait of democracy that political minorities have a real chance of winning power, and hence that alternation exists among factions.

9. Kelsen, *The Essence and Value of Democracy*, p. 2. See also Mackie, “The Values of Democratic Proceduralism,” p. 440, who says: “A strong source of the emphasis on procedural value in democratic theory is horror at the doctrines and massive atrocities of Bolshevism, Fascism and National Socialism, the twentieth century autocracies. Hans Kelsen (1955), a literal refugee from one of those ‘true democracies,’ argued that all governments are *for* the people, or say they are, but only democracy is *by* the people.”
10. Among contemporary authors, Robert Dahl built on a normative view of procedural democracy more than anyone else; see his *Polyarchy: Participation and Opposition* (New Haven, CT: Yale University Press, 1971) and “Procedural Democracy,” in *Contemporary Political Philosophy: An Anthology*, ed. Robert Goodin and Philip Pettit (Oxford: Blackwell), 107–25. Yet Dahl, particularly in his early works, lingered toward a rationalist rendering of preferences in the aim of translating Rousseau’s ideal of the general will in the representative. Thus, although he built on the views of procedural democrats like Kelsen and Bobbio, he thought of actual democracy as an imperfect procedure that contains substantive values; see for instance Robert Dahl, *Democracy and Its Critics* (New Haven, CT: Yale University Press, 1989); Mackie, “The Values of Democratic Proceduralism,” 441.
11. There are of course several important exceptions, including Robert Dahl, Adam Przeworski, Guillermo O’Donnell, and Gerry Mackie, among others.

- See, e.g., Dahl, *Polyarchy: Participation and Opposition, Democracy and Its Critics*, “Procedural Democracy”; Adam Przeworski, “Minimalist Conception of Democracy: A Defense” and “The Poor and the Viability of Democracy,” in *Poverty, Participation and Democracy*, ed. Anirudh Krishna (New York: Cambridge University Press, 2008), and “Democracy, Equality, and Redistribution,” in *Political Judgment: Essays in Honour of John Dunn*, ed. Richard Bourke and Raymond Geuss (Cambridge: Cambridge University Press, 2009); Guillermo O’Donnell, “Democracy, Law, and Comparative Politics,” *Studies In Comparative International Development* 36, no. 1 (2001): 7–36, and *Democracy, Agency, and the State* (Oxford: Oxford University Press, 2010); Mackie, “The Values of Democratic Proceduralism.”
12. See Joseph A. Schumpeter, *Capitalism, Socialism and Democracy* (New York: Harper & Row, 1942). For the central (and in his view exaggerated and wrongly headed) role of Schumpeter’s definition of democracy in American political science, see Mackie, “The Values of Democratic Proceduralism,” 441; for the identification of proceduralism with Schumpeterianism within deliberative theory of democracy, see Jürgen Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, trans. William Rehg (Cambridge: MIT Press, 1996), 332–33; for a recent normative criticism of Schumpeterian democracy, see Gerry Mackie, “Schumpeter’s Leadership Democracy,” *Political Theory* 37 (2009).
  13. The morally correct disposition of participants refers to the intention with which they enter the deliberative trial and respect its procedures, which, according to Habermas, is crucial for the democratic process to consist in “practical discourse” and thus be legitimate. Thus, Habermas distinguishes between a “balance of power” political process and one that consists in “practical discourse.” While the former allows persons to enter deliberation in order to negotiate and compromise or “strike a balance between conflicting particular interests,” the latter allows them to strive for a common interest through deliberation. Only the latter is a morally legitimate collective behavior in democracy; Jürgen Habermas, *Moral Consciousness and Communicative Action*, trans. Christian Lenhardt and Shierry Weber Nicholson (Cambridge: MIT Press, 1993), 71–72.
  14. John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971), 360–61.
  15. Habermas, *Between Facts and Norms*, 304, and also 315–23.
  16. Habermas, *Moral Consciousness and Communicative Action*, 68–82.
  17. E.g., James Bohman has criticized proceduralism because its reference to procedures is self-referential: “merely following a procedure, no matter how fair, will not influence the quality of the agreement reached or the reasons

