Equal Opportunity and Good Democratic Outcomes

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ABSTRACT: Equality in some form has long been an essential component of democracy. In recent years, democratic theorists have begun to pay more attention to the instrumental role of democracy in leading to better outcomes. Since better outcomes require that some participants have more political influence than others, democracy needs a particular conception of equal opportunity that is sensitive to yielding better outcomes. This paper proposes a particular conception of equal opportunity for political influence that preserves individual equality while upholding the ability to yield good outcomes.

Democratic theorists have recently begun to pay attention to the role that equality plays in relation to democracy providing high quality outcomes (Estlund 2000; Christiano 2001; Landemore and Elster 2012). This approach focuses on democracy's epistemic dimension, which is the capability, under the right conditions, to utilize the uneven distribution of knowledge across individuals to improve the quality of a decision.

Utilizing this uneven distribution of knowledge, which may come in the form of experiences, useful ideas or ways to approach a problem, requires weighting the input of some individuals more heavily than others. Since individuals differ with respect to what insight they can offer in the context of any given question, some individuals are unavoidably more politically influential than others. This demand for inequality requires a special conception of equal opportunity for political influence.

This chapter has two main goals. The first is to provide a general amoral framework of equal opportunity that can be used to assess a wide variety of different conceptions of equal opportunity. The second is to use this framework to articulate a conception of equal opportunity for political influence that is particularly sensitive to epistemic demands. This chapter focuses on conditions where individuals hold a shared goal. This excludes conditions where individuals hold opposing or incompatible goals. If the principles of equal

opportunity cannot be shown to work under the constraint of shared goals, at least as a starting point, then there is little point in attempting to show how they work under more demanding conditions. However, as I discuss later, I do not think this is as constraining or unrealistic as it first appears.

This chapter focuses on the requirements of equal opportunity for political influence where a majority vote is preceded by deliberation. I pay special attention to what is needed to improve the quality of democratic outcomes. If the requirements of equal opportunity are improperly conceived, then the capacity for democracy to improve welfare will suffer. I offer a conception of equal opportunity that preserves the epistemic quality of democratic decisions without violating the principle of equality that underpins democratic legitimacy.

Group decisions are important because individuals rely on the benefits of social cooperation in their pursuit of a good life. The value of these social benefits can be assessed in terms of their contribution to realizing individual life plans. Equality of treatment is often justified by the necessary respect demanded by the intrinsic equality or moral worth of individuals (Rawls 1971, 442; Dahl 1991, 84). I take political equality to require an equal opportunity to influence group decisions. When political equality takes this form, it is also an important means of improving the quality of group decisions. Equal opportunity is thus justified for reasons of justice and fairness as well as an outcomes-based concern for the quality of group decisions.

This chapter proceeds in six parts. I first discuss the democratic requirement of equality in light of the need to unequally weight more useful input. Judgment about the usefulness of input is what allows democracy to generate better outcomes. Part two focuses on political influence as persuasion, where influence is defined in terms of persuading others to vote in a way that they otherwise would not. Part three constrains our inquiry to conditions of shared goals. Part four develop a general framework for equal opportunity, which I then use to make sense of some existing approaches. Part five uses this framework to develop a particular conception of equal opportunity for political influence that is sensitive to the needs of epistemic performance. Part six concludes with some implications of this view, in particular what we might expect when we evaluate democratic mechanisms over time.

1. TENSION BETWEEN DESIRED EQUALITY AND DESIRED INEQUALITY

In the context of democratic decision-making and democratic governance, we expect political influence to be equal in some forms and unequal in other forms. On the one hand,

Cohen (1989, 74) writes, "In ideal deliberation, parties are both formally and substantively *equal*. ... each has an equal voice in the decision. The participants are substantively equal in that the existing distribution of power and resources does not shape their chances to contribute to deliberation, nor does that distribution play an authoritative role in their deliberation" [italics in original]. On the other hand, Cohen quotes Habermas (1975) who says that in ideal conditions, "no force except that of the better argument is exercised" (1989, 74).

The democratic requirement of substantive equality does not require equal influence over decisions, rather it requires an equal opportunity for *effective* influence (Cohen 1996; Cohen 2001). The requirement that opportunities for influence be effective draws on the idea that political liberties are to be secured by what Rawls has called their "fair value" (Rawls 1971, 237). The idea is that opportunities for political influence are to be independent of social and economic standing (Cohen 1989, 69; Rawls 1993, 237).

Many sources of political influence are therefore unacceptable in liberal theory, for example gaining influence through money or position. But the requirement of equality is not intended to preclude influence on the basis of better arguments, which are judged to contain useful knowledge in support of improving outcomes. Useful knowledge, which may be the result of a different approach to a problem, experience, or specialized training, is unequally distributed among unique individuals. Some individuals will have nothing to contribute, and the input of others will result in no influence because it is unpersuasive. In contrast, the input of some individuals may be wildly influential, having decisive influence over the final decision. This tension between the democratic demand of political equality and the need to unequally weight useful input is "paradoxical in a crucial way" (Christiano 2001). The desired solution of prohibiting bad sources of influence while encouraging good ones requires a "particular, relatively complex sort of equality" (Knight and Johnson 1997, 280).

