

THE PUZZLE OF DEMOCRATIC AUTHORIZATION

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The concept of authorization is central to the idea of democratic decision making, yet it has received remarkably little attention within contemporary democratic theory. With the possible exclusion of elite theories of democracy, most of the dominant versions of democratic theory conceive of collective decisions as authorized by the people, either directly or indirectly through their representatives.¹ Different theories advance different pictures of democratic authorization. Although most concur that authorization requires, ultimately, a popular vote for laws or for representatives who make them, theorists disagree about the nature of the authorizing process, including whether genuine authorization must be preceded by a rational discursive process, what the best ways of registering or expressing authorization are, whether representation is compatible with democratic authorization, and precisely whose participation is required for a decision to be democratically authorized. Although these theories develop elaborate and carefully argued conceptions of the democratic process, the concept of authorization relied upon in these theories has not itself been subject to critical scrutiny.

In this article, I analyze the relation of authorization. Once the basic elements of this relation are clarified, a striking puzzle emerges that has deep implications for the theory and practice of democracy. The puzzle concerns the disjunction between consent and control in democratic authorization. Authorizing is, as I discuss in the first section of the article, always an authorization of someone to do something. In paradigmatic cases of authorization, the authorizer has a right to control a given domain and, through an act of consent, bestows the right to act in that domain upon an authorized agent. The practice of authorization depends upon the mutual recognition that the authorizer's giving or withholding of consent determines whether or not others have a right to act in that

domain. I explain this idea at greater length in the text below, but the basic idea can be easily grasped by appeal to an example from a different context. You only have a right to enter my home if I authorize you to do so by communicating my consent to your entering the premises. My home is my property, which gives me a socially recognized right to control over this domain. I (along with my co-owners) determine who gets to enter my home. If people start entering my home without regard to whether or not I have consented to their entry, then my right of ownership, which grants me control over this domain, is no longer socially recognized and the practice of authorization has broken down.

The puzzle of democratic authorization, I will argue, is that it is individuals who have a right to control over their own affairs, and thus individuals whose consent is required to authorize others to act in this domain, yet in any large democracy, ordinary citizens on their own have negligible control over political decisions that affect this domains; it is only the people as a whole that has control over outcomes. It is individuals' consent that is required, yet unlike in paradigmatic cases of authorization, this consent does not effectively control outcomes because each individual's giving or withholding of consent within democratic procedures and practices has negligible influence over outcomes. This argument rests on the claim that individuals have a right to complete control over their own affairs, which might initially seem implausible. One of the burdens of the argument will be to explain why this is the proper location and description of the right to control at stake in democratic authorization.

The consequence of this analysis is that, strictly speaking, democratic authorization is impossible. Due to the nature of collective decision making, the concept

of authorization cannot be literally applied to democratic politics. There is, however, a sense in which the practice of authorization is maintained through the control of the people considered collectively. To speak of democratic authorization is, I want to suggest, to speak metaphorically, to treat decisions *as if* they are the outcome of each individual's action. Democratic authorization is always virtual, in the sense that when collective action produces outcomes to which an individual consents, it is *as if* that result was produced by the individual's own action.

The virtuality of democratic authorization has crucial implications for the theory and practice of democracy. The general theoretical implication is that democratic authorization and formal political participation are analytically and, at times, practically distinct. Participation in decision making is not sufficient for authorization nor, strictly speaking, is participation within formal political processes necessary for virtual authorization. This pulling apart of participation and authorization helps to explain some of the cases that have proved puzzling for democratic theory, including the problem posed by insular minorities for democratic legitimacy and, as I discuss at the end of the article, cases of non-electoral representation, which have recently become a central concern of theories of representation.

The article begins by exploring Hobbes's seminal analysis of authorization, in order to understand the basic structure of all forms of political authorization. After developing a conception of democratic authorization along the lines sketched above, I consider Richard Tuck's recent work on causation, which challenges some of the claims of negligibility that I rely upon in formulating my conception. For simplicity, I present my initial analysis of authorization in terms of direct democracy, but given that

authorization figures prominently in theories of representation, I follow the section on Tuck with a section applying my analysis of authorization to representative democracy and modifying it accordingly. The conclusion explores the implications of the analysis for informal authorization through non-electoral forms of representation.

The Structure of Authorization

The seminal analysis of political authorization is chapter 16 of Hobbes's *Leviathan*. As I will discuss, democratic authorization is different in important ways from authorization as Hobbes conceives it, but it is useful to begin with Hobbes's account due to its historical influence and because it illuminates certain basic features of authorization. Although it might, on the face of it, seem perverse to use Hobbes's account of authorization as the entrée for an analysis of democratic authorization, Hobbes's account is arguably, as Quentin Skinner suggests, an attempt to mobilize the logic of the then-burgeoning discourse of popular sovereignty to justify absolutist rule, and thus the logic of his account is not as foreign to democratic thought as it might appear.²

There are three basic features of authorization that can be gleaned from Hobbes's account that hold for all forms of political authorization. The first feature is that authorization is always a relation between an authorizing party and an authorized party. This point might seem too mundane to be worthy of notice. Following Hanna Pitkin's analysis of Hobbes's account of authorization in the second chapter of her classic book on representation, the concept of authorization has figured prominently in contemporary theories of representation, and in this context noting that authorization is a relation

between persons might appear trivial, but this relation is not explicit in characterizations of democratic authorization as the popular authorization of laws or collective actions. As I will argue below, a relation between persons is implicit in these latter characterizations.³

The second feature of authorization to be gleaned from Hobbes's account is that authorization presupposes that the authorizer (or, in Hobbes's term, "author") possesses a right to control over a given domain and authorization transfers this right to another or extends to the other a right to act within this domain right. In Hobbes's words, the authorized agent acts "by Commission, or License from him whose right it is."⁴

The third feature is that the authorizer extends or transfers his right through an act of consent. In the Hobbesian fable, individuals in the state of nature each consent to transfer their own right to self-government to the sovereign.⁵ The consent to transfer this right should not be confused with the prior consent involved in the establishment of a contract or covenant with other individual in the state of nature. In the contract, individuals mutually consent to individually transferring their discrete rights to self-government to the sovereign, which is accomplished by a separate act of consent through which the sovereign gains the power to act on behalf of its subjects. Although in the Hobbesian case, the bestowal of the right to control on another involves the alienation or loss of this right in the transfer, in some forms of authorization a right to act in the relevant domain is retained by the authorizer.

There is an additional feature of authorization that figures centrally in Hobbes's account that does not hold for all types of political authorization. On Hobbes's account, the actions of the authorized agent can be attributed to the authorizer. In Hobbes's terms,

the actions of the authorized agent are “owned” by the authorizer.⁶ Hobbes’s use of the term “author” here captures the idea that the authorized agent’s actions originate with and, in turn, can be attributed to the authorizer. Having authorized the sovereign, individuals own the sovereign’s actions; they are the authors of the laws and decrees the sovereign promulgates as well as the sovereign’s individual acts. All forms of authorization presuppose that the authorized agent acts on the permission of the authorizer, but, as will become clear, authorization does not invariably warrant the attribution of the authorized agent’s actions to the authorizer.

Considering the three basic components of authorization together, we can state that in authorization, a person or party that holds a right to control over a given domain transfers this right or extends a right to act in this domain to another person or party through an act of consent.⁷ In Hobbes’s account of political authorization, the right transferred to the sovereign is extremely broad in scope. In the state of nature, the individual possesses a right not only to control over his own person and actions, but to others’ persons and to all things in the world.⁸ In transferring this right to the sovereign, the individual authorizes the sovereign to do almost anything.⁹ It could be argued that the sovereign’s authority is limited to fulfilling that purpose for which the subject authorizes the sovereign: namely, to protect the subject. Whether or not the sovereign’s authority is limited in this way is a matter of dispute in Hobbes scholarship.¹⁰ There is no doubt, however, that in the service of protecting its subjects, Hobbes’s sovereign has the authority to do almost anything it deems necessary.