- that support it" (*Public Deliberation: Pluralism, Complexity, and Democracy*, Cambridge: MIT Press, 2000), 51.
18. For a proposal to overcome the strictures of deliberation as rational argument and admit other kinds of communication that are, within certain contexts of grave social inequality, more apt to promote an "authentic" democracy by fighting against material inequality and poverty, see Habermas, *Facts and Norms*, 390–91, 404–6, and John D. Dryzek, *Deliberative Democracy and Beyond: Liberals, Critics, Contestationists* (Oxford: Oxford University Press, 2000), particularly 162–75.
  19. For Habermas, if the conditions for public and autonomous deliberation are met, it is an "ideal procedure" whose outcomes are necessarily legitimate; see his *Between Facts and Norms*, in particular chap. 7; but see also Joshua Cohen, "Reflections on Habermas on Democracy," chapter 7 in his *The Arc of the Moral Universe and Other Essays* (Cambridge, MA: Harvard University Press, 2010), 260–315; Thomas McCarthy, "Practical Discourse: On the Relation of Morality to Politics," in *Habermas and the Public Sphere*, ed. Craig Calhoun (Cambridge, MA: MIT Press, 1997), 51–73.
  20. As Kelsen pointed out, democracy is the only political system through which people can be meaningfully said to rule themselves and hence be autonomous. Indeed, for him, the notion of the people is an abstraction that requires materialization through representation and political parties. And majority decision making is the mechanism that maximizes individual freedom in a representative system; Kelsen, *The Essence and Value of Democracy*, 2, 9, 39. See the citation in *supra* footnote 1.
  21. As Bobbio argued, the definition of democracy is not confined to the right to political participation, or to majority rule, but may prompt an expansion of democracy to other domains, like social and economic relations; Bobbio, *Il futuro della democrazia*, 6–7.
  22. The rights that are required for the democratic procedure to operate properly, that is, to comply with its basic procedural traits of anonymity, neutrality, positive responsiveness and decisiveness, should be considered intrinsic to democracy. Although, by being enshrined in the constitution, they impose limits on democracy's operation and outcomes, they ensure the process's democratic *nature* and its continuity. For this type of argument, see John Hart Ely, *Democracy and Distrust: A Theory of Judicial Review* (Cambridge, MA: Harvard University Press, 1980); Stephen Holmes, "Precommitment and the Paradox of Democracy," in *Constitutionalism and Democracy*, ed. Jon Elster and Rune Slagstad (Cambridge: Cambridge University Press, 1988), 195–240. Even the strongest critics of constitutionalism, like Jeremy Waldron, have ended up accepting this. For Waldron, even though constitutionalism

- is antidemocratic (especially when combined with judicial review) because it restricts the capacity of the people to decide by majority rule on the interpretation of constitutional clauses, some constitutionalism must exist for democracy to operate adequately; at a minimum, the right to equal political participation should be enshrined in the constitution (Jeremy Waldron, *Law and Disagreement* [Oxford: Oxford University Press, 1999], 232–55). However, once you admit that constitutionalism must exist and that it does not necessarily contradict but can in fact enable democracy, then the question about how much should constitutionalism include becomes a more open one. See Juan González Bertomeu, “Against the Core of the Case. Structuring the Evaluation of Judicial Review,” *Legal Theory* 17, no. 2 (2011): 145–69. Indeed, it can be reasonably argued that other rights—like freedom of expression or some level of socioeconomic independence—are also needed for democracy to operate adequately or even that equal political participation entails those rights, as Habermas has famously argued. Habermas, *Between Facts and Norms*, 82–131.
23. Indeed, Kelsen’s defense of majority rule as a first-best option for ensuring the freedom of both the majority and minority groups (see *supra* footnote 1) contrasts with the deliberativists’ tendency to select unanimity as the norm and defend majority rule as a second best because of the practical difficulties of achieving unanimity. For a compelling criticism of the latter, see Bernard Manin, “On Legitimacy and Political Deliberation,” *Political Theory* 15, no. 3 (1987): 338–68. Cf. also Jon Elster, “The Market and the Forum: Three Varieties of Political Theory,” in *Deliberative Democracy: Essays on Reason and Politics*, ed. James Bohman and William Rehg (Cambridge: MIT Press, 1997), 3–33.
  24. According to Habermas, bargaining *presumes* moral norms; negotiations and compromises which start with the aim of reaching stability can end up promoting a more integrated society and reach a sort of consensus; see Habermas, *Between Facts and Norms*, 336–40.
  25. For example, to answer the question of what it takes to protect autonomy in nonideal scenarios.
  26. Habermas, *Between Facts and Norms*, 332, and *Moral Consciousness and Communicative Action*, 71–75.
  27. Again, there are important exceptions to this; see *supra* footnote 11.
  28. As Gerrie Mackie puts it: “American political scientists adopted descriptive and minimalist proceduralism because in comparative regime research it is clear and easy to measure whether or not a country’s leader is appointed by competitive election. Unfortunately, a descriptive definition suitable in a limited era for a limited purpose was promiscuously generalized to an all-purpose