We rely on individuals to judge and weight input according to how relevant and useful it is to the proposition under consideration. The aim is for the most useful input to be weighted more heavily. Assuming not everyone has input that is equally relevant and useful, this means that not everyone's input can be equally influential. Even in the presence of unanimity, some principle is needed to appropriately weight input. The need is even greater when individuals disagree. Landemore and Page (2011, 10) distinguish between deliberation theorists who value consensus as a normative goal and those who seek to accommodate higher levels of disagreement for pragmatic purposes. There are good reasons to accommodate higher levels of disagreement in normative democratic theory,

and some theorists have begun to identify different types of agreement and disagreement (e.g. Dryzek and Niemeyer 2006; List 2002; 2011; Page 2007). One reason to accommodate more disagreement in normative theory is that substantive agreement, which occurs when individuals hold identical views or preferences about a particular proposition, is especially rare and demanding when a group is evaluating a complex set of logically connected propositions (List 2002, 76). In addition, disagreement, at least in particular forms, has been shown to drive performance in problem-solving (Page 2007) as well as in generating accuracy in independent guess aggregation.

The principle of equal opportunity is capable of allocating political influence unequally while preserving the substantive equality that democracy requires, but given multiple conceptions of the principle itself, we need a means of articulating and selecting the appropriate conception. The appropriate conception will be sensitive to preserving the unequal inputs that generate epistemic performance while maintaining substantive equality for the purposes of fairness in legitimacy.

Allow me to motivate our discussion with an example. Imagine that three individuals on a camping trip discover that a rainstorm is approaching. They agree that a dry space outside of their tents would be useful for cooking and eating, and they decide to pool their physical resources to create such a space. Upon discovering a tarp, rope, stakes, and a hammer in their possession, some sort of temporary shelter seems possible, yet no immediate solution presents itself. What would it mean for these individuals to solve their problem democratically?

Since they have pooled their physical resources and tools, let us focus on the democratic requirement of equal opportunity for political influence. This allows us to focus on the role of ideas and the different cognitive capacities that each person has to contribute. One member, the instigator, provided the initial impetus to build a shelter by checking the weather forecast and sharing the news of the oncoming downpour. The second member, a rock climber, suggests hanging the tarp so that it is stretched between two poles tied together with rope. The instigator disagrees, saying the rope should be used to tie the tarp directly to surrounding branches. The third member, an engineer, hears the arguments of both but judges that the rock climber's proposal will more effectively prevent rainwater from pooling on the tarp. The instigator is outvoted but agrees to help the other two construct the shelter along the lines of their plan.

There are several important features of this illustration. First, it shows a way in which the different cognitive capabilities of the instigator, the rock climber, and the

engineer contributed to a better outcome for the entire group. Since each one had a unique contribution, they would have been worse off if they had decided to weather the storm individually or decided to put just one member in charge of constructing the shelter. Second, it shows the need for a principle to justify weighting the unique input of one more heavily than another. This need exists even if all three had unanimously agreed to unequally weight input in the same way, for instance if they all agreed to weight the input of the engineer more. But the principle is especially needed when there is disagreement about weighting input differently. In this case, the engineer acted as a pivotal voter who decided between the plan offered by the instigator and the rock climber. Under what conditions would disagreeing with the instigator violate equal opportunity for influence? Intuitively, there is a difference between evaluating and weighting input on the basis of what it contributes to the group's shared goals and weighting on the basis of irrelevant factors such as gender, skin color, etc. From the standpoint of making good decisions, this requires judging how useful each input is to the problem. Granting too much weight to irrelevant input, or granting too little weight to useful input, will degrade the quality of the final decisions.

2. POLITICAL INFLUENCE THROUGH PERSUASION

There are many ways to obtain political influence. I focus in this chapter on political influence that results from directly persuading others to vote in a way that they otherwise would not. Persuasion may thus be measured in terms of changes in voting behavior that result from the input of others. One becomes more politically influential by persuading more people to vote in a different way. Persuasion is influential by effectively granting additional votes to influential individuals.

In order for an idea to be influential, it must result in a change in voting behavior. People may be persuaded to vote, abstain, or vote for a different proposal. Persuading someone to vote the same way but for different reasons would not be considered influential because it does not materially affect which policy the group ultimately chooses. An idea is also not influential if others would have put it forward or supported it on their own without any external input (perhaps because it is an obvious idea). Persuasion must also be direct in the sense that the influential person is responsible for changing another's mind. If one imagines a chain of influence as support for an idea grows, influence accrues only on the last step of the chain. For example, one might imagine an advisor A, to a pundit, B. If A persuades B, and B goes on to persuade C, D, and E, the influence of A only extends as

far as B. In contrast, B's influence extends to persuading C, D, and E. This preserves the reputational effects that potentially accrue to B for following the A's counsel.