If authorization is a relation between persons involving a right to act in a given domain, then authorization is necessarily authorization of *someone* (a person or persons)

to do *something* (an action or set of actions). In Hobbes's account, the second term is unspecified, to be filled in by the sovereign according to its own judgment and will. At most, the sovereign's range of action is constrained only in the loosest ways by the purposes for which the commonwealth was established. In authorizing the sovereign to act on his behalf, the subject agrees to subordinate his own will to the sovereign's.

In a direct democracy, it is the second term of the formula that takes priority. Authorization here is directed toward laws or collective decisions, which specify particular actions or classes of actions to be taken. In authorizing laws, the people designate certain persons or offices to enforce or administer the law, and authorization thus remains authorization *of someone*, but these persons merely carry out the people's will. The will of the authorized agents in this case is completely subordinated to the will of the authorizing party (the people). Those persons designated responsible for enforcing or administering the law may have some measure of discretion in how they apply the law, but their action is constrained by and cannot contradict the content of the law.

Authorization in representative democracies is a complex affair. The character of authorization differs in different conceptions of representation. On most models, representatives are constrained by constituents' wills in some fashion while having some measure of freedom or independence in judgment, although different models propose different mechanisms by which representatives are held accountable to constituents' wills or by which their responsiveness to constituents is ensured, and different theories offer different normative standards for judging the adequacy or legitimacy of these mechanisms. For the moment, I will bracket these complications in order to simplify the analysis, focusing my analysis of authorization on direct democratic cases. Given that

representative democracy is the norm in the contemporary world, to be valuable the analysis must be capable of accommodating the complicating factor of representation.¹¹ At the end of the article, I will reintroduce representation, but it is useful to begin with the simpler case.

Consent, Convention, and Control

To the basic features of authorization gleaned from Hobbes's account, we can add two additional features. First, authorization is a social practice that depends on the mutual recognition of the (would-be) authorizer's right to control over a particular domain. Second, within this practice, the authorizing agent's giving or withholding of consent effectively determines whether or not the other party is free to act in this domain.

To illustrate these aspects of authorization, it is useful to return to the non-political example used in the introduction. In general, other people only have the right to enter my home if I authorize them to do so. In order to authorize others to enter my home, I must express consent to their entry through some mutually recognized form of consenting, which might amount to an explicit statement of consent or an informal act that is widely recognized to entail consent. For example, I might tell a friend who already has a key to my home, "Please feel free to let yourself in if you arrive before I get home." Or I might simply hold the door open for someone who shows up for a dinner party. In either case, the practice of authorizing people to enter my home presupposes that I have a socially recognized right to determine who enters my home, and, as a consequence, that people will in general only enter my home if I grant them access.¹²

Much of the debate in social contract theory about tacit consent concerns what counts as a socially recognizable expression of consent. On Locke's account, if an individual remains within a country rather than emigrating, this serves as an implicit expression of consent to obey the laws of that country's government.¹³ Whether or not this amounts to an expression of consent depends in part on whether social conventions exist under which people would recognize such an act (or failure to act) as an expression of the individual's will.¹⁴ (There are, of course, additional difficulties with tacit consent, such as Hume's critique that due to the costs of and burdens accompanying emigration, the choice situation is too heavily constrained for the decision to remain within a country to count as freely given consent to its government.)¹⁵

Not only are acts of consent embedded within social conventions of expression, but authorization is itself a social (and sometimes legal) practice. It depends on a mutual recognition of an individual's or party's right to control over a particular domain. Social norms dictate that without a person's consent, certain actions are not permitted (e.g., entering another person's home). The individual's registering or communication of this consent is a precondition of particular actions being authorized. This registering of consent changes the norms of action with respect to the case—for example, if someone welcomes me into his home, then it is acceptable for me to enter whereas prior to this communication of consent it was not.

Authorization requires a socially recognized *act* of consent.¹⁶ It is not sufficient for others to act in accordance with my will. Suppose, for example, that a woman knocks on my door and asks to come into my home. Suppose that I decide to let her in, but before I have the opportunity to communicate my consent to her entering, she barges past

me. The woman has entered my home without my authorization, even though her entry was consistent with my will.

If an individual's giving or withholding of consent does not control whether or not other individuals act in the relevant domain, then the practice of authorization is not in effect. It is, generally, a sign that other individuals do not recognize my right to control over that domain. Suppose that my neighbors' decisions about whether or not to enter my home are unaffected by my giving or withholding of consent. In this case, the very purpose of communicating whether or not I consent to their entry is vitiated, because my say will not affect my neighbors' conduct. In this case, even if, in a particular instance, I tell my neighbors they are welcome to enter my home, this act of consent does not constitute authorization because I lack the control over access to my home that authorization presupposes. My communication of consent in this case is ineffectual noise.

The Disjunction of Consent and Control in Democratic Authorization

Having outlined the basic features of authorization, it is now possible to explain the puzzle of democratic authorization. The difficulty with respect to democratic authorization is that the individual's giving or withholding of consent is not determinative of the outcome, as it is in the cases I have been discussing. Under any decision rule other than unanimity, laws may be enacted even though a given individual explicitly expresses her lack of consent by voting against the law. This obvious point creates surprising difficulties for understanding what authorization means in democratic decision making.

Focusing on individual consent to collective decisions or laws might seem misguided. It might be argued that democratic authorization does not require individuals' consent separately considered, but rather the people's consent. The people's consent, as expressed through formal legal conventions, *is* determinative of the outcome; only those measures that gain popular consent become law. Democratic authorization would then pose no particular puzzle, as it would display all of the features discussed above. Popular sovereignty is simply the claim that the people has a right to determine its own course of action, and in authorizing law the people expresses its will and transfers to certain designated officials the right to carry out that will.

As a sociological matter, the concept of “the people” may be descriptively useful; group concepts capture a social reality that cannot easily be explained in individual terms. However, while it may be useful to say that the people, as a group, performs certain actions, the people does not have a will or a mind. Thought and will are irreducibly individual attributes that are only extended to a group by the metaphor of a collective subject. “The people” is not a single subject with a single will—a “macrosocial subject,” to use Habermas’s term—but a union of individuals with distinct wills.¹⁷ To claim that the people has consented is merely a figurative way of stating that a particular group of individuals (e.g., a majority of voters) have consented to a decision. The popular will is artificially constructed out of individuals’ registered wills by democratic institutions and procedures. Because “the people” is not a subject properly conceived, it cannot be a moral being, and the right of the people to control its own affairs must be disaggregable into individual rights to control.

There are, of course, collectivist interpretations of democracy that treat the collective subjectivity of the people as metaphysical reality not metaphor. For example, Carl Schmitt embraces the idea of collective subjectivity and interprets the will of the people as a manifestation of the primordialist, ethno-national character that binds the people together as a homogenous subject.¹⁸ Popular will on this conception is not constructed out of individuals' wills but rather transcends individuals' wills. Conceiving of popular will in this way leads to the perverse consequence that individuals no longer need to register their wills through procedures such as voting. On this conception, a populist leader may be capable of divining the popular will by channeling the people's essence. Treating the people as a metaphysical reality opens the door for Schmitt's claim that "dictatorship is not antithetical to democracy."¹⁹ I take this conclusion to represent a *reductio ad absurdum* of a collectivist understanding of popular will. Democracy is antithetical to dictatorship.²⁰

Authorization, then, must ultimately be theorizable in terms of individuals' consent. I have already suggested that the inefficacy of given individuals' giving or withholding of consent poses difficulties for conceptualizing democratic authorization, but in order to understand why this is so, it is necessary first to explain what relation individual consent has to democratic authorization. What is required, in particular, is an account of what right to control outcomes individuals hold. As I argued above, authorization presupposes that the authorizer has a right to control over actions within a given domain, and the act of consent serves to transfer a right to perform an action (specified to a greater or lesser degree) to another individual or party. In a democratic

polity, what right do individuals have to control the affairs subject to collective decision making?

