

Equality in Politics

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1. The common view is that equality (E) bears crucially on the issue of how political procedures need be organized and also on how citizen's participation in such procedures should be arranged. This does not mean to deny the proposition that other values may have influence on the way we shape our political institutions. Thus, in most political discussions some relevance is conferred to political stability -that is the ability of a political system to generate the habits required for its own survival through time- and to political efficiency -that is the propensity of a political system to deliver as much as possible that that the community considers of value. However, the prevailing conviction is that E is a sovereign virtue with normative power to outweigh the claims of other less important political aspirations which can only operate in those spaces left free by what E requires.

Probably in virtue of the fact that the common view is a very widespread mode of thinking the modern academic debate has pretty much ignored the more philosophical question about the relationship between E and democracy (D). Academic lawyers and political scientists have focused their concern on a set of questions that presuppose that E is sovereign. Thus, for instance, most of the energies have been devoted to unveil the requirements of E in the political domain. Here, some maintain that E requires equal distribution of political impact.

Others claim that E is best understood as the ideal that demands that political influence be equally distributed¹.

2. The common view has prima facie appeal. For starters, the idea that E reigns seems to fit the basic features of our most important political institutions. Indeed, the pivoting rules of the democratic decision-making procedure could be presented as embodiments, for the political domain, of an egalitarian principle: The one man one vote rule seems to tribute the idea that everyone's views counts the same and nobody's counts for more than others while the majority rule seems to derive from the aspiration that everyone should have equal veto power.

But the common sense view is more deeply committed to E than it is suggested by the idea that E and D are sometimes linked. Those that endorse the common sense view usually think that E is, on the one hand, the *raison d'être* of D and, on the other, its foundational basis, that is, the place where we should resort to when the justification of the democratic system is under argumentative challenge.

Indeed, as a matter of fact, the conviction that E is foundationally prior to D -that D is to be justified resorting to the ideal of E- is the strongest base of the common sense view. Without the foundational priority of E over D the one man vote and the majority rules, notwithstanding

¹ Since I will incidentally refer to the ideals of Equal Political Impact and Equal Political Influence in pages to come I think it is time-saving to succinctly define them here. You have an equal political impact if everyone has the same normative power than you to determine a collective decision. Therefore, for instance, there is equal political impact on a national election where there is only one district and everyone's vote counts just once. You, on the contrary, have an equal political influence if independently from your normative power the fact that you prefer one decision over another does not increment the probability that the decision will be finally adopted. Thus, in a community there is equal political influence if in addition to having the same normative power nobody has any further means to determinate the direction of the vote of others. (These definitions of Equal Political Impact and Equal Political Influence are adapted from Dworkin. See Dworkin, Ronald **Sovereign Virtue: The Theory and Practice of Equality**, Harvard U. Press (2000), pag 191.)

their egalitarian patina, could be explained out as only two marginal egalitarian requirements of D and not as the symptoms of the pervasive and determining influence of the value that should serve as the regulating ideal of all our political institutions.

3. What is the basis for the foundational priority of E over D? Some may think it is entirely discursive. Indeed, in modern times E intrudes every kind of question where more than the interests of just one person are at stake. People debating about adjustment of their social or personal circumstances usually couch their demands in terms of E and, therefore, E recursively appears in our political confrontations. As J.R. Lucas has put it E “obsesses all our political thought” (to the ridiculous point, he adds, that even when we may not know what it means or requires we want it².) Now, the pervasiveness of the egalitarian demands in our political discourse may explain why people think E is foundationally prior. If we get used to see E being wielded as a trump card in all debates we may think it natural that all debates, specially those public debates pertaining to the best way to organize our political institution, shall, sooner or later, be adjudicated resorting to E as well³.