Political influence of this type can never be measured directly because it relies on the counterfactual possibility of how people would have voted in the absence of persuasion. In practice, it will be impossible to accurately attribute influence to any particular individual. Even if individuals were always capable of articulating the source of influence (including factors which sometimes operate at a subconscious level such as rhetoric or appearance), it would be difficult to provide a robust system of influence accounting. By focusing on the impact of persuasion on voting behavior, my intention is to provide sufficient traction to articulate the requirements of equal opportunity.

Defining political influence in this way is more demanding than requiring an opportunity for input or time to speak, which do not directly take into account the change that results from one's input. For example, Estlund (2008) discusses "opportunities for political input" and Dahl (1991) discusses the finite amount of time available for input in the "arithmetic of participation." Input and time are necessary components of influence, but they do not necessarily lead to influence itself. Whether input is influential depends on how it is received by others.

As noted earlier, democracy's ability to serve an epistemic function by aggregating dispersed useful knowledge relies on appropriately judging and weighting different input. This requires inequality of political influence. In theory, individuals could be equally influential if they were not allowed to persuade anyone else, but this would eliminate deliberation altogether. By including deliberation, equality of influence becomes infeasible and inequality of influence becomes inevitable.

Focusing on persuasion as opposed to just vote tallies is justified for at least two reasons. First, it is potentially a much larger source of influence than casting an individual equally weighted vote. If one successfully persuades several other people to vote in a different way, then one has effectively increased one's influence by a factor as large as the number of people one persuades. There is some humor in the fanfare surrounding the political candidate who, after spending months on the campaign trail attempting to persuade thousands or even millions of voters, shows up at a polling station on election day. Of course her single vote is unlikely to influence the outcome nearly as much as her

campaign efforts, but she nevertheless dramatically adds just one more to the tally by casting her individual vote.[1]

The second reason is that focusing on persuasion allows us to address problems of omission in governance. In general terms, we want government to be capable of doing good things and we don't want it to do bad things. Drawing on insights from organizational reliability theory, governance may fail in two ways: A bad policy may be implemented (which can be thought of as a Type I error, or an error of commission), or a good policy may *not* be implemented (a Type II error, or an error of omission) (Bendor 1985; Heimann 1993). Addressing one type of problem often exacerbates the other. For instance, we might enable more veto points so as to prevent Type I errors. But in doing so we make gridlock more likely, increasing our vulnerability to Type II errors. This tension is captured in the commitment problem that all governments face. Governments must be empowered to work towards shared goals (e.g. arbitrating disputes, enforcing property rights, repelling foreign invasion), but also sufficiently restrained so as to not subvert those same goals (Haber, Maurer, and Razo 2003). As Riker (1982, 246) acknowledges, the act of voting in the aggregative model of democracy only grants "equal chances to restrain, to reject, and to veto." It only indirectly provides an account of how of how one might put forward an idea about a shared problem, propose a solution, and provide reasons to support that solution. Thus, the aggregative model is effective at addressing Type I errors of commission, but not well-suited to address Type II errors of omission.

3. THE REQUIREMENT OF SHARED GOALS

Limiting our inquiry to the context of shared goals is a significant constraint on the conditions in which we should expect democracy to deliver epistemic improvements. For the sake of simplicity, let us first limit our attention to the process by which a small group democratically devises and selects a particular plan of action. By starting at the smaller scale of democratic decision-making, we can see how the principle of equal opportunity works in relation to epistemic performance before considering the level of governance.

Epistemic improvement requires a metric for measuring performance. The metric I will use here is whether a decision meets expectations of improving individual welfare. This requires agreement at the goal level but not the instrumental level, i.e. individuals share a common goal but do not necessarily agree about how to achieve it. Here I adapt Page's distinction between fundamental preferences and instrumental preferences (2007,

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[1] Of course her act of voting on election day may also be considered part of her campaign efforts.

240).[2] Agreement at the goal level describes a consensus about the desirability of a particular outcome of a shared endeavor. Page describes this as oriented towards a fundamental goal of some kind, for example providing security, fair rules, or welfare (as in Ober 2013). However, shared or compatible goals may also be mundane such as the desire to select a good city for a new program or conference (as in Landemore 2012, 259). In our earlier motivating example, the shared goal of the campers was to provide a temporary shelter to keep dry in a downpour.

In contrast with goal agreement, instrumental agreement describes the level of agreement about the means to achieve a particular goal or objective. In the context of agreement at the level of goals, disagreement at the instrumental level can potentially contribute to epistemic performance. In the camping example, the campers shared agreement about the goal of setting up a shelter to keep dry, but disagreed about how to best provide it. They put forward and evaluated different ideas before the majority (i.e. two) of them selected the one they thought would work best.

In order for democracy to improve welfare by making use of the unequal distribution of knowledge, a group must at least agree to share a minimal goal. This goal may fundamental or mundane. Democracy may have intrinsic value, or be valuable for other reasons such as fairness or as part of upholding a conception of human dignity in addition to preserving equality and liberty (Ober 2012), but our present inquiry is concerned only with epistemic performance in the context of shared goals.