Equality in Decision-Making Power

If we answer this question with a view toward power over collective decisions, then the answer is readily apparent: individuals have a right to an equal share of decision-making power.²¹ This claim is interpreted differently by different theorists. At minimum, it entails that people's votes are weighed equally. In addition, it guarantees that people have equal rights to political speech and association and that people have an equal right to participate in the activities that precede formal decision procedures, such as deliberation and negotiation. As Mark Warren writes, "Participation is *democratic* when every individual potentially affected by a decision has an equal opportunity to affect the decision."²² Some theorists argue that because economic resources affect political power, guaranteeing this equal opportunity requires a reasonable degree of economic equality and steps to mitigate the effects of economic inequality on politics.²³ Setting aside disagreement about whether the right to an equal share of decision-making power should be understood more or less expansively, this right is a fundamental tenet of democracy and it is the reason that I take Schmitt's argument to be a *reductio ad absurdum*.

This response is the correct answer to the question of how decision-making power should be divided, but this response fails to articulate the right to control that is presupposed by the idea of democratic authorization. Why this is true becomes clear when we ask what the right to an equal share of decision-making power actually amounts

to in practice. In any large polity, if decision-making power is divided equally among individuals, each individual has only a negligible amount of control over outcomes.

Ordinary citizens' lack of meaningful individual influence over political decisions inheres in the size of the decision-making community. Influence over decisions is zero sum and, given equality of influence, there is a strict limit on each individual's influence.

Changing decisions rules, institutions, or political practices does not alter the amount of influence that each citizen has, merely the way that influence can be exercised.²⁴

Whether the democratic process is primarily aggregative or deliberative, for example, makes no difference.²⁵ Any individual's vote has almost no effect on outcomes, but so too any individual's participation in deliberation within civil society must be expected to have little effect.²⁶

The negligibility of ordinary individual influence in large democracies has long been recognized within political science. It stands, for example, behind classic arguments for the rationality of choosing not to vote.²⁷ Adam Przeworski recently summed up the negligibility claim with the stark formulation, "If everyone is equal, everyone is condemned to causal impotence."²⁸ Richard Tuck's recent work on causation challenges this claim, and I will discuss his arguments in the next section. For the moment, I take for granted the intuitive idea that if decision-making power is divided into thousands much less millions of shares, each share taken individually has little effect on the outcome.

Given the question of how to distribute decision-making power, the democratic solution is to divide this power equally among citizens. To give some citizens greater decision-making power than others would violate the principle of political equality. No

citizen has a greater right to rule than any other. Given the negligibility of the effects of the use of any individual's share of power, the egalitarian division of power leads to a diffusion of power that is so complete that every individual, on his own, is almost completely powerless politically. In Claude Lefort's memorable phrase, in democracy, power is an empty place.²⁹ The right to an equal share of decision-making power is, in effect, not so much a right to power as a right to the equal powerlessness of others.

As I argued above, authorization presupposes a right to control over a given domain. Because an equal share of decision-making power entails little actual influence over decisions, the right to an equal share of decision-making power does not amount to a right to control. Authorization presupposes that whether or not I consent makes both a moral and a practical difference. That is, my consent is necessary both for the other to gain a moral right to act in a given domain, and whether or not I consent determines, in practice, whether or not the other actually does act in this domain. The recognition of an individual's right to an equal share of decision-making power, by contrast, does not entail that the individual's giving or withholding of consent is determinative. If the individual's vote is given equal weight, and the individual's voice as expressed in other actions is given equal consideration, then this right is fully satisfied regardless of the outcome. The individual's negligible influence is of no consequence, because the right to an equal share of power does not require that the individual have meaningful control over the outcome. The right to an equal share of decision-making power does not amount to the type of right to control that is presupposed by authorization.

The Right to Control Over One's Own Affairs

Is there a sense in which the individual has a right to control over the affairs subject to collective decision making that amounts to the type of right presupposed by authorization? I believe there is. Rather than framing the right to control in terms of decision-making power, we can begin instead with the general claim that individuals have a right to full control over their own affairs. Given that collective decisions affect individuals and impact their affairs, it might seem as though all individuals cannot simultaneously have rights to full control over their own affairs, because different individuals cannot simultaneously have full control over collective decisions. This is precisely what prompts the egalitarian division of decision-making power. This assimilation of the right to control one's affairs to the right to decision-making power is, however, a mistake. The right to control fully one's own affairs can be understood as a non-exclusive right, a right that does not exclude others' rights to control the same domain.³⁰ The non-exclusivity of these rights can be understood as follows: The same domain will be described differently from different people's perspectives. Described with reference to me, a particular set of actions or decisions can be understood as impacting my affairs, but the same set of actions or decisions may be equally describable with reference to others as impacting their affairs. When the domain is considered under the description that my affairs are at stake, I can claim a right to control the domain fully. Yet under other descriptions, other individuals will be able to make the same claim. My right to control a domain involving my affairs is not lessened by the existence of others' rights over the same domain.

Once we focus on individuals' right to control over their own affairs, rather than their right to control collective decisions, it becomes clear why the former right must be a right to full control, rather than merely to a share of control. With respect to political decision making in a large polity, it is correct to say that individuals have a right to an equal share, but no more than an equal share, of decision-making power, even though this right means, in practice, that the individual has no meaningful control over decisions. To claim, however, that an individual has a right only to negligible control over her own affairs would be to deny the individual a right to live her life as she chooses. Because my affairs intersect with others', my right to decision-making power over joint outcomes is limited to an equal share, but this does not lessen my claim over my own affairs, merely the extent to which my claim can be translated into effective power.

Fully satisfying the individual's right to control over her own affairs would require the individual to have actual control over decisions that affect her, and this condition cannot be met due to the plurality of decision makers. Because the individual's giving or withholding of consent does not control outcomes, the democratic practice of registering one's will in recognized ways, whether informally through participation in civil society or formally through legally recognized political procedures, does not amount to authorization in the strict sense. However, this practice can be understood as a form of what we might call virtual authorization. In democratic politics, consent and control come apart; people give or withhold consent individually, yet it is only as a group that citizens have control over outcomes. Although the individual lacks control over outcomes, the practice of authorization is maintained through the control of the people considered collectively. We might say that the people effects the authorization of laws

and decisions by (or on behalf of) those individuals who consent to them. Democratic authorization is virtual in the sense that when collective action produces a result that corresponds with an individual's registered will, it is *as if* that result was produced by the individual's own action.

It is as individuals that we make moral claims upon our political and social order, yet it is only as a group that those claims can be fulfilled. For the reasons I discussed above, it is a mistake to assimilate individuals' wills to a collective will. Yet it is only collectively that people within a democracy can exercise control. Democracy's promises and dangers are both tied to our powerlessness alone and our power together, our dependence on the whole to meet our individual claims. When the system works properly, collective action produces results that equally reflect individuals' wills. (This formulation is deliberately vague, to allow for different conceptions of how individuals' wills can be incorporated in decisions and what it means to reflect equally individuals' disparate wills.) Collective control is, in this case, in the service of individuals' wills, a proxy for the control that individuals lack. In its best moments, democratic politics can be understood by individuals as a substitute for individual control, a virtual means by which they authorize collective decisions or laws.

Yet many of the dangers of democracy flow from the disjunction between individuals' consent and collective control. For example, when the wills of "discrete and insular minorities"—to use Justice Stone's famous formulation in his decision in *United States v. Caroline Products Co.*—are systematically subordinated to the wills of members of dominant groups within a society, collective control fails to serve as a proxy for individual control for members of these minorities.³¹ Giving insular minorities, such as

cultural or ethnic minorities, equal formal rights, including equal suffrage and political participation rights, satisfies their right to an equal share of decision-making power, yet, as is commonly recognized in democratic theory, there is nonetheless something profoundly troubling about insular minority status. Often, theorists diagnose the problem as one of unequal treatment: even though insular minorities have formally equal rights, they do not receive equal substantive treatment with respect to their basic interests; the results of the political process systematically privilege the interests of dominant groups within society.³² I want to suggest instead that the problem with insular minority status involves the failure to satisfy individuals' right to control over their own affairs.³³ Insular minorities lack the virtual control over their lives that others have. All individuals within the society lack control over outcomes, yet for members of dominant groups, popular control serves as a proxy for individual control. Because popular control brings about, at least with some regularity, the outcomes that they consent to, they regularly authorize political decisions and laws in a virtual sense. For insular minorities, collective actions do not carry out their wills with the same regularity.³⁴ Popular control thus does not function as a proxy for individual control, and individuals' claim to control over their own affairs is left unmet.³⁵ Members of these groups regularly fail even in a virtual sense to authorize political decisions.