But the foundational priority of E over D may be defended by more philosophical considerations related to the essence of the justificatory enterprise in the domain of politics. Indeed, if in order to justify a social arrangement or institution we have to justify it to each one of those that may be affected by it –this is what impartiality seems to require- it is natural to think that E matters more than anything else since, it seems, we will only accept a

² See Lucas, J.R. “Against Equality” in **Equality: Selected Readings** ed. Pojman Louis P & Westmorel, Robert, Oxford U. Press, 1997, pag. 104.

social arrangement or institution that applies to us only if it grants each one of us at least as much of what we value as it grants everyone else.

4. I happen to agree that sometimes D serves E. Indeed, first, the one man vote rule is an application of the principle of equality to the distribution of the power to effect political decisions. Second, the majority rule is an application of the principle of equality to the distribution of the power to prevent political decisions from being taken. But I object the common sense view. I am not convinced by the idea that all that D has to do is to serve E or that D is to be justified entirely on egalitarian premises. In other words, I resist the notion that E is the sovereign virtue of politics or, better to say, that E is the only sovereign virtue of politics. In my view D stands on its own, and sometimes curtails what egalitarianism has to say, providing ample space for the operation of other political virtues. I will devote this paper to show that this is the case.

5. Let me start by dispelling the foundational priority of E over D. If E were indeed foundationally prior to D it would be very difficult to say that D should not be subservient to E and that E should not be the guide for all our political decisions. I mentioned above two bases for the foundational priority of E. First, that E is pervasive in our political discourse and second, a more structural argument, that justification requires impartiality –that is acceptance by everybody- which, in turn, makes E most prominent because it seems that nobody will accept a political arrangement or institution unless under that arrangement or institution she has as much as everyone else.

³ Dworkin holds this view. In **Sovereign Virtue** he asserts that all our arguments of political justice “must be capable of being understood as arguments about what equal concern really means or comes to” (see, Dworkin opus

What should we say about the pervasiveness of E in our political discourse and the aspiration that this pervasiveness grounds the foundational priority of E? Well, we may start by sensibly distinguishing what we say from what it is and then add that the pervasiveness of E only shows that our discourse is especially susceptible to be intruded by egalitarian demands, but in any way that E is foundationally prior. We could then cite the many times in the course of history where what people said, even if insistently and loudly, was plainly wrong and conclude that the foundational priority of E requires firmer grounds.

In general the distinction between what we say and what it is, is a strong and convincing distinction. It follows that in general what we say does not mean much. But in politics the situation is different since in politics what we say is an important symptom of what we care about and this, in turn, a symptom of the values there are. Consequently, in order to challenge the argument that the discursive pervasiveness of E roots its foundational priority we need to say something more. What could this be? Simple enough, we could just point out that sometimes we discursively invoke democracy as something altogether tangential to E and claim then that these invocations are evidence that, first, E is not in discourse on its own and, second in virtue of that, that E can not pretend to have foundational priority.

Think for instance in the core democratic claim that all political decisions should be adopted “by the people and for the people” or the twin claim that democracy “gives power to the people as a whole rather than to any individual or group”⁴. These claims seem primarily to speak about the right to rule ourselves collectively and not about the way to distribute political power. Now, I think the fact that in our discourse, D means something different from E

cit. fn 1 pag. 131.

somehow neutralizes –though it does not falsify- the claim that the pervasiveness of E in political discourse confers priority to it. When we identify chunks of political language that are not explainable in terms of E we manage, at least discursively speaking, to jeopardize the idea that E is the only thing that ultimately matters.

What about the claim that the requirement of impartiality renders the enterprise of justification egalitarian in essence and that that determines that E should have foundational priority over D? The egalitarian bias of justification is a powerful idea. It seems to me true that we can only justify a social arrangement or institution if we show an individual concern for each one of those living her life under that arrangement or institution and this, as Nagel has emphasized, does in fact generate an egalitarian bias since an individual concern determines “a greater interest in benefiting the worse off than in benefiting the better off”⁵. However, I think we can resist the justificatory priority of E because the egalitarian bias generated by the enterprise of justification is not universal but only a feature of the justification of distributive arrangements or institutions.