- and even lamely justificatory definition of democracy. Schumpeterian proceduralism collapsed when comparative regime theorists found around the beginning of this century that about a fourth to a third of the regimes satisfying the 'electoralist' definition are in fact pseudodemocracies lacking the institutions and values otherwise associated with modern democracies"; "The Values of Democratic Proceduralism," p. 441.
29. As Bobbio put it: "Liberty and equality are the values that lay at the foundation of democracy" as "a society that is regulated in a way that the individuals who compose it are freer and more equal than in whatsoever other form of coexistence"; Norberto Bobbio, *Eguaglianza e libertà* (Turin: Einaudi, 1995), xii (authors' translation).
  30. See *supra* note 1.
  31. For a criticism of conceptions of democracy that make it dependent on outcomes that it may not always be capable of achieving, and that deny its intrinsic value as a decision-making method that replaces violence, see Przeworski, "Minimalist Conception of Democracy" and "Democracy, Equality, and Redistribution."
  32. For a discussion of the empirical usefulness of this definition, see, e.g., David Collier and Steven Levitsky, "Research Note: Democracy with Adjectives: Conceptual Innovation in Comparative Research," *World Politics* 49, no. 3 (1997): 430–451; for a critique of its use, see Mackie, "The Values of Democratic Proceduralism," 441.
  33. Surely, deliberative democracy highlights the potential of discursive social relations among citizens for producing decisions that are better—i.e., less partial—than those produced by instrumental bargaining or simple majority rule. However, for classic deliberativists, the issue is not so much the "correctness" of decisions, as the moral "grounding" of their acceptance. The correctness of a decision may be an outcome of the democratic procedure, but just because the latter enables the revision and correction of prior decisions. See Habermas, *Between Facts and Norms*, 292–95; Manin, "On Legitimacy and Political Deliberation"; and Mackie, "Schumpeter's Leadership Democracy."
  34. Estlund, *Democratic Authority*, 98.
  35. Hélène Landemore, "Collective Wisdom. Old and New," in *Collective Wisdom: Principles and Mechanisms*, ed. Hélène Landemore and Jon Elster (Cambridge: Cambridge University Press, 2012), 1.
  36. Estlund, *Democratic Authority*, 29.
  37. *Ibid.*, 27.
  38. In Estlund's words: "Proceduralism is not the problem, but the effort to rely on nothing but proceduralism is. Democratic authority and legitimacy could never be understood without relying to some extent on the idea of retrospective," namely, the "tendency to produce decisions that are better or more just by

- standards that are independent of the actual temporal procedure that produced them" (*Democratic Authority*, 97).
39. The term comes from James Surowiecki, *The Wisdom of Crowds* (New York: Anchor Books, 2005). Relying on empirical and experimental evidence, he argues that groups made of individuals with diverse levels of information and intelligence are better at making decisions than small groups with similar opinions and equal information.
  40. As discussed below, Landemore's project seeks explicitly to show that the rule of the many is epistemically superior to that of the few and the one ruler. See Landemore, "Democratic Reason: The Mechanism of Collective Intelligence in Politics," 251, and footnote 2.
  41. Weber illustrated this point when referring to American workers who opposed the "Civil Service Reform," arguing that they preferred being ruled by "parvenus of doubtful morals" whom they could "spit upon," than to be ruled by technocrats, in his words "a certified caste of mandarins" who instead spit on the people. Max Weber, "Politics as a Vocation," in *From Max Weber: Essays in Sociology*, ed. H. H. Gerth and Wright Mills (Oxford: Oxford University Press, 1946), 110, and the excerpt extracted from the *Archiv für Sozialwissenschaft und Sozialpolitik*, cited in H. H. Gerth and Wright Mills, "Introduction: the Man and His Work," in *From Max Weber*, 71, 448.
  42. This is evidently the case of theories, such as Goodin's and Sunstein's, which advocate the application of Condorcet's jury theorem to democracy. According to these theories, majority rule is likely to choose the correct option in a yes or no question, if all voters have a 0.51 probability of getting it right (i.e., of being on average more competent than random), and also if they vote sincerely and independently from one another. However, epistemic theories that highlight the competence of the group as a whole more than that of each individual also assume some level of individual competence. This is clearly the case of the "miracle of aggregation" theories, like Page and Shapiro's, which argue that majority rule is likely to choose the right answer between two options because all participants have a roughly correct opinion and errors are randomly distributed. And it is also the case of theories of cognitive diversity, such as Hong and Shapiro's and Landemore's, for which the diversity of perspectives for approaching a problem allows for mistakes to be systematically (instead of randomly) canceled out. Although the latter theories attempt to reduce the importance of individual competence with respect to the group's competence as a whole, they hold that the group's competence is partly a function of individual competence. For a complete yet succinct summary of these different theories, their advocates and detractors within the epistemic camp, see Landemore, "Democratic Reason," 265–72.