One may wonder whether requiring agreement at the level of shared goals is too demanding to be practical. High levels of disagreement or sectarian conflict conflict may make the space for shared goals so small that it disappears. This is certainly possible, but it is not the focus of our present inquiry. Democracy in the absence of shared goals or common interests is the purview of agonistic democracy (see, e.g. Mouffe 1999).

However, agreement at the goal level is a less demanding requirement than looking for agreement at the instrumental level. The requirement of a shared goal need not apply to a very deep or broad level, such as that required by Rawls' idea of overlapping consensus (1993). Instrumental disagreement may be very strong, but it can be positively accommodated when it is in the pursuit of an overarching shared goal. This encapsulates

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[2] I orient my discussion around shared goals instead of preferences because achieving goals include judgments about facts, predictions, and the way the world works in general in addition to preferences. To back to the example of the campers, if one of them thought twenty feet of rope was needed and another thought forty feet was needed, it would be odd to describe the second one as having a "preference" for more rope.

the concept of loyal opposition, where vociferous disagreement is seen in the context of a higher allegiance. Over time, democratic mechanisms themselves may become a source of narrow agreement, as in a shared agreement to resolve disputes democratically.

4. A GENERAL FRAMEWORK FOR EQUAL OPPORTUNITY

In this section, I first argue that it is helpful to explicitly recognize that inequality persists in every conception of equal opportunity. Only when we are explicit about which differences lead to inequality can we justify when they should be permitted. This approach yields a clearer way of thinking about the general concept of equal opportunity, which in turn lends clarity in specifying the requirements of a specific conception of equal opportunity.

4.1 What is Equal Opportunity?

Inequality persists in every conception of equal opportunity. When that inequality is allocated independently of the choices individuals make, equal opportunity for a scarce resource is also always an unequal opportunity. How can this be true? Three things need to be said to understand why this isn't a contradiction of terms: First, its relation to equality; second, the role that individual choice plays in opportunity; and third, the distinction between opportunity and chance.

First, equality of opportunity is not equality. It is not equality of resources or even influence, nor is it *ex ante* or *ex post* equality. It is a principle that decides how to allocate a particular unequal outcome among known individuals. If the outcome were available to all, then it would be available on the basis of equality, not equal opportunity. It is assumed that the outcome, which may be something to do, to be, or to obtain, excludes some people and allows others. Equal opportunity specifies a) a basis on which discrimination is explicitly prohibited, and b) a basis for discrimination that may permissibly lead to unequal results. The first term is simply a non-discrimination principle, which is sometimes erroneously characterized as synonymous with equal opportunity. The second term, which is arguably more important because it is what generates unequal outcomes, is often left implicit (Westen 1985). By making the basis of discrimination explicit, we can begin to justify which attributes should permissibly lead to inequality and on what basis.

Second, individual choice and the desirability of an outcome are not necessary components of equal opportunity. It is often assumed that individuals choose to pursue a desirable but scarce outcome. For example, this describes a firm that fills a desirable position in accordance with equal opportunity among candidates. In this case, being

selected for the position is assumed to be a desired outcome. However, it is equally valid to ask whether an undesirable position is filled in accordance with equal opportunity. For instance, consider assigning a particularly dangerous wartime bombardier run. The role of actual individual choice and the desirability of the outcome plays little role either way: In the case of a desired outcome, it is assumed that individuals would choose to obtain it. In the case of an undesirable outcome, it is assumed that individuals would choose to avoid it. In either case, equal opportunity presents a means of selecting known individuals on the basis of individual attributes.

Third, opportunity is not the same as chance. One might reasonably think that an equal chance to be politically influential should meet the democratic requirement of equality in the same way that an equal opportunity can. As Estlund (2008) notes, an equal chance can be fair because chance is completely insensitive to personal attributes. Chance is blind as far as particular individuals go. However, precisely because it is insensitive to personal attributes, chance is not capable of generating epistemic performance. On the other hand, opportunity makes specific reference to known individual attributes when deciding which individuals will reach a goal and which will not.

Let me further clarify the distinction between chance and opportunity. Consider placing a one hundred dollar bill inside an envelope and shuffling it among n other identical envelopes. Nobody knows which envelop holds the bill. If one envelope is distributed at random to each of $n + 1$ eligible participants, each participant would have an (equal) $1/n$ chance of receiving the bill. An unequal chance would arbitrarily grant some individuals a higher probability of success than others.[3] In the example of the one hundred dollar bill, some individuals would have an unequal chance of receiving the bill if the envelopes were unevenly distributed. This inequality cannot be justified in terms of any individual-level attributes and their relationship to the goal, because none were taken into account in assigning chances for success.

In contrast, an equal opportunity to receive the bill makes explicit reference to individual-level attributes. Some of these attributes are held equal, generating the "equal" part of equal opportunity, but other attributes are allowed to unequally influence which participants reach the outcome and which ones do not. Eligible participants have an equal opportunity to the extent that certain attributes are held equal. Let's say that skin color, intellect, and height are specified as attributes that may not be used as a basis for

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[3] I use the term "success" in a neutral way to describe which individuals are selected to reach the goal. It is not intended as a value judgment, as one could be "successful" in being selected for an undesirable outcome as well.

discrimination. Even though these attributes presumably vary across all eligible participants, they may not be used in determining which individual ultimately receives the bill.