It is individuals who authorize decisions, yet this authorization is virtual because while individuals have a right to control over their own affairs, it is the people as a whole that makes the political decisions that impact individuals' affairs. Democratic authorization thus depends on the ability of the people, in their political practices and acting within and through formal and informal political institutions, to act collectively in

accordance with individuals' consent, separately considered. Different conceptions of democracy differ in their appraisals of the extent to which individuals' wills can be simultaneously embodied in collective decisions. Aggregative conceptions highlight that majority rule, under certain conditions, satisfies each individual's preferences with the greatest frequency.³⁶ In the terms of the above analysis, this insight can be reformulated as the claim that majority rule virtually approximates individual control for each voter to the greatest degree possible. As the insular minority example illustrates, equal frequency of will satisfaction and an equal share of decision-making power are not equivalent. Deliberative democrats emphasize the possible transformation of preferences, raising the prospect of enhancing legitimacy by producing outcomes authorized by a wider segment of the public. Habermas's discourse conception of popular sovereignty, for example, conceives of deliberative politics as, at least ideally, a means of bringing about a genuinely common democratic will, so that all individuals can understand themselves as the authors of the law. Read in terms of my analysis, authorship here can be understood as virtual authorization and deliberative politics as a form of politics in which, ideally, individuals come to consensus and the people effects the authorization of laws and decisions on behalf of all individuals under the law, rather than just a majority. My proposed account of authorization thus provides a new lens through which to view familiar debates, which can be interpreted, in part, as disputes over the best means through which the political process can bring about the virtual authorization of collective decisions by individuals under the law.

The Negligibility of Individual Influence

Before returning to the issue of representation and considering some of the implications of the virtuality of democratic authorization, it is necessary to revisit my claim that in large polities, ordinary individuals have negligible influence over collective decisions. Although this claim is widely accepted within political science, a recent book by Richard Tuck challenges it. In this section, I will defend the claim against Tuck's critique, arguing that Tuck's argument is questionable on its own terms and, more importantly, even if his argument is accepted, it does not undermine the limited version of the negligibility claim upon which my analysis depends.

In *Free Riding*, Richard Tuck reviews the political science literature on free riding and collective action problems that arose in the wake of Mancur Olson's seminal book *The Logic of Collective Action*, published in 1965. As Tuck remarks, it has become commonplace in political science to assume that in situations in which large numbers of people with similar decision-making power are involved, individual actions will have a negligible effect on outcomes. Building on this assumption, this literature suggests that such actions have no "instrumental point," as Tuck puts it.³⁷ From the perspective of accomplishing the individual's ends, individual participation or action is irrational, since the same thing will almost certainly happen regardless of what the individual does. The purpose of Tuck's book is to challenge the assumption that individual actions in large-scale collective choice situations do not have causal efficacy.

The book is carefully argued, and Tuck spends a good deal of care parsing out the different issues that are at stake in different types of cases, such as prisoner's dilemmas and Olsonian collective choice situations, which are often run together by political

scientists and philosophers.³⁸ As Tuck rightly notes, prisoner's dilemmas do not necessarily involve large numbers of people. The failure to coordinate in prisoner's dilemmas results from the structure of incentives and the lack of communication and trust, not excessive size.³⁹ The negligibility claim does not apply to classic small-scale prisoner's dilemmas.⁴⁰ Similarly, Tuck differentiates between, on the one hand, voting and other situations involving thresholds at which individual contributions or actions make a decisive difference, and, on the other hand, Olsonian situations, which lack clear thresholds.

A classic example of an Olsonian situation is trade union organizing. Unions may be instrumental in achieving benefits for workers, by negotiating with management for higher wages or better working conditions or by successfully lobbying for pro-labor laws. The achievement of these outcomes depends upon many individual workers joining the union and participating in its activities, yet there is no clear threshold that distinguishes between a sufficient number of individuals and an insufficient number. One fewer demonstrator or one fewer person paying union dues is highly unlikely to have an appreciable effect on the outcome.⁴¹ If enough individuals do not join or participate, the union will not be successful, but no individual action shifts the outcome from a successful one to an unsuccessful one or vice versa.

Voting, by contrast, presupposes a determinate threshold, as established by the decision rule in place. In a first-past-the-post system, the number of votes required to elect a candidate is one more than his nearest competitor. At the threshold, the outcome can be changed by the addition or subtraction of a single vote. Tuck argues that the existence of a threshold has crucial implications for understanding the significance of not

only the pivotal vote but of the other votes on behalf of the winning candidate. Of the votes cast, a subset can be identified that are causally responsible for the outcome. Tuck illustrates this by reference to the method of voting in the Roman Republic, in which voters cast their votes one by one, and once a candidate received the necessary majority of votes, he was declared the winner and voting stopped. In most elections today, voting is not conducted in this fashion, but, Tuck maintains, “even if more votes are cast than are necessary to secure a candidate’s election, there must be a subset of votes which carry causal responsibility for the outcome, simply by virtue of there being a determinate threshold at which the candidate is elected.”⁴² The determinate threshold makes it possible to specify the number of votes in the “efficacious subset” that caused the outcome.

In his treatment of Olsonian situations, in which no determinate threshold appears to exist, Tuck argues that thresholds actually do exist in such situations, but that identifying or specifying what the threshold is in these situations is epistemically problematic.⁴³ In arguing that thresholds do exist in these cases, Tuck attempts to assimilate Olsonian situations to threshold cases such as voting and, in turn, to apply the same account of causality to these cases. For my purposes, it is unimportant whether this attempt is successful, because I will argue that Tuck’s treatment of threshold cases is unconvincing, and this critique automatically extends to Tuck’s treatment of cases lacking clear thresholds.

The problematic step in Tuck’s analysis is his attribution of full causal weight to each action within an efficacious set. It is this attribution that allows him to sidestep concerns about negligibility.⁴⁴ Tuck’s suggestion that given the existence of a threshold,

the actions constituting the minimum set necessary to cross the threshold, considered together, cause the outcome is reasonable, but the additional claim that each action within this set should be ascribed full causal power is highly questionable. This claim is crucial to his argument against negligibility, yet surprisingly he offers no argument for it. He introduces as an alternative the idea that “each contribution represents only a fraction of the causal power necessary to create the result,” but he quickly dismisses this idea, apparently on the grounds that quantifying individuals’ proportional causal power is either misguided or impossible.⁴⁵ He compares contributions to a collective action to the causal antecedents preceding an event, “each of which was necessary in order for it to be *that* series which caused the event. But,” he asserts, “we do not feel the need to quantify the degree to which any one occurrence in this sequence ‘caused’ the outcome (nor could we conceivably do so even if we wanted to): each one of the occurrences did so, given the other ones.”⁴⁶

There are several difficulties with Tuck’s treatment of this issue. First, Tuck rejects the quantification of degrees of causation as inappropriate, but the ascription of full causation is itself a quantification. If the mere attempt at quantification is a mistake, then the ascription of full causation is just as problematic as a fractional account of causal power.