43. In general, epistemic theories aren't clear as to how the minimum competency requirement is supposed to be satisfied and what are its implications for a normative theory of democracy. If the latter's capacity to produce correct outcomes becomes the main criterion for assessing democracy, then it seems likely that the individual degree of competence required for producing such outcomes would imply a competence threshold for participation. Such threshold could be permanent if individuals cannot *learn* the competency required to contribute to the production of correct outcomes, and temporary otherwise, such that it would disappear as democracy evolves and individuals obtain competence skills through learning.
44. Estlund, *Democratic Authority*, 32–33, 211–18.
45. *Ibid.*, pp. 33–36; for a discussion, see Landemore, “Democratic Reason,” 251–52 (footnote 2).
46. David Estlund, “Why Not Epistocracy?,” in *Desire, Identity and Existence: Essays in Honor of T.M. Penner*, ed. Naomi Reshotko (Edmonton, Alberta, Canada: Academic Printing and Publishing, 2003), 53–69.
47. Landemore, “Democratic Reason,” see footnote 2 at p. 252.
48. *Ibid.*, 254–64, 268–72. Understood as the existence of different perspectives for approaching a problem, cognitive diversity is intended to cancel-out individual mistakes and thereby enhance collective competence by going beyond each member's “local optimum toward the global optimum” through deliberation. Consequently, cognitive diversity advocates for the participation of large numbers, as long as the increase in participants enhances cognitive diversity. This, according to Landemore, is a matter of threshold, since cognitive diversity is not unlimited, and it reaches a point of diminishing returns. However, representation can contribute to obtaining the adequate threshold as long as it reproduces cognitive diversity. And representation also offers democracy the capacity of periodically renewing its cognitive diversity, and thereby of maintaining diversity over time. For the distinction between Landemore's and other theories within the epistemic camp, see *supra* footnote 41, and more generally Landemore, “Democratic Reason,” 265–72.
49. According to Landemore, the lack of accountability of the rule of the few entails less attention to changing cognitive perspectives in society, “Democratic Reason,” 263–64.
50. According to Landemore, cognitive diversity consists in the diversity of viewpoints, which are all oriented towards the goal of making “an accurate prediction,” and are hence grounded on shared values and goals, “Democratic Reason,” 269.
51. This is the word she uses to refer to the rule of the few, even when it is oriented toward the common good and epistemically competent. It is puzzling why she prefers it over the more akin term *aristocracy*.

52. This is clearly illustrated by the fact that she offers no other than the contemporary Chinese regime as the example of an oligarchy with the epistemic competence of a democracy over the long run. This example cries out the obvious problem of Landemore's perspective: if the Chinese regime is indeed epistemically comparable to democratic regimes, in the absence of a legitimacy criterion related to equal freedom, we would have to conclude that such regime is normatively superior to democracies, in spite of its alarming anti-freedom record.
53. Habermas, *Between Facts and Norms*, 106.
54. As Aristotle pointed out, in contrast with justice and constitutionalism, politics is and should remain the realm of opinion, which is different from truth, although not invalid because of that. Yet, instead of the political assembly, epistemic theorists seem to make courts (and especially their "forensic" judgments of facts) their model of collective decision making. This is obviously the case of theorists who advocate the application of Condorcet's jury theorem to democracy, but also of the many others who believe that the main epistemic strength of democracy is (as for courts) public deliberation about the correct decision or the best argument. This is clearly illustrated by Landemore's reference to the movie *Twelve Angry Men* as the model of deliberation strengthened by cognitive diversity (the movie depicts the deliberation of a jury in a murder case), Landemore, "Democratic Reason," 257–59.
55. See supra footnote 41.
56. Le Marquis de Condorcet, "Sur la nécessité de faire ratifier la constitution par les citoyens" (1789), in *Oeuvres: Nouvelle impression en facsimilé de l'édition Paris 1847-1849*, 12 vols., ed. M. F. Arago and A. Condorcet-O'Connor (Hamburg: Friedrich Frommann, 1968), 9:427–28; "Aux amis de la liberté," 10:178–79; "Project de Déclaration de Droits" (Art. XXVIII), 10:16; "Sur la nécessité d'établir en France une constitution nouvelle" (March 1793), 12:353.
57. In this, Condorcet was with Aristotle (see supra note 53), although he hoped that the regular use of deliberative procedures would make society a better place to live, with more tolerant citizens.
58. As Rawls said, "Holding a political conception as true, and for that reason alone the one suitable basis of public reason, is exclusive, even sectarian, and so likely to foster political division." John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993), 129.
59. "Today's legislators are simply men, who cannot give to other men, equal to them, but laws that are transient like them." Condorcet, *Lettres à M. le Comte Mathieu de Montmorency*, in *Oeuvres* 9:375.
60. See Manin, "On Legitimacy and Political Deliberation."
61. These rules are justified both because they likely received a consent greater than the ordinary majority and because, until they are changed, they illustrate

the people's willingness to play by the democratic rules of the game (Concordet's "common opinion"); see Jon Elster, *Ulysses and the Sirens: Studies in Rationality and Irrationality* (Cambridge: Cambridge University Press, 1979), 93; and *Ulysses Unbound* (Cambridge: Cambridge University Press, 2000), 94–95, 99–100. Constitutional rules are also justified because only if they are respected can democracy operate as a problem-solving and conflict-replacing mechanism, instead of requiring at each time that a decision be made about what democracy can decide on; cf. Holmes, "Precommitment and the Paradox of Democracy."