However, only specifying three attributes leaves many other individual attributes that may still be used to determine who receives the bill. Perhaps wealth, age, dependent family members, physical appearance, or some combination of these attributes are used to allocate the bill. Individuals, even though they are considered eligible to receive the bill (and therefore have *some* opportunity as opposed to not having any opportunity at all), can be said to have an unequal opportunity to receive the bill to the extent that these attributes vary across the population and are used to determine who ultimately receives the bill. As long as there are some individual attributes that are used to allocate the outcome among eligible individuals, they can be said to also have an unequal opportunity.[4]

4.2 The Formal Components of Equal Opportunity

With these elements of equal opportunity in mind, let us turn to a articulating general framework for equal opportunity. MacCallum's (1967) discussion of the nature of individual freedom provides a useful framework for equal opportunity. MacCallum describes freedom as a triadic relationship between three essential components:

X: An agent or class of agents to whom freedom belongs;
Y: A specified obstacle or set of obstacles; and
Z: A specified goal or set of goals to do, not do, become, or not become something.

MacCallum describes *Y* as "preventing conditions" which can be thought of as "constraints, restrictions, interferences, and barriers" that prevent *X* from obtaining *Z*, which is a specified set of "actions or conditions of character or circumstance" (1967, 314). MacCallum does not use the term "opportunity," but he nevertheless sees freedom as the opportunity to pursue a particular end without the hindrance of specific obstacles. Westen (1985) (although without recognizing his debt to MacCallum 1967) sees opportunity as freedom from constraints to pursue a specified goal. Westen remaps two variables but expresses essentially this same triadic relationship between agents, obstacles, and their

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[4] A lottery that relies on assigning a random number or ticket to individuals creates an individual-level attribute that is then used to select which individuals are successful. Because the creation of this individual attribute (i.e. ticket or random number) doesn't take any individual attributes into account, that is to say they are assigned randomly, the result is that unequal outcomes are still blind to individual level attributes. Estlund (2008) describes this is a form of anonymity which fulfills the requirements of chance, but I argue not the requirements of opportunity because it does not take any individual attributes into account.

goals.[5] "Descriptively," writes Westen, "equal opportunity exists wherever two or more people fall within a class of agents who are all free from the same obstacle to attain the same goal. Prescriptively, equal opportunity exists wherever two or more people fall within a class of agents who we believe ought to be all free from the same obstacle to attain the same goal" (1985, 850). The specification of X and Z map easily onto the foregoing discussion, which referred to eligible individuals (agents) and outcomes (goals).

Although helpful to formally identify the variables that make up a general concept of equal opportunity, the problem with the MacCallum and Westen approach is that it doesn't sufficiently distinguish between those obstacles that may *not* prevent X from reaching Z from those obstacles that *are* permitted. To be unambiguous, we need to distinguish which differences should be held equal across all X as well as which differences permissibly determine which members of X reach Z. This would then allow us to more clearly assess the legitimacy of a particular conception of equal opportunity.

Specifying Y only in terms of different preventing obstacles is problematic because it is ambiguous. To be clear, Y needs to distinguish between those individual-level attributes that are not permitted to prevent X from reaching Z (i.e. which differences are held equal for all X), and those attributes that are permitted (i.e. which differences are permitted to determine which members of X reach Z). A complete and unambiguous specification of equal opportunity can be articulated as follows:

***X*:** An agent or class of agents to whom an opportunity belongs;
***Y*:** A class of agential attributes that are *not* permitted to be a source of discrimination*;*
***Y'*:** A class of agential attributes that are permitted to be a source of discrimination; and
***Z*:** A specified goal or set of goals to do, not do, become, or not become something.

As before, X is made up of the set of individuals who are eligible for Z. Each member of X has a set of attributes (A) that are available as a potential basis for discrimination, such that the superset of all attributes is all possible characteristics of all members of X. Y is made up of the set of attributes which may not be used as a basis of discrimination, and Y' is the set of attributes which may used as a basis for discrimination. Y and Y' are exclusive of each other, so that taken together they include all possible different individual-level attributes that might be used as a basis for discrimination (represented by $\Omega(X)$), such that Y' is the absolute complement of Y. In mathematical notation, this can be conveyed as

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[5] Westen also uses the variables X, Y, and Z but describes Y as the goal and Z as the set of obstacles.

$$Y \cup Y' = \Omega(X) \land Y \cap Y' = \varnothing$$

Logically, if a particular attribute (A) is not placed in Y, then it must be in Y' and may be used as a basis for allocating Z among members of X. As in statistics, the attributes that make up Y and Y' may be categorical or continuous. Random chance is also a viable means of allocating Z among members of X. Once the selection method is determined (e.g. winning lottery number, shortest straw, winning side of a coin toss), the mechanism may be considered to be an attribute in Y' and can be used in combination with other criteria.