Second, in the case of voting, it is not immediately clear why quantifying causal power is something we should not “feel the need” to do. Votes are, after all, counted; the determination of the outcome rests on their quantifiable weight. Although Tuck does not clearly explain what precisely is problematic with the fractional account, his discussion emphasizes the necessity of each contributing action in bringing about an event, and, by

analogy, each vote in bringing about an outcome, so we might explore the significance of this necessity in trying to understand Tuck's objection to the fractional account. If the necessity of each vote is understood as signifying each vote's pivotal status—that is, if the change in any single vote would change the outcome—then the problem with the fractional account would seem to be that assigning each vote a small fractional causal power underestimates the practical significance of each vote. *But for* pivotal votes, the outcome would be different.⁴⁷

However, Tuck explicitly argues that votes' causal power is not dependent on their having pivotal status; he rejects the counterfactual criterion as inappropriate because it fails to explain cases of what he terms "redundant causation."⁴⁸ Tuck illustrates the possibility of redundant causation by drawing upon several intuitive examples. If two police officers shoot a bank robber in succession and the first bullet kills the robber but if it had not been fired the second bullet would have killed the robber, this does not undermine the fact that the first bullet caused the robber's death. Similarly, in votes in which more votes are cast than are needed to cross the threshold established by the decision rule, the fact that, due to the surplus of votes cast, an election would have resulted in the same outcome even without a particular vote within the efficacious set does not mean that the vote did not cause the outcome.⁴⁹

In his brief explanation of why a fractional account of causal power is inappropriate, when Tuck refers to the necessity of each action within a series for it to be "*that* series which caused the event," necessity applies not to the necessity of the action in order for the outcome to happen, but the necessity of the action in order for the particular series of actions of which the action is a part to be the cause of the outcome. Just as the

first bullet causes the robber's death regardless of whether the second bullet would have accomplished the same outcome if the first bullet had not been fired, so too a particular set of votes—namely, those in the efficacious set—cause a political outcome regardless of whether another set of votes would have caused the same outcome if some of these votes had not been cast.

This argument provides a rationale for ascribing full causation to the *set* of votes that is actually efficacious in a given case, but it does not provide a compelling argument for ascribing full causation to each vote. The intuition behind the fractional account is that each vote within the efficacious set is dependent upon the others for its causal power, a point that Tuck acknowledges. Unlike the bullet in the example, no individual vote suffices on its own to cause the outcome. Even if precise quantifications of the causal power of votes are inappropriate, it is reasonable to note that each vote only contributes to causing the outcome, and this formulation is perfectly consistent with the negligibility claim.

For the purposes of this article, it is ultimately unimportant whether Tuck's account of causation is accepted or rejected with respect to voting or other forms of political action. My claims with regard to the virtuality of authorization depend on the claim that in large democracies, individuals have negligible control over outcomes, in the sense that their actions are highly unlikely to change outcomes. In other words, the individual lacks the decision-making power to bring about the outcome she prefers. Whether or not outcomes accord with any given individual's will depends not on her own actions, but on whether or not her will happens to align with the wills of a sufficient number of other acting citizens. Tuck's account of causation effectively separates causal

power from control. If we accept that each vote within the efficacious set fully causes the outcome, this results in a sharp distinction between causation and control. For the reasons I have discussed, drawing such a sharp distinction strikes me as counterintuitive, and I do not believe that Tuck has provided sufficient reasons for the attribution of full causation. However, even if Tuck's account is accepted, this does not undermine my argument, because my argument depends only on the claim that individuals have negligible control over outcomes, which, given the distinction between causation and control in Tuck's account, stands even if Tuck's account is accepted.

Representation and Authorization

To apply the account of authorization developed in this article to representative democracy, I begin with a stylized contrast between how authorization works in delegate and trustee models. Strict delegate models treat representatives as mere carriers of constituents' wills, and in such conceptions the representative is simply an institutional means through which constituents (virtually) authorize political decisions. The problems facing representation in this model are how constituents can communicate their consent to particular laws or policies to representatives, and, given conflicts between the wills of different constituents, whose wills representatives should prioritize and how, if at all, representatives can simultaneously take into account the divergent wills of constituents. If a representative acts against the expressed wills of given constituents, then the representative's actions cannot be understood as (virtually) authorized by those constituents. Given a legislature with multiple members, the disjunction between control and consent is introduced at a second level as well, as the individual representative's

consent does not determine outcomes. Given advocacy for a variety of political positions within a legislature, individual constituents may find that their views are advanced not by the representative who formally represents them but by representatives who formally represent other constituents.

On a strict trustee model, in which representatives are understood to be completely free to use their own judgment in deciding how to act and vote within a legislature, the object of constituents' consent becomes the representative herself, rather than political decisions.⁵⁰ In any large district or constituency that chooses a representative, the individual voter has little control over the choice of representative, but if the candidate for whom the individual votes is elected, then any actions or decisions of the representative can, on this model, be considered to be (virtually) authorized by that individual. If, with respect to a given legislative decision, the representative is in the winning bloc of legislators and consents to the decision, then the legislature's action serves as a means of effecting the representative's will. Constituents who voted for the representative can thus be understood as having (virtually) authorized the decision, because the collective decision accords with the representative's decision and can be understood as if it were the product of the representative's actions. If the representative is outmaneuvered or outvoted, then the representative's will is not effected in practice and, as a result, the outcome lacks (virtual) authorization by that representative's constituents.

As Jane Mansbridge argues, delegate and trustee models fail to capture adequately the complicated dynamics of representation in a democratic system. Both delegate and trustee models assume a "promissory" conception of representation, in which

representatives promise either to convey constituents' wills or to use their own judgment in order to advance constituents' interests.⁵¹ In promissory representation, constituents attempt to hold representatives accountable to their promises. Drawing on empirical work on representation, Mansbridge describes three types of representation that do not fit the classic delegate and trustee models, including anticipatory representation, in which representatives act on the basis of constituents' projected preferences at a future time, not on the basis of their current preferences;⁵² gyroscopic representation, in which constituents elect representatives because they share their principles and values and, as a result, constituents can expect representatives to act in ways of which they approve "without external incentives";⁵³ and surrogate representation, in which people are represented by representatives who formally represent other districts or constituencies and with whom these people have "no electoral relationship."⁵⁴

These forms of representation involve more complicated relations between constituents' judgments and wills and representatives' actions than the delegate model, but all of them involve some measure of what Nadia Urbinati terms "representativity," which is essential to any democratic form of representation. Although representatives do not necessarily re-present constituents' wills in the legislature, in order to represent constituents they must reflect or be responsive in some fashion to constituents' values, desires, commitments, judgments, and priorities. When representatives fail to reflect or respond to constituents' claims, they lack representativity.⁵⁵

Different models of representation present different mechanisms for ensuring representativity, different conceptions of what should be reflected or responded to (e.g., judgments, wills, values, interests, identities), and different conceptions of the

constituency represented. What I want to suggest is that in forms of representation that attempt to conjoin independence of judgment with representativity, the actions that constituents authorize representatives to take are uncertain or unspecified, and representatives' exercise of judgment includes the attempt to ascertain what those actions are. Constituents can be understood as authorizing representatives to perform actions or make decisions that constituents *will* consent to at a later date or that they *would* consent to if they were in the representatives' place.⁵⁶

In anticipatory representation, representatives attempt at the time of a legislative decision to act according to what they believe constituents' views will be at the time of the next election.⁵⁷ On this model, in an election, constituents authorize representatives to perform whatever actions constituents will ultimately consent to.⁵⁸ At the time of the election, the actions authorized are as yet unspecified; they are specified only at a later date. Representatives act on their own judgment as to what constituents' ultimate views will be, which makes representatives responsible to constituents' views while giving them leeway to attempt to influence those views. Although authorization is formally given through the election, the content of this authorization remains open, to be determined through an ongoing, dynamic political process that involves interaction between constituents and representatives.⁵⁹ The meaning of authorization given in an election is not fixed until the next election, following this dynamic process. In this type of relation, representatives' responsiveness to constituents' claims is, paradoxically, dependent in part on their ability to shape and change constituents' views, either through deliberation and persuasion or by effecting policies with which constituents will ultimately be satisfied despite early skepticism.⁶⁰

In gyroscopic representation, constituents elect representatives with whom they share certain commitments, in order to ensure that decisions are made on the basis of the commitments that constituents would prioritize themselves if they were in the representatives' place. In authorizing representatives to act on the basis of the representative's own values and principles, constituents are implicitly authorizing them to perform the actions or make the decisions that they would make in the representative's place. This inserts a hypothetical element into the representative relationship, because constituents lack (and generally know they lack) the information and tools to form coherent positions on all of the policies proposed in the legislature. This hypothetical element is characteristic not only of gyroscopic representation, but of any type of representation in which constituents cede some measure of judgment to representatives due to lack of time or lack of capability to assess policy questions for themselves.⁶¹

These remarks about representation are merely provisional suggestions regarding how authorization functions within the representative relationship. My goal has been to establish that the analysis of democratic authorization offered in the article is not only compatible with democratic representation but also can shed light on the character of different forms of representation.