62. See supra note 22; John Hart Ely, *Democracy and Distrust: A Theory of Judicial Review*; Holmes, "Precommitment and the Paradox of Democracy."
63. Of course, these rights—and the notion of human dignity on which they are grounded—can be said to have autonomous worth, apart from their role as enablers of democracy. See among others, Rawls, *A Theory of Justice*, especially chapters 3 and 4; Ronald Dworkin, *Taking Rights Seriously* (Cambridge: Cambridge University Press, 1977), chapters 6 and 7; Habermas, *Between Facts and Norms*, 82–131.
64. As we know, constitutionalism entails instruments for controlling democracy's infringement of its limits, such as judicial review of legislation. These instruments can be seen as a mechanism that prevents democracy from producing incorrect outcomes, but it is a mechanism different from (though complementary to) democracy.
65. As developed in footnote 22 supra, even the staunchest critics of constitutionalism, like Jeremy Waldron, have come to accept this.
66. Estlund, *Democratic Authority*, 208–9; Jeremy Waldron, *The Dignity of Legislation* (Cambridge: Cambridge University Press, 1999), 33–34; H el ene Landemore, "Collective Wisdom. Old and New," in *Collective Wisdom*, 1.
67. The decisions of the assembly (ekklesia) and the jury in law-courts (dikastes) consisted precisely in this.
68. See Melissa Lane, "Aristotle as Schumpeterian? The Multitude's Claim to 'Rule' as a Claim to Election and Inspection Only," forthcoming in *The Cambridge Companion to Aristotle's Politics* (we thank the author for authorizing the citation).
69. For that reason, according to Aristotle, the many cannot make political decisions that meet independent standards—they cannot transform doxa into ar ete.
70. This argument is akin to Josiah Ober's theorem of a functional collective doing, which recuperates Hayek's theory of diffuse expertise through socially communicated information: "The key to successful democratic decision making is the integration of dispersed and latent technical knowledge with social knowledge and shared value"; Ober, *Democracy and Knowledge*, 18. However, in contrast with Ober, we do not advocate democracy's capacity for cooperation on epistemic but rather on liberty grounds.

71. Cf., Kurt A. Raaflaub, "II. Democracy, Oligarchy, and the Concept of the 'Free Citizen' in Late Fifth-Century Athens," *Political Theory* 11 (1983): 517–24; Mogens Herman Hansen, *The Athenian Democracy in the Age of Demosthenes*, trans. J. A. Crook (Oxford: Blackwell, 1993), 71–8.
72. "As Aristotle insisted, we do not deliberate about things that we believe cannot in the nature of things be otherwise." Stuart Hampshire, *Innocence and Experience* (Cambridge, MA: Harvard University Press, 1989), 56–57.
73. Arditì, "Populism as an Internal Periphery of Democratic Politics."
74. They thus follow Schmitt, who defines politics as an arena of conflict between friends and foes. Carl Schmitt, *The Concept of the Political* (Chicago: University of Chicago Press, 1996).
75. *Democracies and the Populist Challenge*, ed. Ives Meny and Yves Surel (London: Palgrave, 2002).
76. Carl Schmitt, *The Crisis of Parliamentary Democracy*, trans. Hellen Kennedy (Cambridge: MIT Press, 1994), 15.
77. Peter Worsley, "The Concept of Populism," in *Populism: Its Meaning and National Characteristics*, ed. Ghita Ionescu and Ernest Gellner (London: Macmillan, 1969), 244.
78. Jean-Jacques Rousseau, *On the Social Contract or Principles of Political Rights*, in *Basic Political Writings*, trans. Donald A. Cress (Indianapolis, IN: Hackett, 1987), Bk. III, Ch. 1.
79. Jeffrey Edward Green, *The Eyes of the People: Democracy in the Age of Spectatorship* (Oxford: Oxford University Press, 2010), 29.
80. Norberto Bobbio, *Autobiografia* (Roma-Bari: Laterza, 1997), 199; Nadia Urbinati, "Democracy and Populism," *Constellations* 5, no. 1 (1998): 110–24; Paul Taggart, "Populism and the Pathology of Representative Politics," in *Democracies and the Populist Challenge*, 62–80.
81. Kelsen, *The Essence and Value of Democracy*, chap. 3.
82. Green, *The Eyes of the People*, 38.
83. Michael Kazin, *The Populist Passion: An American History* (New York: Basic Books, 1995), 2–7. Cf. also Richard Hofstadter, "North America," in *Populism: Its Meaning and National Characteristics*, ed. Ghita Ionescu and Ernest Gellner (London: Macmillan, 1969), 16–18.
84. Ernesto Laclau, *Politics and Ideology in Marxist Theory: Capitalism-Fascism-Populism* (London: Verso, 1979), 18; see also Ernesto Laclau, *On Populist Reason* (London: Verso, 2005), in particular Part II. Laclau's account is inspired in Argentine Peronism (*Politics and Ideology in Marxist Theory*, 182–91), a populist movement led by Juan Domingo Perón which rose to power in the 1940s, and still holds strong sway in Argentine politics through new charismatic leaders like current president Cristina Kirchner. Peronism empowered and incorporated the working classes through a mix of redistributive (yet personalistic)