This general framework is intended to make distinguishing different conceptions easier. To illustrate how this framework works with a real example, consider Title VII of the Civil Rights Act that prevents the federal government from discriminating on the basis of race, color, religion, sex, or national origin. If a government employer wished to fill a position with an adult U.S. citizen using this conception of equal opportunity, we may express it using the following notation:

X = {U.S. Citizens over the age of 18}
Y = {race, color, religion, sex, national origin}
Y' = all attributes except {race, color, religion, sex, national origin}
Z = Selected to fill government position

In this illustration, any attribute not listed in Y may be used to fill the position. These attributes are often thought in terms of relevant knowledge, skills, and abilities. Strictly speaking, however, nothing in this conception prevents the position from being filled on some arbitrary basis not listed in Y. For instance, it does not include attributes such as sexual orientation, physical attractiveness, or other attributes that might be considered irrelevant in hiring. On this basis, one might reasonably object that Y is not thick enough.

Placing an attribute in Y effectively makes one blind to those attributes. In other words, as far as Y goes, all members of X are equal and interchangeable. From a logical perspective (as opposed to a legal one), the conception above would not allow affirmative action on the basis of any attributes contained in Y. If attributes relevant to diversity are to be considered in allocating Z, then those attributes would need to be included in Y'.

4.3 Justifying Eligibility Requirements

As we shall see below, one must justify which attributes are placed in Y and which are placed in Y'. However, one needs to be clear about whether an attribute is being used as a basis for discrimination among eligible candidates, or as criteria for eligibility itself.

Specifying eligibility requirements identifies those agents for whom an equal opportunity exists. Westen's (1985) attempt to distinguish between surmountable and insurmountable barriers turns out to actually be a question about eligibility for membership in X. He illustrates the problem by describing a hypothetical proposal to change a law from requiring that all candidates for governor be native-born men to one that requires candidates be native-born men and women. Westen writes,

> "We might then say that, by removing one insurmountable obstacle in the way of foreign-born women, the state has given all foreign-born women an increased possibility of becoming governor. But we would not say that the state has also given all foreign-born women an opportunity of becoming governor because, by retaining the requirement that candidates be native-born, the state has explicitly left an insurmountable obstacle directly in their way—an obstacle which, unless removed, permanently precludes foreign-born women from attaining their goal." (Westen 1985, 840)

Here Westen has confused one's status as a foreign-born woman as a type of attribute in Y' when actually the attribute is excluded by the criterion for membership in X. The barrier that foreign-born women face in this example is not that they have an insurmountable barrier to becoming governor, but that they are not even in the set of eligible candidates (X) for whom the opportunity to become governor exists. This confusion persists when Westen describes an opportunity as "the absence of a specified obstacle or set of obstacles, the absence of which leaves no insurmountable obstacles explicitly in the way of X's attaining [Z[6]]." The ambiguous implication is that an opportunity might still exist even in the presence of surmountable obstacles such as "religious belief, wealth, social class, marital status, minimum age, high school diploma, or residency" (Westen 1985, 841). Westen is correct to say that there is a difference between these attributes and what the courts refer to as immutable attributes such as race, color, sex, ancestry, or place of birth. However, changing mutable attributes so as to become eligible for future opportunities takes time and wouldn't affect one's eligibility for a present opportunity.

4.4 Formal and Fair Equality of Opportunity

To illustrate how this framework applies to existing conceptions of equal opportunity, let us take up Rawls' (1971) familiar distinction between formal and fair equality of opportunity. For Rawls, X is a representative citizen or group of citizens. Z is a larger share of social primary goods (e.g. wealth and social positions), which (by assumption) all members of X desire. Both the fair and formal conceptions of equal opportunity are the same in terms of specifying X and Z. The two conceptions differ in

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[6] Westen's original passage specifies Y as the goal to be attained, but to be consistent I have changed it to Z.

specifying *Y* and *Y'*. Formal equality of opportunity places only legal barriers in the set *Y*, meaning there may be no legal barriers (e.g. legal-based caste systems, apartheid) that prevent *X* from obtaining *Z*. Using the previous notation, we can express formal equality of opportunity as:

X = {representative citizen}
Y = {attributes identified by legal-based distinctions}
Y' = all attributes except {attributes identified by legal-based distinctions}
Z = Larger share of social primary goods

Notably, formal equality of opportunity leaves a large number of other attributes such as wealth, social position, congenital talents, and luck in *Y'* that determine one's share of social primary goods. Rawls goes on to argue that since the distinction between legal-based distinctions and any of the other attributes in *Y'* is morally arbitrary, we ought to move at least differences in wealth and social position (e.g. class, culture, school type) from *Y'* to *Y*. Fair equality of opportunity can thus be expressed as:

X = {representative citizen}
Y = {legal-based distinctions, wealth, social position}
Y' = all attributes except {legal-based distinctions, wealth, social position}
Z = Larger share of social primary goods

Fair equality of opportunity is thus more egalitarian because *Y* consists of more relevant attributes than formal equality of opportunity. However, Rawls notes that fair equality of opportunity still leaves congenital talent, luck, and the institution of family in *Y'*. Since the distinction between *Y* attributes and the remaining *Y'* attributes is still morally arbitrary, Rawls introduces the difference principle to ensure that *Y'* generates unequal allocations of *Z* among *X* only when those inequalities maximally benefit the least well off among *X*. Rawls calls this combination of fair equality of opportunity with the difference principle Democratic Equality (Rawls 1971, 65).