Indeed, when what has to be justified is neither the distribution of goods or resources nor the distribution of harms and costs, justification does not seem to require a preference for the worse off. Think, for instance, whether the Quebecois have the right to succeed. This is a complex question (which has been answered in the negative by the Supreme Court of Canada.) But forget for the moment the subtleties of the issue and think only about the process of thinking the issue through. You could grant the Quebecois the right to succeed or prohibit them from doing so without a need to adopt the point of view of anyone in particular. You will certainly have to ponder the circumstances in which a community has the right to

⁴ See, Dworkin, opus cit. fn 1. pag. 185.

resist the norms imposed upon it by others and then about whether Quebec is such a community. It would be unnecessary however, and wrong I would add, to compare the impact of the secession on the interests of each one of those individuals that may be affected. Now, if this is correct, if justification does not always imply an egalitarian bias and does not always require pair wise comparison among the individuals potentially affected by the arrangements at stake, we can not conclude that E is foundational prior to D. To do so, to sustain the priority of E, we would need to show that democracy is essentially and only about distribution since it is only in distributive issues where the requirement of impartiality –and therefore the enterprise of justification- impose special concerns for those that are worse off.

6. In rejecting the foundational priority of E over D I said above that some democratic language –e.g. the all political decisions should be adopted by the people and for the people or that democracy gives power to the people as a whole rather than to any individual or group- can not be interpreted as an egalitarian demand and, more generally, that it is not clear whether democracy is about distribution. These two claims are far from being self-evident and many will think that they are plainly wrong.

7. If you see politics as the locus where everything we do is try to advance our individual life plans (independently on whether these life plans are predefined and given, as social choice theories maintain, or only shaped after participation in the political process, as deliberative theories argue) you will most certainly argue that it is possible to deconstruct all our political discourse as conveying distributive demands (and *malgré* what cannot be so deconstructed) and that politics is the quintessential distributive activity. Such position seems to be, for

⁵ See, Nagel Thomas **Equality and Partiality**, Oxford U. Press, pag. 66.

instance, Barry's conception when he says "by a democratic procedure I mean a method of determining the content of laws ... such that preferences of citizens have some formal connection with the outcome in which each counts equally"⁶. But should we adopt such a conception of politics? Is it correct to conceive ourselves as entities which merely try to advance life plans and politics as the arena for confrontations? This question can not be answered unless we jump one level upwards and ask about the point of democratic politics. If politics were only instrumental, a means to our ends, we may adopt this thin conception of democracy. On the contrary, it would be much more problematic, if not plainly wrong, to reduce democracy to distribution if politics were a constructive activity through which we aspire to do things in common, more precisely, constitute a "Demos" or, what I think is just the same, give ourselves an authoritative sovereign. Then, what do we want democratic politics for?

The distributive aspect of politics is very salient. We certainly try to influence the distribution of goods and resources through our activism in the political realm and it is quite likely that politics as we know it would not have existed if we had no distributive concerns. It is true that in a democracy there are some idiosyncratic restrictions that apply to the way in which our distributive claims may be laid out. Thus, in a democracy we can not just invite others to strike a mutually self-interest bargain. Structural reasons prevent us from doing so. Since we need to convince many people (the majority) and keep them convinced all the time –otherwise our preferred distribution will not last- we have to restrict ourselves to look for consensus around those distributions that may be justified in light of those principles that everybody (or at least the current and future majorities) could freely accept. Obviously, this structural

⁶ See Barry, Brian **Democracy and Power**, Oxford U. Press (1991) pag. 25.

restriction does not seem to alter the central claim that politics is distributive. But, through democratic politics we do much more than to distribute. Distribution does not exhaust the whole of politics.