- policies and a populist-nationalist and antiliberal rhetoric, which challenged the existing economic and political oligarchy. However, in its origins, Peronism had strong ties with the military; further, it has often been accused of creating a new economic elite through clientelism and corruption.
85. Worsley, "The Concept of Populism," 247; Margaret Canovan, "Taking Politics to the People: Populism as the Ideology of Democracy," in *Democracies and the Populist Challenge*, 25–44.
  86. Margaret Canovan, "'Trust the people!' Populism and the Two Faces of Democracy," *Political Studies* 47 (1999): 9, 11–12.
  87. Pierre Rosanvallon, *La contre-démocratie. La politique à l'âge de la défiance* (Paris: Seuil, 2006), 276.
  88. Manin's definition of contemporary democracy as post-party and audience democracy, thus more plebiscitarian than representative, has promoted the renaissance of this stream of thought within democratic theory. See Bernard Manin, *The Principles of Representative Government* (Cambridge: Cambridge University Press, 1997); see also Green, *The Eyes of the People*, 109–12; and Benjamin Arditi, *Politics on the Edges of Liberalism: Difference, Populism, Revolution, Agitation* (Edinburg University Press, 2008), 51–52.
  89. The leading project of unifying the people can be taken by a charismatic collective actor (the party) or a charismatic individual; Laclau, *On Populist Reason*, 175–99.
  90. The most notable examples include Mussolini, Perón, and Getulio Vargas, and more recently Latin American leaders like Chávez.
  91. Laclau, *On Populist Reason*, 162.
  92. Laclau, *On Populist Reason*, 164, 170.
  93. On this, see Laclau's recent comments about the illegitimacy of Argentina's opposition against the populist leader Cristina Kirchner, and the importance of her being reelected indefinitely for the hegemonic project to be consolidated. Ernesto Laclau, "El constitucionalismo busca mantener el poder conservador," *Perfil*, October 14, 2012. In this sense, the critique of Mouffe's theory contained in footnote 8 also applies to Laclau.
  94. Cf. Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty*, trans. George Schwab (Cambridge: MIT Press, 1985), in particular pp. 33–66; on the issue of representation as a politics of collective building and unification, see among others Cas Mudde, "The Populism Zeitgeist," in *Government & Opposition* 39 (2003): 541–63; and Jason Frank, *Constituent Moments: Enacting the People in Postrevolutionary America* (Durham, NC: Duke University Press, 2010).
  95. A former critic of parliamentarianism, Mosca became its most eloquent defender when the populist upheaval paved the way to fascism and the destruction of