(Virtual) Authorization in a Global World

At an abstract level, the central implication of the virtuality of democratic authorization is that formal participation and authorization are analytically and, often, practically distinct. As I have already discussed, this means that it is possible for individuals to have equal formal participation rights and yet for the political process to

fail systematically to incorporate their wills in decisions. In this case, popular control does not function as a proxy for individual control, and individuals' right to control over their own affairs is consistently left unsatisfied. Collective decisions are imposed on these individuals without their authorization. The distinctness of formal participation and authorization also means, more surprisingly, that it is possible for people to authorize political decisions even when they lack formal political participation rights.⁶² To conclude this article, I will briefly explore the meaning of this latter point in the context of recent work on informal, non-electoral forms of representation.

It is helpful here to recall Mansbridge's category of "surrogate representation," which is representation of people with whom the representative has no electoral relation. As Michael Saward has recently argued, although Mansbridge applies the term primarily to elected representatives who are representing people outside of their formal constituencies, the category can be extended to include representatives who are unelected, encompassing any representatives who claim to speak for people that did not elect them.⁶³ Surrogate forms of representation in this broader sense have gained increasing attention from democratic theorists, in part because in a global world, the effects of political decisions are ever less confined within the boundaries of single polities. Theorists have turned to non-electoral modes of representation as a possible means by which individuals who are not members of a polity but are affected by its decisions may have their interests and voices incorporated into decision-making processes.⁶⁴ Cross-border effects may warrant the construction of democratic institutions at the regional or global levels—informal representation cannot substitute for formal rights—but supranational democratic institutions are currently lacking, and even in a

global polity there would be boundaries between political communities, so cross-border effects would not be eliminated. Surrogate representation is thus an imperfect but irreplaceable means of representing persons whose concerns are otherwise excluded.

Once the virtuality of democratic authorization is recognized, it becomes clear that surrogate representation is merely another political means by which individuals' wills can be taken into consideration and incorporated in decisions. Surrogate representatives attempt to influence decision making to take into account the interests and wills of a constituency that has not authorized them electorally. If surrogate representative are successful, the wills of members of this constituency may be reflected in decisions.⁶⁵ Despite the absence of formal participation and the lack of an electoral relationship, to the extent that members of this constituency consent to these decisions, they can understand themselves as having (virtually) authorized the decisions. Electoral participation is not strictly necessary for democratic authorization, because participants have no more meaningful individual control over outcomes than non-participants. Authorization in both cases is virtual. The achievement of outcomes in accordance with individuals' wills is not the result of their individual actions but, in both cases, is effected on their behalf by the group and its representatives. However, it must be noted in line with my above analysis that this presupposes the existence of some recognizable, non-electoral means by which individuals can register their consent to decisions.⁶⁶

There are two basic difficulties with surrogate representation. First, it involves the denial of formal rights, and in many cases those currently excluded from membership have strong claims to formal inclusion, not merely surrogate representation. This point has been well-argued in the cosmopolitanism and global justice literature. However, as I

noted above, given the inevitable difficulty of aligning formal boundaries and affected publics for every decision, surrogate representation may be necessary as a second-best alternative even under the best of circumstances. Second, in the absence of electoral incentives to ensure representatives' responsiveness to constituents' wills, it becomes a practical challenge to develop mechanisms to ensure responsiveness to those who are informally represented.

This latter concern raises questions of institutional design that exceed the scope of this article. The important point here is that as long as practical means are found for ensuring responsiveness, surrogate representation can serve as a mechanism for generating decisions that are authorized by people who are formally unrepresented. Democratic authorization is a flexible practice that does not neatly align with the exercise of formal rights of participation.

Despite its importance, the concept of authorization has not been subjected to critical scrutiny within democratic theory. The analysis of this article has revealed that democratic authorization is a surprisingly complicated relation. Because the two components of authorization, consent and control, come apart in democratic politics, the challenge of democratic politics is to find institutional and practical means to approximate individual control equally for all those affected, so that all individuals have, to the greatest extent possible, authorized political decisions, virtually if not literally.

Notes

¹ See, for example, Estlund's recent claim that "the core idea of democracy is, or at least includes, the idea of citizens collectively authorizing laws by voting for them, and/or for officeholders who make them" (David Estlund, *Democratic Authority: A Philosophical Framework* [Princeton: Princeton University Press, 2008], p. 65).

² Quentin Skinner, “Hobbes on Persons, Authors and Representatives,” in *The Cambridge Companion to Hobbes’s Leviathan*, edited by Patricia Springborg (Cambridge: Cambridge University Press, 2007).

³ See Hanna Fenichel Pitkin, *The Concept of Representation* (Berkeley: University of California Press, 1967), chap. 2. As Pitkin argues, despite Hobbes’s use of the term “representation,” the relation of authorization as Hobbes portrays it is not a relation of political representation in the familiar sense, because it does not involve accountability or responsiveness to the represented.

⁴ Thomas Hobbes, *Leviathan*, rev. student ed., edited by Richard Tuck (Cambridge: Cambridge University Press, 1996), chap. 16, p. 112.

⁵ *Ibid.*, chap. 17, p. 120.

⁶ *Ibid.*

⁷ Cf. Dario Castiglione and Mark E. Warren, “Rethinking Democratic Representation: Eight Theoretical Issues,” presented at a conference on Rethinking Representation, Bellagio Study and Conference Center, September 30–October 3, 2008, available at: http://www.democraciaparticipativa.org/bellagio/arquivos/Warren_RDR.pdf (accessed February 17, 2009), p. 7.

⁸ Hobbes, *Leviathan*, chap. 14, p. 91.

⁹ Some authors read Hobbes as arguing that this right is not transferred, but merely renounced in favor of the sovereign’s right to the same things (see, e.g., Clifford Orwin, “On the Sovereign Authorization,” *Political Theory* 3, no. 1 [1975]: 26–44, pp. 29–30). On the tension between the idea that the sovereign’s rights are preexistent natural rights, barriers to the exercise of which are lowered by the subject’s renunciation of the same rights, and the idea that rights are transferred through consent, see Patrick Riley, *Will and Political Legitimacy: A Critical Exposition of Social Contract Theory in Hobbes, Locke, Rousseau, Kant, and Hegel* (Cambridge, Mass.: Harvard University Press, 1982), pp. 49–52; also, Skinner, “Hobbes on Persons.”

¹⁰ See Pitkin, *Concept of Representation*, pp. 30–33.

¹¹ I am not suggesting that representation is a “defective substitute for direct democracy” (Jane Mansbridge, “Rethinking Representation,” *American Political Science Review* 97, no. 4 [2003]: 515–528, p. 515, quoted in Nadia Urbinati, “Continuity and Rupture: The Power of Judgment in Democratic Representation,” *Constellations* 12, no. 2 [2005]: 194–222, p. 194). I focus on direct democratic authorization in order to isolate the basic character of democratic authorization. Representation modifies and complicates democratic authorization.

¹² I am grateful to J Brennan for raising examples of this sort and pressing me on the importance of the attached issues.

¹³ John Locke, *Two Treatises of Government*, student ed., edited by Peter Laslett (Cambridge: Cambridge University Press, 1988), p. 348 (II, §119).

¹⁴ See Frank Snare, “Consent and Conventional Acts in Locke,” *Journal of the History of Philosophy* 13, no. 1 (1975): 27–36. Simmons argues that consent requires the intention to consent, but he acknowledges that if a widely known convention exists under which an act will be interpreted as an act of consent, then performances of the act that are not intended as consent may nonetheless properly be understood as consent due to the negligence involved in the actor’s ignorance of the convention (A. John Simmons, *On the Edge of Anarchy: Locke, Consent, and the Limits of Society* [Princeton: Princeton University Press, 1993], pp. 226–230).