Every society to last as such needs to transform power into authority. We could say, paraphrasing Mackie, that authority is the cement of society. Without it, without power being able to legitimize itself one way or another, all societies run the risk of collapsing from within falling prey of internal resistance and destabilization promoted by those which do not recognize any title in those that rule and no constraint in what is being ruled.

The difficulty is that in modern circumstances the legitimation of power, the transformation of power into authority, is impossible by other means than politics. A theocratic, authoritarian, totalitarian or technocratic creation of authoritativeness is just impossible. We are already too empowered to allow these forms of dealing with interpersonal conflicts. We see them more as forms of suppression of the conflict than as forms of its solution and therefore we resist them. Further, we can neither recognize ethics or morality as sources of common authority because we are too diverse in our conceptions of what gives value to life –this is why ethics does not work- and too uncertain on how is that we should treat one another⁷ -this is why morality does not work either-. Therefore, the only source of authority that there can be in our modern circumstances is politics. Politics, that is the social activity governed by the public procedures

⁷ Rawls, and many others, think that when offering a theory of how to live together the only divergence we should take into account is the divergence in our conceptions of the good. In addition, I think that differences in our conceptions of the right are also important. This is so, because even when we may reach philosophical agreement about the best theory of justice, which is certainly very difficult, we do not have enough public resources to transport that agreement to the public and, thereby, we can not motivate a public agreement on how to treat one another. Coincidentally with this idea, F. Michelman has said “the fact about our situation has the further consequence of making nondemonstrable by public reasoning any authoritative truth about what it is that everyone in this country now has reasons to agree in the matter of legal basic rights, codifications and interpretations.” See, Michelman, Frank “Constitutional Authorship” in **Constitutionalism: Philosophical Foundations**, ed. Alenxander Larry, Cambridge U. Press, 1998, pag. 89.

designed to channel the conflicts that our social life may create, is our only hope to construct a social context that we can recognize as binding upon us⁸. To this extent politics is all we have.

The construction of a source of authority by a “Demos”, that is by all those who may be subjects of its injunctions, is not adversarial and, therefore, not distributive. It is something we do not fight against others but in active cooperation with them. Even if we fight with others over the way of distributing benefits and burdens, even if we harshly fight about that, when we follow the public procedures we have designed to channel the distributive fights we provide ourselves a common basis to which we can resort to in order to legitimize the way in which benefits and burdens are eventually distributed. In short, politics has a constructive side to the extent that through politics we create a normative source that allows us to authoritatively resolve our distributional conflicts.

The constructive side of politics is not something we think about all day and for the most part it remains unappreciated behind the heat of our political confrontations. As a matter of fact, we are much more familiar with the distributional aspects of politics. We know that politics is about who gets what and that is why, as Sartori once said, we equate politics with “mess”.⁹ But the idea that politics has a constructive and cooperative side, that through politics we constitute ourselves as a “Demos” providing an authoritative source to solve our common conflicts is not new. Rousseau had this idea in mind when he emphasized that democracy is

⁸ In my understanding politics engulfs law insofar politics is a process governed by public procedures designed to channel the conflicts that our social life may create and law is the product of such a process.

⁹ See Sartori, Giovanni “ . The distributive aspects of politics have been emphasized *ad nauseam* by critics of democracy (Huntington being the clearest advocate) pointing out that the exacerbation of the needs of distribution may undermine the social organization that democracy aspires to realize. In the report of the Trilateral Commission, for instance, you could read that the “pervasive spirit of democracy may pose an intrinsic threat and undermine all forms of association, weakening the social bonds which hold together family, enterprise and

not only a form of government but, also and more importantly, a form of sovereignty¹⁰.

Habermas, among the moderns, also entertains this view. He claims that the democratic procedure for the production of law forms the only source of legitimacy (authority I would say) for our “postmetaphysical age”¹¹. Further he says that the practice to give ourselves the laws we obey thereby producing our own life context is the “product of a cooperative practice center in conscious political will-formation” (pag 40-41) adding that sovereignty or authoritativeness is proceduralized and to be found “in those subjectless forms of communication that regulate the flow of discursive opinion and will formation” (pag 59).