- electoral representation in Italy. In his last parliamentary speech as a senator, on December 19, 1925, Mosca accused Fascist populism of burying liberty and the democratic procedures that protect it under the pretext of recovering the “true” will of the people. He further said: “I should not have thought it possible that I would be the one to deliver the funeral oration on the parliamentary regime. . . . I, who have always taken a harsh attitude toward it, I am today obliged to lament its departure. . . . One may say in all sincerity: the parliamentary regime was better.” Mosca’s speech is in Gaetano Mosca, *Partiti e sindacati nella crisi del regime parlamentare* (Bari: Laterza, 1949), 277–85; the excerpt we cite from is contained in James Meisel, *The Myth of the Ruling Class* (Ann Arbor: University of Michigan Press, 1985), 225–26.
96. See, e.g., Eric A. Posner and Adrian Vermeule, *The Executive Unbound: After the Madisonian Republic* (Oxford: Oxford University Press, 2010), 11–17; David Dyzenhaus, *The Constitution of Law: Legality in a Time of Emergency* (Cambridge: Cambridge University Press, 2006); William E. Scheuerman, *Liberal Democracy and the Social Acceleration of Time* (Baltimore: The Johns Hopkins University Press, 2004), 107–27. See also *supra* footnote 87; Daron Acemoglu, James A. Robinson, Ragnar Torvik, “Equilibrium Checks and Balances” (Manuscript).
  97. Schumpeter, *Capitalism, Socialism and Democracy*, 269.
  98. “Being a political method, democracy cannot, any more than can any other method, be an end in itself.” *Ibid.*, 242.
  99. In that sense, for Schumpeter, elections are an admission that direct or participatory democracy is a failure. Further, they imply the recognition that citizens have a passive role in politics; they are the audience that provides consent to decision makers, not the agents of decisions. This explains that Schumpeter has been a key author for the contemporary renaissance of plebiscitarian democracy; see, for instance, Green, *The Eyes of the People*, 171–77.
  100. Przeworski, “Minimalist Conception of Democracy,” 23.
  101. *Ibid.*
  102. See also Adam Przeworski and John Sprague, *Paper Stones: A History of Electoral Socialism* (Chicago: The University of Chicago Press, 1986).
  103. Przeworski, “Minimalist Conception of Democracy,” 48–49.
  104. See also Adam Przeworski, *Democracy and the Market: Political and Economic Reforms in Eastern Europe and Latin America* (Cambridge: Cambridge University Press, 1992).
  105. Norberto Bobbio, *Liberalism and Democracy*, trans. Martin Ryle and Kate Soper (London: Verso, 2005), 31.
  106. Kelsen agrees, saying: “A democracy without public opinion is a contradiction in terms. Insofar as public opinion can arise only where intellectual freedom,

- freedom of speech, press and religion, are guaranteed, democracy coincides with political—though not necessarily economic—liberalism.” Kelsen, *General Theory of Law and State*, 287–88.
107. See, e.g., Przeworski et al.’s classification of political regimes, which explicitly excludes the extent of popular participation in elections as a criterion for distinguishing democracies from nondemocracies; Adam Przeworski, Michael Alvarez, Jose Antonio Cheibub, and Fernando Limongi, *Democracy and Development: Political Institutions and Well-Being in the World, 1950-1990* (Cambridge: Cambridge University Press, 2000).
  108. Schumpeter, *Capitalism, Socialism and Democracy*, 269–70; Przeworski, “Minimalist Conception of Democracy,” 23–28.
  109. This argument is similar to Amartya Sen’s notion that often people cannot even conceive their economic needs until they are able, through free and open discussion, to figure out what is feasible for them to claim and do. According to Sen, democracy may provoke rather than just follow economic development: “people in economic need also need a political voice. Democracy is not a luxury that can await the arrival of general prosperity . . . there is very little evidence that poor people, given the choice, prefer to reject democracy.” Amartya Sen, “Democracy Is a Universal Value,” in *The Global Divergence of Democracies*, ed. Larry Diamond and Marc F. Plattner (Baltimore: Johns Hopkins University Press, 2001), 13.
  110. Alexis de Tocqueville, *Democracy in America*, trans. J. P. Mayer (New York: Harper Perennial, 1969), 503–6.
  111. Indeed, anyone can and should participate in decisions that affect them not because they are competent or economically independent but because they are politically free, and the denial of their freedom is a more spurious justification of their exclusion than their lack of competence or independence could be.
  112. This notion is analogous to Machiavelli’s conception of liberty as an institutional order that ought to protect the open game of politics from the threats represented by social and economic inequalities. Democracy does not conceive the solution of those threats to be the elimination of all inequalities or making all individuals identical. Rather, the solution consists in making those inequalities (and actually the potentate of the few) unable to curtail the liberty of the people. A healthy democracy does not only authorize the people to choose and kick out from power elected officials, it also imagines and creates new institutions that, if needed, can prevent the reactive power of the people from becoming meaningless.
  113. According to Hansen, “The aspect more cherished by the Athenian democrats was *isegoria*, not *isonomia*. Now, whereas *isonomia* imply natural equality as well as equality of opportunity, *isegoria* is really about equality of opportunity.

No Athenian expected that every one of the 6000 citizens who attended a meeting of the Assembly could—or would—address his fellow citizens. *Isegoria* was not for everyone, but for anyone who cared to exercise his political rights. Each citizen must have equal opportunity to demonstrate his excellence, but he deserved a reward according to what he actually achieved.” Mogens Herman Hansen, *The Athenian Democracy in the Age of Demosthenes*, 83–84. This shows that equal political opportunity is a good in itself, and cannot be reduced to the quality of the outcomes. Good outcomes, if and when they occur, are a reward of procedures, but not what gives them their normative value. Indeed, the Athenians praised their political right to talk in the assembly even if they only rarely used it. In Hansen’s description, politics was like a sport competition in which the most important thing was that all were at the start line at the beginning.