One can judge the thickness of a particular conception of equal opportunity by evaluating which attributes are in *Y*. By placing more relevant differences[7] in *Y*, fair equality of opportunity is a thicker conception of equal opportunity than formal equality of opportunity. It enlarges the space for individual choice in determining outcomes, but it doesn't provide a moral basis for leaving certain attributes in *Y'*.

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[7] Relevant in the sense that differences in these attributes will likely affect the allocation of *Z*.

We can speculate about an even thicker principle of equal opportunity that includes even more attributes in Y, including the family, natural talent, and luck. This would leave only individual choice in the form of different individual preferences in Y' to determine which members of X reach Z. This maximally thick conception of equal opportunity can be expressed as:

X = {representative citizen}
Y = all attributes except {preferences (x)}
Y' = {preferences (x)}
Z = Larger share of social primary goods

As Barry (1989, 224) notes, moving individual preferences to Y would mean that everyone would choose the same amount of social primary goods. This would collapse this kind of "equal opportunity for all" to simple equality of outcomes. This illustration raises a different problem if we consider Z to be scarce or have reason to not allocate Z equally (if for example doing so would leave each member of X at below subsistence levels). In this case, one may consider treating random chance (a form of luck) as an individual attribute and putting it back into Y'. In that case, each member of X who chooses to pursue Z has an equal chance to obtain it, where the distinction between chance and opportunity is that chance makes no distinctions based on individual attributes.

The point of contrasting formal equality of opportunity with fair equality of opportunity in this framework is to show that different conceptions of equal opportunity can be easily classified according to which attributes are placed in Y and Y'. Without first specifying Y and Y', it is not possible to definitively say whether a particular form of discrimination violates a particular conception of equal opportunity. For instance, allowing economic wealth to affect one's life chances violates the concept of fair equality of opportunity but not formal equality of opportunity, because wealth is an attribute in Y in fair equality of opportunity.

With these tools in place, let us finally turn to articulating a conception of equal opportunity for political influence that is sensitive to the requirements of epistemic performance.

5. EQUAL OPPORTUNITY FOR POLITICAL INFLUENCE

The ideal conception of equal opportunity for political influence preserves equality for the purposes of legitimacy, but allows inequality for the purposes of improving the quality

of outcomes. In order to specify a particular conception of equal opportunity for political influence that is sensitive to the demands of epistemic performance, recall that we are working in the context of shared goals. This includes fundamental overarching common interests as well as mundane goals. Having a shared goal, even a minimal one, gives us a metric by which to measure how effective a particular decision (and the process that made the decision) is in fulfilling expectations about that shared goal.

Drawing on the earlier general framework for equal opportunity, every conception of equal opportunity must specify the agents (X) for which an opportunity exists, the goal (Z) which is to be allocated among the agents, and which agential attributes that are (Y') and are not (Y) permitted to factor into allocating the specific goal. It is an unfortunate oversight in the discourse on equal opportunity to focus so extensively on specifying those attributes which may not be used as a basis for discrimination without also being more specific about which attributes are permitted to generate unequal outcomes.

In this case, political influence through persuasion is the individual goal (Z), and it is to be allocated on the basis of better arguments. As stipulated in Section 3, Z is in the context of pursuing an overarching shared goal or resolving a common problem, whether fundamental or mundane. This allows us to see better arguments in terms of how useful they are judged to be in solving the problem. Using the notation from before, this conception of equal opportunity for political influence can be expressed as:

X = {Eligible voters}
Y = all attributes except {attributes useful in support of a particular shared goal}
Y' = {attributes useful in support of a particular shared goal}
Z = Political influence

No attribute except those deemed useful to supporting the particular shared goal are permitted to influence shares of political influence. Every other attribute, including congenital talent, family background, and luck are placed in Y. If someone has no useful input, this conception would prevent that individual from being politically influential. Before declaring that this is a very thick conception of equal opportunity, two other elements need to be examined: 1) The criteria for eligibility in X, and 2) how attributes are judged to be "useful."

Specifying X requires deciding who is eligible to participate in the decision-making or governance process. Dahl (1991) describes this as the need to define the demos. While members of X have an equal opportunity to obtain varying levels of Z according to Y',

individuals that are excluded from *X* for not meeting eligibility requirements do not have an equal opportunity for *Z* at all. I have been assuming that eligible discussants are also eligible voters, but in fact the opportunity to be politically influential through voting is distinct from that of persuasion. For instance, eligibility requirements to vote may exclude individuals under the age of 18, non-citizens, or (as in some states) former felons. However, children, non-citizens, and former felons may still be politically influential by persuading others how to vote without themselves voting.