¹⁵ David Hume, “Of the Original Contract,” in *Political Writings*, edited by Knud Haakonssen (Cambridge: Cambridge University Press, 1994). For a discussion of the conditions under which consent is meaningful, see A. John Simmons, “Consent Theory for Libertarians,” *Social Philosophy and Policy* 22, no. 1 (2005): 330–356. The problem of tacit consent plagues accounts of original consent, whereas in democratic authorization, the giving or withholding of consent is, paradigmatically, expressed clearly through voting. There do, however, remain puzzles regarding the constraints on consent even in a democratic context. For example, voters are faced with limited options, none of which may fully reflect their preferences or wills. Generally speaking, the more constrained individuals’ options are, the less acts of consent can be understood as freely given.

¹⁶ On consent as an act rather than an attitude, see Snare, “Consent and Conventional Acts”; cf. Estlund, *Democratic Authority*, pp. 76–78.

¹⁷ Jürgen Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, trans. by William Rehg (Cambridge, Mass.: The MIT Press, 1996), p. 299. Cf. Philip Pettit,

“Rawls’s Political Ontology,” *Politics, Philosophy, and Economics* 4, no. 2 (2005): 157–174. States and similar polities are not associations with sufficiently specified ends for such ends automatically to dictate the content of a collective, communal will. In Oakeshott’s terms, a political association cannot be understood strictly as a *universitas* (see Michael Oakeshott, *On Human Conduct* [Oxford: Clarendon Press, 1975], Part III, esp. pp. 203–206). Even if political communities are formed to advance certain broad shared ends or purposes, members will have different opinions with regard to how to achieve these ends and, in turn, their wills will differ with respect to particular decisions and the institution of particular laws. Politics arises from conflict both over the terms of collective association and over which collective actions are to be taken.

¹⁸ Carl Schmitt, *The Crisis of Parliamentary Democracy*, paperback ed., trans. by Ellen Kennedy (Cambridge, Mass.: The MIT Press, 1988), pp. 9–10, 13. However, see also p. 29, where Schmitt figures the popular will as something that must be “constructed,” through education, propaganda, or sheer force (on this point, see, generally, Ernesto Laclau, *On Populist Reason* [London: Verso, 2005]).

¹⁹ Schmitt, *Crisis*, p. 28.

²⁰ It is worth noting that although radical democrats appropriate aspects of Schmitt’s thought, they roundly reject Schmitt’s collectivism, emphasizing, to the contrary, the political significance of differences among individuals (see, e.g., Chantal Mouffe, *The Democratic Paradox* [New York: Verso, 2000]).

²¹ See, Thomas Christiano, *The Rule of the Many: Fundamental Issues in Democratic Theory* (Boulder, CO: Westview Press, 1996), p. 3. I conceive of the value of a share of decision-making power as measured independently of the contingent ways in which other shares are used. Power in this sense is an “abstract capacity” (Charles R. Beitz, *Political Equality: An Essay in Democratic Theory* [Princeton: Princeton University Press, 1989], p. 9).

²² Mark E. Warren, “What Can Democratic Participation Mean Today?” *Political Theory* 30, no. 5 (2002): 677–701, p. 693 (emphasis in original); cf. Ian Shapiro, *Democratic Justice* (New Haven: Yale University Press, 1999), p. 37.

²³ On the fair value of the political liberties, see John Rawls, *A Theory of Justice*, rev. ed. (Cambridge, Mass.: The Belknap Press of Harvard University Press, 1999 [1971]), pp. 197–199; John Rawls, *Political Liberalism*, paperback ed. (New York: Columbia University Press, 1996), pp. 327–331, 356–363.

²⁴ There may be forms of power that are not divisible, as Arendt and Habermas argue, because these forms arise through and intrinsically involve cooperation (see Habermas, *Between Facts and Norms*, pp. 146–151, on Arendt and communicative power; for a usefully pluralistic approach to the concept of power that allows space for different forms or models of power, see Mark Haugaard, *The Constitution of Power: A Theoretical Analysis of Power, Knowledge and Structure* [Manchester: Manchester University Press, 1997]). However, when we speak of individuals’ influence over decisions or decision-making power, it is necessary to keep within view the possibility of conflict and the limits of individual efficacy. It is precisely for this reason that I oppose Arendt’s suggestion that if majority vote follows a sufficiently deliberative process it should be considered a “majority decision” rather than “majority rule” (Hannah Arendt, *On Revolution* [London: Penguin Books, 2006], p. 155). The reference to rule keeps in view the fact that the majority gets its way due to its superior (institutionally constructed) power. Even if the minority accepts the decision procedure and freely accedes to the majority’s decision, the minority’s will has been thwarted due to its insufficient power.

²⁵ Many deliberative theorists would reject this claim, arguing that aggregation and deliberation mobilize different forms of power and that the virtue of deliberation lies precisely in its ability, at least in its best moments, to engender cooperative forms of engagement and interaction that render conflictual, divisible power relations inoperative. I share deliberative democrats’ conviction that, at least under certain circumstances, deliberation can play a role in generating common opinions and a common democratic will, but, as I argue below, this should be understood as a mechanism by which the people collectively can act on behalf of each individual member, not as a form of individual empowerment.

²⁶ Because communicative processes in civil society are fluid and decentralized, a particular individual’s original arguments might spread and eventually become influential for a large audience, but because only a handful of arguments will gain currency, most individuals will not exert this kind of influence on the process.

²⁷ See Anthony Downs, *An Economic Theory of Democracy* (New York: Harper & Row, 1957), chap. 14. Although there have been many attempts to recoup the rationality of voting (see, for example, William H. Riker and Peter C. Ordeshook, “A Theory of the Calculus of Voting,” *American Political Science Review*

62, no. 1 [1968]: 25–42; John A. Ferejohn and Morris P. Fiorina, “The Paradox of Not Voting: A Decision Theoretic Analysis,” *American Political Science Review* 68, no. 2 [1974]: 525–36), these explanations do not generally challenge the minimal impact of individual votes.

²⁸ Adam Przeworski, “Self-government in Our Times,” *Annual Review of Political Science* 12 (2009): 71–92, p. 86. Cf. Andrew Rehfeld, *The Concept of Constituency: Political Representation, Democratic Legitimacy, and Institutional Design* (Cambridge: Cambridge University Press, 2005), pp. 192–199.

²⁹ See Claude Lefort, *Democracy and Political Theory*, trans. by David Macey (Minneapolis: University of Minnesota Press, 1988), pp. 225–233. Cf. Habermas’s description of popular sovereignty as “subjectless”; Habermas, *Between Facts and Norms*, p. 486; see also pp. 298–302.

³⁰ The use of the language of non-exclusivity should not be misunderstood to imply that this right merely involves Hohfeldian liberties or privileges. As the reference to control implies, this right also involves Hohfeldian claims. The assertion of non-exclusivity indicates that the claims of individuals do not exclude the claims of others over the same domain. The practical reality that claims derived from alternate descriptions of the same situation can conflict, making it impossible for everyone’s claims to be satisfied simultaneously, does not, I argue below, nullify their status as claims. For a recent nuanced account of rights as comprised by Hohfeldian incidents, see Leif Wenar, “The Nature of Rights,” *Philosophy and Public Affairs* 33, no. 3 (2005): 223–252.

A complete analysis of authorization would require the decomposition of the elements of this complex right, but this would require considerably more space than I have in this article, and I take it to be unnecessary to establish the basic contours of democratic authorization.

³¹ *United States v. Carolene Products Co.*, 304 U.S. 144, 152, n. 4 (1938).

³² See, e.g., Laurence H. Tribe, “The Puzzling Persistence of Process-Based Constitutional Theories,” *Yale Law Journal* 89, no. 6 (1980): 1063–1080; cf. Corey Brettschneider, “The Value Theory of Democracy,” *Politics, Philosophy, and Economics* 5, no. 3 (2006): 259–278, pp. 269–270; Melissa Williams, *Voice, Trust, and Memory: Marginalized Groups and the Failings of Liberal Representation* (Princeton: Princeton University Press, 1998), pp. 19–22; Shapiro, *Democratic Justice*, pp. 41–42. Such analyses, I believe, are in danger of conflating questions of democratic legitimacy with questions of justice, which are related but distinct standards.