If I am right, then, the point of politics, that is, the social activity governed by the public procedures designed to channel the conflicts that our social life may create is, at least in part, constructive. A Demos with authoritative sovereignty over us is something we do in common with others as a collective we. Being this so, we can not think of politics as something merely distributive standing in a means/ends relationship with our preferences and desires. Thus we can not fall in the reductivism of thinking that in politics distribution is all that matters neither, which is more important for the purpose of our interests, that being E the sovereign virtue in all distributive settings it also should be the sole sovereign virtue of politics. If politics is constructive, and not only distributive, there must be at least some virtues which fit this special character, condensing what it is needed for that which politics constructs, more precisely, an authoritative sovereign.

community” (**The Crisis of Democracy**. A Report on the Governability of Democracies to the Trilateral Commission, NYU Press, pag 162).

¹⁰ See Rousseau, Jean Jacques. In the “Letter from the Mountain Rousseau” said “In every state the Law speaks where the Sovereign speaks. Now in a Democracy where the People is Sovereign, when internal divisions suspend all forms and silence all authorities, the people alone remains, and where then proceed the greater number, there resides Law and authority”. See. Rousseau, Jean Jacques, “Letter from the Mountain” VII, P III, pag 816.

¹¹ See Habermas, Jurgen **Between Facts and Norms**, pag 448.

8. If you do not have an emaciated conception of what we are and of our ability to do things in common with others it would not be very difficult for you to agree that politics has a constructive side. However, you may argue, that this in itself does not negate the priority of E in the political realm. That is, you may agree that politics is not only distributive; grant my point about the two dimensional character of politics –distributive/constructive- but however remain convinced that E is the supreme political virtue. This is so, you may say, because in the modern circumstances I referred to above characterized by universal empowerment and pluralism about the good and the right only those with equal resources may constitute a Demos and avail themselves with an authoritative sovereign. The reason being that apart from reasons of expediency and convenience, it could only make sense for equals to submit themselves to the norms their common activity may create. Furthermore, you may say that unless E obtains there can not be commonality among different individuals but only involuntary subjugation of those that have less by those that have more. In your view unequals –which in this context you may want it to mean different amount of political resources- may at most coordinate their activity, as may do parties at war, but they cannot act in common and, therefore, cannot constitute a sovereign able to transform its power into authority. Rousseau thought this way and, among the contemporary authors, sometimes so does Dworkin¹².

¹² Rousseau thought that in society abeyance to oneself –which was the only case of an obligation to obey- required equality since only equality could make everybody independent on anyone else and, therefore, convert the laws of society into a product of everyone’s will. See Ripstein Arthur “Universal and General Wills: Hegel and Rousseau”, Political Theory vol. 22. No 3, pag. 448. Similarly, Dworkin argues that politics can only make a difference normatively speaking, if everybody treats each other with an equal concern for her well-being according to, if not to the correct conception of what that means, at least to some coherent conception thereof. See Dworkin, Ronald **Law’s Empire**, Harvard U. Press. 1988 pag.

9. It seems to me that the idea that only people with equal amount of political resources can constitute a Demos and produce political authoritativeness is quite radical and implausible. The most compelling argument against it is to point out that if equality in distribution were a precondition of democratic legitimacy and of political authoritativeness, no political community would have ever been able to transcend geographical proximity. To put the same idea in different words, no community would have been able to transform the fact of power into authority simply because no political community has ever managed to get close to what equality in politics requires.

If, in turn, there are authorities and there are norms, if the law is not just sheer coercion but a command that binds, if we recognize in governments the ability to create new obligations and to transform the ones we already have, it can not be true that the construction of a sovereign is always subordinated to the existence of E among those that may participate in the process of that construction.