The question of eligibility for *X* is distinct from which attributes may be used to distinguish members within *X*. One could have a thick conception of equal opportunity that applies to a highly exclusive set of *X*. Without justification for restricting *X*, it ought to be defined in broadly inclusive terms, similar to the deliberative democratic "arenas" in which citizens may propose legislation to be considered (Cohen 1989, 85). One can think of *X* as made up of citizens at a constitutional convention, representatives in a legislative body, or employees in a democratic firm.

The second question involves determining which attributes are "useful" and therefore merit a greater share of political influence. In theory, any attribute could be judged useful in support of the shared goal. But this is not the same as putting all attributes in *Y'*. Judging which attributes are useful must be made in specific connection to the shared goal. For instance, which attributes turn out to be useful may be based on domain-relevant expertise as in Ober (2013), or it may be based on the usefulness of a unique approach or tool to solving a problem as in Page (2007, Ch. 5 and p. 265). It is impossible to know with certainty ahead of time which attributes will generate input that is judged to be most useful. Taking the shared goal as an expression of the common good, this meets the ideal requirement that all inequalities in democratic deliberation be justified in relation to the common good (Cohen 1989). Instrumental disagreement oriented around how to best solve a shared problem is expected.

I focus here on attributes rather than input itself because the attributes are what generate the input, and at least in some cases the attributes themselves are relevant to the input. For instance, consider the attribute of gender in considering a maternal health policy. In general, gender is not considered a relevant basis for allocating political influence. However, in the context of solving a maternal health problem, it may be that the views of women should be weighted more heavily because the burdens of maternity fall disproportionately on men and women, and we may expect women to have considered maternity issues more than men. This is not to say that by virtue of being a woman her voice is automatically persuasive. It may be that a man has developed maternal expertise

that merits heavier weighting. But, all other things equal, others may permissibly find her voice more persuasive than a man's by virtue of the unique position she holds in relation to the topic under consideration.

6. CONCLUSION: IMPLICATIONS

The general framework of equal opportunity presented here provides a clearer way to differentiate and discuss particular conceptions of equal opportunity. Adopting this particular conception of equal opportunity for political influence means allowing inequality of political influence only insofar as it contributes to fulfilling shared goals. This requires justifying unequal political influence in terms of how useful input is in connection to the shared goal.

This approach provides democratic theory with an outcomes-based reason to be concerned about equal opportunity for political influence. One implication is that we ought to be concerned about the unequal political influence derived from attributes such as incumbency, wealth, and time spent lobbying not only because they are unfair, but because at best they do not contribute to better outcomes and at worse they actually hurt outcomes. Citizens have a rational reason to reduce trust in the institutions and mechanisms of governance when they are no longer capable of fulfilling shared goals.

Concern about the quality of outcomes provides an additional source of support for campaign finance regulations and experiments such as deliberative polling, where a randomly selected statistically representative subset of the population is brought together to deliberate about an issue. In a deliberative poll, citizens have access to vetted information and deliberate with the guidance of a trained moderator. These conditions have been shown to yield significant shifts in opinion that are uncorrelated with demographic attributes of the participants such as gender, age, income, or education (Siu 2009).

Only allowing political influence to accrue on the basis of useful information in support of a shared goal is a difficult if not impossible standard to achieve in practice. Many factors contribute to one's persuasiveness. However, steps can be taken to mitigate the effect of unjustified sources of influence. For instance, trained moderators may ensure that more talkative individuals don't dominate discussion. Education may improve literacy and communicative abilities. These steps can be justified not only in terms of individual empowerment, but also because they contribute to fulfilling shared goals.

One might object that the requirement of a shared goal is too restrictive, or that even in the context of shared goals, individuals have an incentive to manipulate others to serve their own individual goals. To be sure, the framework is unworkable in the presence of fundamentally opposing goals. However, evaluation over time provides participants with the ability to evaluate the reputations and credentials of others in terms of how well their previous input supported shared goals. Continuous efforts to undermine shared goals would be difficult to hide over the long run.

Time also enables us to identify which attributes are more likely to fulfill a shared goal. For instance, when Plato's *Gorgias* tells Socrates that he, as an experienced orator, has been more effective than doctors at persuading patients to take their medicine (Plato 1997, 801), we must ask whether we expect the patient's expectations about good health to be fulfilled over time. The physician must justify the weight of his or her input in terms of better performance than the orator.

Evaluation over time also provides participants with the ability to assess the value of deliberative democratic mechanisms themselves. Eventually, the commitment to resolve questions democratically may form a shared goal in itself. Given the cost of deliberation, this kind of retrospective assessment informs the scope of democracy: Which kinds of questions are best answered in a democratic way, and when might performance concerns justify a non-democratic mechanism? Taking an outcomes-based perspective enables us to answer this question by justifying the cost of democratic mechanisms when, over time, they show that better outcomes justifies their cost.

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