³³ Cf. Corey Brettschneider, *Democratic Rights: The Substance of Self-Government* (Princeton: Princeton University Press, 2007), esp. chaps. 2 and 7. Brettschneider argues for substantive democratic rights on the basis of individuals’ status as rulers or sovereigns. On my account, the lack of equality in authorization is a problem with the decision-making process that should ideally be remedied at the level of collective decision-making procedures and practices.

³⁴ Contrary to most discussions of insular minorities, my analysis applies to ideological minorities as well as groups that are marginalized on the basis of structural or cultural characteristics (on the distinction between structural and cultural difference, see Iris Marion Young, *Inclusion and Democracy* [Oxford: Oxford University Press, 2000], chap. 3).

³⁵ My diagnosis of the difficulty that discrete and insular minorities pose for democracy is similar in spirit to John Hart Ely’s classic account (*Democracy and Distrust: A Theory of Judicial Review* [Cambridge, Mass.: Harvard University Press, 1980]), as it reflects a concern with the failure of democratic procedures adequately to incorporate the wills and concerns of these minorities. Although it is often claimed that Ely’s approach is not procedural, as he claims, but substantive, my account of authorization suggests that Ely’s critique can properly be characterized as a critique of the failure of procedures to satisfy the democratic criterion that political decisions must be authorized with equal regularity by all members of society, rather than as a substantive critique of the injustice of outcomes, even if the judicial remedy he proposes cannot be characterized as proceduralist. The authorization criterion does not judge outcomes in terms of their substantive merit, but judges both procedures and outcomes in terms of their equal fidelity to the disparate wills of the people—or, better, to the wills of a disparate people.

³⁶ See Douglas Rae, “Decision Rules and Individual Values in Constitutional Choice,” *American Political Science Review* 63, no. 1 (1969): 40–56; for an interesting interpretation of this insight, see Przeworski, “Self-Government.”

³⁷ Richard Tuck, *Free Riding* (Cambridge, Mass.: Harvard University Press, 2008), p. 1.

³⁸ For examples of such conflation, see *ibid.*, p. 20, n.2.

³⁹ *Ibid.*, chap. 1. It may be that free riding can be characterized as a particular type of multiparty prisoner’s dilemma, as Pettit argues, but here the effects of size are simply internalized as incentives (Philip Pettit,

“Free Riding and Foul Dealing,” *Journal of Philosophy* 83, no. 7 [1986]: 361–379). See in particular Pettit’s discussion of lumpy goods (pp. 369–370), which parallels Tuck’s discussion of thresholds.

⁴⁰ Tuck notes that Thomas Schelling, in formulating conditions for what constitutes a multi-person prisoner’s dilemma, “took non-negligible mutual effects to be an essential part of the ‘spirit’ of the prisoners’ dilemma” (*Free Riding*, p. 27).

⁴¹ For Tuck’s discussion, see *ibid.*, pp. 64ff.

⁴² *Ibid.*, p. 43.

⁴³ See *ibid.*, pp. 82–98.

⁴⁴ Tuck assumes that the existence of a threshold automatically refutes negligibility claims with respect to voting, but this assumption simply presupposes that members of the efficacious set are each full causes of the outcome.

⁴⁵ Tuck, *Free Riding*, p. 40.

⁴⁶ *Ibid.*, pp. 40–41 (emphasis in original). For a recent attempt to quantify degrees of causation, see Matthew Braham and Martin van Hees, “Degrees of Causation” (2008), available at: <http://www.rug.nl/staff/martin.van.hees/111108DoCERk.pdf>.

⁴⁷ For a nuanced treatment of the “but-for” test, see Matthew Braham, “Social Power and Social Causation: Towards a Formal Synthesis,” in *Power, Freedom, and Voting: Essays in Honour of Manfred J. Holler*, edited by Braham and Frank Steffen (Berlin: Springer, 2008).

⁴⁸ Tuck, *Free Riding*, p. 51.

⁴⁹ *Ibid.*, pp. 50–54.

⁵⁰ The classic statement of the trustee view is Edmund Burke, “Speech to the Electors of Bristol,” in *On Empire, Liberty, and Reform: Speeches and Letters*, edited by David Bromwich (New Haven: Yale University Press, 2000 [1774]). On delegate and trustee models and the corresponding controversy over the appropriateness of mandates, see Pitkin, *Concept of Representation*, chaps. 6 and 7.

⁵¹ Jane Mansbridge, “Rethinking Representation,” *American Political Science Review* 97, no. 4 (2003): 515–528, p. 516.

⁵² *Ibid.*, pp. 516–520.

⁵³ *Ibid.*, p. 520.

⁵⁴ *Ibid.*, p. 522.

⁵⁵ Nadia Urbinati, *Representative Democracy: Principles and Genealogy* (Chicago: University of Chicago Press, 2006), pp. 49–52.

⁵⁶ Cf. Nadia Urbinati and Mark E. Warren, “The Concept of Representation in Contemporary Democratic Theory,” *Annual Review of Political Science* 11 (2008): 387–412, pp. 400–401.

⁵⁷ See Mansbridge, “Rethinking Representation,” p. 517.

⁵⁸ It might seem as though my formulation of authorization for this model confuses the mechanism by which representatives are disciplined and the normative object of authorization, but the two coincide. The basis of constituents’ evaluation of representatives is an indication of what they are authorizing in voting for a representative. If constituents punish representatives for violating promises made, then authorization can be understood on a promissory model. If constituents punish representatives because they disapprove of representatives’ actions, evaluated in terms of constituents’ preferences at the time of the second election, then the authorization of the representative expressed in the initial vote can be understood as authorization of those actions to which the constituent will consent at a later date.

⁵⁹ On the dynamism and fluidity of the representative relation, see also Urbinati, “Continuity and Rupture,” p. 197.

⁶⁰ Mansbridge, “Rethinking Representation,” pp. 517–518.

⁶¹ Contra Manin, the independence of representatives is compatible with the goal of ensuring the congruence of representatives’ decisions with the wills of constituents (see Bernard Manin, *The Principles of Representative Government* [Cambridge: Cambridge University Press, 1997], pp. 163–167).

⁶² Cf. Przeworski, “Self-Government,” p. 86.

⁶³ Michael Saward, “Authorisation and Authenticity: Representation and the Unelected,” *Journal of Political Philosophy* 17, no. 1 (2009): 1–22, pp. 1–2. See also Laura Montanaro, “The Democratic Legitimacy of ‘Self-Authorized’ Representatives,” presented at a conference on Rethinking Representation, Bellagio Study and Conference Center, September 30–October 3, 2008, available at: <http://www.democraciaparticipativa.org/bellagio/arquivos/LauraMontanaro.pdf> (accessed February 19, 2009), p. 6.

⁶⁴ See, e.g., Michael Saward, “The Representative Claim,” *Contemporary Political Theory* 5 (2006): 297–318; Saward, “Authorisation and Authenticity”; Urbinati and Warren, “Concept of Representation”; Montanaro, “Legitimacy of ‘Self-Authorized’ Representatives.” As Saward notes, there are a variety of reasons in addition to globalization that have prompted increasing attention to non-electoral forms of representation (“Authorisation and Authenticity,” p. 1).

⁶⁵ The qualification “may” allows for the possibility that representatives’ efforts on a group’s behalf may not be endorsed by members of the group.

⁶⁶ See Urbinati and Warren, “Concept of Representation,” p. 404; Montanaro, “Legitimacy of ‘Self-Authorized’ Representatives.” One possibility would be to formulate consent in terms of recognition by the claimed constituency, as an audience, of the claim to be representative (see Andrew Rehfeld, “Towards a General Theory of Political Representation,” *Journal of Politics* 68, no. 1 [2006]: 1–21; Saward “Representative Claim”).