It is true, however, that politics even majoritarian politics, does not always acquire authority over us. We know that some of the paradigmatic circumstances in which politics does not bind are those in which a) we did not have enough opportunities to express our views, or b) we did not participate in the process of consultation that precedes collective decisions.

Further, we know that in some circumstances we can rebel against those that wield power, especially when we are alienated from the political process¹³. Therefore, notwithstanding everything I have said above in my rejection to the ideal of E as the regulative principle of

politics I must concede that there must be *some* distributional requirement of political resources which needs to be satisfied before democratic politics can take of and fly and confer to power the aura of legitimacy power needs to become sustainable. The question, naturally, is which requirements are these. I will offer the initial steps of an answer to this question in sections to come. Since what I will say switches radically the gravitational center away from the ideal of E to a rather unknown political ideal -the ideal of Sufficiency- I want to introduce this ideal first in a more abstract form.

10. In a controversial article called “Equality as a Moral Ideal” Harry Frankfurt rejects the view that considers economic equality a value in itself. He says that economic equality forces each one of us to regard as important something that is not, more precisely, the way in which one stands in comparison with others. Frankfurt claims that the obsession with what others have turns economic equality into “a diverting moral value” preventing us from “endeavoring to discover -within (our own) experience of (ourselves) and of (our) life- what (we) really care about and what will actually satisfy (us)”¹⁴.

I do not find Frankfurt’s objection to the value of economic equality very persuasive. In my view equality of economic resources is a good (though neither the only good nor the supreme good as some radical egalitarians may think.) *Rebus sic stantibus* we should prefer equality over inequality not because an egalitarian distribution of resources, independently on the amount of resources each one gets, *per se* makes our lives better -which Frankfurt rightly

¹³ For an elucidation of the concept of “alienation” see Rosenkrantz, Carlos “La Pobreza, La ley y la Constitucion” in **El Derecho como Objeto e Instrumento de Transformacion, SELA 2002**, Ediciones del Puerto S.R.L. pag 241.

objects- but because an egalitarian distribution of economic resources sometimes is the only way in which we can form with others communities or associations we have reasons to value¹⁵. But the issue of whether Frankfurt is right or wrong about economic equality is not important for us here. What is crucial though is that in some circumstances it seems that E is problematic precisely because, as Frankfurt insists, its comparative nature. E requires that we rank first how one stands in comparison with others and in many circumstances this seems to be just besides the point since in many circumstances the important thing is not how we stand in comparison with others but, instead, how one is in oneself as measured in a non-comparative dimension.

An alternative distributive criterion which does not seem to suffer from the comparative frailty, and that Frankfurt supports for the distribution of economic resources, is the ideal of Sufficiency (S). S is a criterion we may use when distributing things which value to each one of us does not seem to depend on how much of the thing being distributed is obtained by others. Indeed, the ideal of S, as opposed to the ideal of E, is not comparative. To know whether the distribution of resources gives each one of us a sufficient share we do not need to measure what we get with the yardstick of what everybody else gets. S only requires that what we get be enough for what we may want what we get. Sufficiency, then, in virtue of it being absolute or non-comparative does not run the risk of becoming a “divertive” ideal. Indeed, since S, in order to evaluate a particular social arrangement and the distributional features thereof, demands that we be concerned about absolute magnitudes only –our situation and the resources we have- S frees us from focusing our attention and efforts in what can not be of importance to us.

¹⁴ See. Frankfurt, Harry “Equality as a Moral Idea” in **The Importance of What We Care About**, Cambridge U.

The non-comparative nature of S is of great consequence. At first sight it may seem that S is less demanding than E since in order to satisfy the latter we do not need that an equal distribution of resources be effectuated. S may be satisfied even in circumstances where some people have more than others at their disposal (even much more) provided that those that have less have enough. But we do not have to rush to conclude from this that S is a weaker ideal since, in many circumstances S may be more demanding than E. Consider, for instance the case in which an equal distribution of resources may just not suffice. When what you get is, for instance, less than what it is required to become a part of the Demos S will not be satisfied even when what you get could be the same than everyone else gets. In other words, S stipulates the need for a threshold in distributions below which nothing of value is attained while E does not have any requirement of that kind.