114. Dahl, *Polyarchy*, 4.
115. Kelsen, *General Theory of Law and State*, 287–88.
116. However, as Kant acknowledged, the principle of “legal equality for everyone,” that is, of a republican or constitutional order “formally constituted” within a state allows to achieve not simply a “suspension of hostilities” but also a “guarantee for peace,” thereby being a superior mechanism for sustainable peace. Immanuel Kant, “Perpetual Peace: A Philosophical Sketch,” in *Political Writings*, ed. Hans Reiss (Cambridge: Cambridge University Press, 1991), 98–100; Norberto Bobbio, *Il problema della pace e le via della guerra* (Bologna: Il Mulino, 1997), 19–28; Kelsen, *General Theory of Law and State*, 284–88.
117. Bobbio, *Il futuro della democrazia*, 195–218.
118. In this sense, normative and functional components cannot be disjointed. For the articulation of normative and functional components of democracy, see Elster, “The Market and the Forum: Three Varieties of Political Theory.”
119. Przeworski, *Democracy and the Market*.
120. Przeworski et al., *Democracy and Development*.
121. Solon took this so seriously that he established that citizens had to choose a side in the political competition. As Aristotle recounts, “Solon realized that the city was often split by factional disputes, but some citizens were content because of idleness to accept whatever the outcome might be; he therefore produced a specific law against them, laying down that anyone who did not choose one side or the other in such a dispute should lose his citizen rights.” Aristotle, *The Constitution of Athens*, 153.
122. Thus, Bobbio said, “democracy is subversive. It is subversive in the most radical sense of the word, because, wherever it spreads, it subverts the traditional conception of power, one so traditional it has come to be considered natural, based on the assumption that power—i.e. political or economic, paternal or

- sacerdotal—flows downwards.” Norberto Bobbio, *Which Socialism? Marxism, Socialism and Democracy*, trans. Roger Griffin (London: Polity Press, 1987), 74.
123. Cf. C. Edwin Baker, *Media Concentration and Democracy: Why Ownership Matters* (Cambridge: Cambridge University Press, 2007), in particular chaps. 1 and 2; and Owen M. Fiss, *Liberalism Divided: Free Speech and the Many Uses of State Power* (Boulder, CO: Westview Press, 1996), chaps. 1–3.
  124. See *supra* footnote 6. As Mackie argues, this rule is independent to the other rules that compose majority rule in May’s theorem (anonymity, neutrality, and decisiveness), but their joint operation is what makes the procedure, and hence the outcomes it produces, legitimate.
  125. According to Manin, Przeworski, and Stokes, when responsiveness is conceived as a prospective mechanism, voters’ incomplete information and changing conditions can make it very hard for there to exist a full alignment between citizens’ and elected politicians’ preferences. However, retrospective responsiveness (or accountability) just requires that citizens are able to discern whether the government acts in their interest and hence to sanction it effectively through reelection when it doesn’t. These are conditions that institutions can strive for. Bernard Manin, Adam Przeworski, and Susan Stokes, “Elections and Representation,” in *Democracy, Accountability, and Representation*, ed. Bernard Manin, Adam Przeworski, and Susan Stokes (Cambridge: Cambridge University Press, 1999), footnote 120. On this issue, see also Jane J. Mansbridge, “Rethinking Representation,” *American Political Science Review* 97 (2003): 515–28.
  126. According to Manin, Przeworski, and Stokes (“Elections and Representation”), to promote retrospective responsiveness, institutions should also clarify who in government is responsible, offer incentives for reelection, assure the opposition can monitor the government and inform citizens, and offer instruments for punishing and rewarding governments’ actions in different realms, among others.
  127. Kelsen, *The Essence and Value of Democracy*, 25.
  128. On this, see Guillermo O’Donnell, “On the State, Democratization and Some Conceptual Problems: A Latin American View with Glances at Some Postcommunist Countries,” *World Development* 21, no. 8 (1993): 1355–69.
  129. As Bobbio said, “Perhaps it would be better to say that the democratic method tends to *lead to the implementation of autonomy*” (italics added). Bobbio, *Which Socialism?*, 95.
  130. See, e.g., Steven Levitsky and Lucan Way, *Competitive Authoritarianism: Hybrid Regimes After the Cold War* (Cambridge: Cambridge University Press, 2010); Jennifer Gandhi and Ellen Lust-Okar, “Elections Under Authoritarianism,” *Annual Review of Political Science* 12 (2009): 403–22; Jennifer Gandhi

and Adam Przeworski, "Dictatorial Institutions and the Survival of Autocrats," *Comparative Political Studies* 40 (2007): 1279–2301; Barbara Geddes, *Paradigms and Sand Castles* (Ann Arbor: University of Michigan Press, 2003).

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