

In this project, I examine the role of non-majoritarian institutions in democracies. Specifically, I examine the claim of strong majoritarians that non-majoritarian institutions like the US Supreme Court have no role in democratic self-governance and that such institutions are disrespectful of individuals' capacities to decide. I reject this claim, and instead put forward a justification of non-majoritarian institutions rooted in individual preference, arguing that the concept of respecting decision-making capacity is hollow without some examination of individual preferences.

By using results derived from social choice theory, as well as the work of rational choice theorists and more empirically minded political scientists, I show that the act of voting, often viewed as a black box where individual preferences go in and aggregate preferences come out, is in fact a complex institution, riddled with ambiguities and uncertainties. Furthermore, I show that legislatures themselves, the vehicle through which individuals participate in most modern democracies, have perverse incentive structures than inhibit translation of individual preferences to policy. Ultimately, non-majoritarian institutions provide another outlet where the aggregate preferences of individuals, as well as other relevant considerations, can be included into the policy process.