11. Could we enthrone S as the distributive principle of political resources when we recognize that politics has a (dominant I would say) constructive side? Are the distributive requirements that S imposes the right ones? Well, it seems that S allows us to divide waters and make sense of both claims: first, that politics sometimes transforms power into authority and, second, that politics does not invariably bind. Indeed, we could say that when each one of us had sufficient political resources to be adequately considered as a member of the Demos, politics becomes authoritative and politics does not bind precisely when we on the antipode, that is, when by falling short of enough political resources we are alienated from the political process. In this front, then, S seems to fare better than E as a normative ideal since E, as I said in section 9, can not explain how it is possible for many political non-egalitarian political communities to authoritatively regulate their common life and, on the contrary, why in some circumstances

where E is achieved we nevertheless find that what each one of us gets in the currency of political resources is not enough to confer legitimacy to the political process. Let me explain this last point. Think about our resistance to lotteries. We usually do not think that lotteries are good political procedures. If E were the sovereign value we would not be able to explain this resistance since lotteries (if not rigged) are perfectly egalitarian. S, on the contrary, can sustain our resistance. As I said in section 10 S requires thresholds in distributions below which nothing of value is distributed. Hence, we could argue that the equal opportunity to influence the outcome, which a lottery universally warrants, is not a sufficient political resource when what we want is not only to adjudicate the question at hand but also that those that have to honor the way in which the procedure adjudicate that question constitute a body politic endowed with authoritative mechanisms.

Further, the fact that we are thinking about a distributive principle for the non-distributive side of politics also speaks in favor of S. Since the point of having political resources here is primarily to allow our participation in the common endeavor of constructing a body politics, we do not need to think the distribution in strictly comparative terms, as it may be the case where we are distributing resources each one of us needs for the realization of our life plans. Moreover, when the issue of participation to construct a body politics is at stake it seems to be fastidious that people insist to have the same, whatever the dimension in which that may be measured. Whoever does that seems to misunderstand that the construction process is a collective concern and not something that pertains to each one of us in light of our discrete individuality. I should make an important caveat here though.

¹⁵ See Rosenkrantz, Carlos “Equality and Productive Community”, in file with author.

Politics has a constructive dimension. It is through politics that we become a Demos and it is through politics that we, as a Demos, may be able to solve our conflicts authoritatively. But let me emphasize that politics, like Juno, has another –divisive- face. Since it is through politics that we distribute all the resources that there are it is natural to expect harsh confrontation. Now, when we think about the distributive side of politics E seems to fit. E in the distribution of political resources seems to be an adequate principle since it gives everybody the same power to defend himself from the harmful aspirations of all others¹⁶. Therefore, the answer to the question of whether S could displace E somehow depends on whether the constructive side of politics is prior to or dominant over the distributive side of it. If we find that politics, despite its two faced nature, is eminently confrontational we may get more steam to resist S. If, conversely, we think politics is first and foremost constructive we will be further inclined to argue that ‘enough for’, and not “equal to”, is the right distributive measure. Then, what comes first the distributive or the constructive side?

This is a difficult question that can not be answered in full here, since it depends on many considerations. But let me just say that the fact the confrontation about how to distribute the resources we need to carry on our individual life plans –the distributive side of politics- is played primarily *within* the Demos (our distributive demands are primarily address to all those that form with us a body politics) suggests that the constructive side –the side aim to constitute the Demos- comes logically and normatively first¹⁷.

¹⁶ I say that E in the divisive side of politics only “seems” to be adequate because we can also raise the issue about whether we need some inequalities in resources to adequately protect people that need protection. Thus, for instance, a bill of rights may create procedural inequalities entrenching some rights in distribution but we may feel this is correct when that is the only way in which we could give sufficient protection to those that, for instance, are worse off.

¹⁷ The idea that the ideal of equality is much more powerful among those subject to the injunctions of the same political authority has been recently defended by Michael Blake. See, Blake, Michael “Distributive Justice, State Coercion and Autonomy”, Philosophy and Public Affairs, vol. 30, n. 3.

Finally, the ideal of S is what seems to be really doing the work behind many of the theories that are couched in terms of E. Indeed, think about those that say that E in politics does not require radical equality of political resources –if it did, representative governments would be impossible- but instead treatment with equal consideration and respect or with the consideration and respect due to equal members of the common enterprise of common government. Those that present their views in these terms seem to be convinced that they are pivoting around the ideal of E. But this is wrong. The word “equal” in the phrase “treatment with equal consideration and respect or with the consideration and respect due to equal members” is not really doing any logical work. You could suppress it without any loss in meaning (unless, obviously you take the phrase to require radical equality of political resources). The important words are, rather, “consideration and respect” and “member” which are non-comparative and therefore more easily associated with the ideal of S than with the ideal of E.

12. I can see that everything I have said will hardly convince you to replace E by S. You may be impressed by the argument that there is constructive side to politics and that, in the context of constructive activities, the comparative nature of E seems to “divert” us from what is important –what can we do together- to something beside the point –how much do I have. But you may be already too familiar with how the world will look like if E were achieved to abandon it without a clear idea of what we will get instead. It does not help to change our egalitarian robes either the fact that S seems to be too protean an ideal without a clear indication of what it requires. To fill the gap in what follows I will try to say something about S and the way in which it may regulate the distribution of political resources. Obviously, my

comments will be sketchy since I am only interested here in gesturing a conception that needs much further development and precision.

I want to start with two general comments. First, the ideal of S should be broad. Indeed, S should say something about what is to be expected in the distribution of non political resources which, as I have said above, is where the divisiveness of politics takes place.

One of the fixed points of the democratic culture is that we occupy two positions in societies: we are both “makers” and “matter”. This means that in a democracy we are supposed to count twice, first, at the time of taking decisions and, second, as the “subjects” of those decisions. In other words, in a democracy we need to have a *part* in the decision but also a *stake* in it¹⁸.

Now this complex character of democratic citizenship -which nobody wants to challenge¹⁹- determines that in order for us to participate as makers of the constructive side of politics we need to be matter in the distributive side and, therefore, that the principles concerned with the distribution of political resources should also be concerned, to some extent, with the distribution of non political resources.

Second, the ideal of S is not fixed for all kind of democratic systems but, on the contrary, it varies with the political procedures and with the conception of citizenship prevailing in society. This means that S must be responsive to the circumstances in which politics takes place. Thus, the requirements of S for a society that takes political decisions, case by case, and by the whole political community in assembly –a Greek polis like Athens if you want- will be different from the requirements S makes for a society that organizes its political action indirectly through elected and non elected officials. Similarly, the requirements of S for a

¹⁸ See Dworkin, Ronald **Freedom's Law**, Harvard U. Press, (1997) pag 24.

society where traditionally older people gain additional power, for instance, will be different from the requirement of S for a modern society that does not admit any difference in political power among those citizens that have reached adulthood. In this regard the ideal of S differs from E which predicates the same for every political circumstance we may think of and, therefore, has problems to present itself as a plausible principle for the distribution of political resources in the varying circumstances of politics.

I will start describing the negative requirements of S, that is, the requirements that are satisfied merely if we abstain from imposing those constraints on others that bar them from adequately counting twice, as “makers” and “matter” of political decision. Then, I will say something about positive requirements where, I think, more controversy could arise since in my view S, and therefore democracy, does not really demand the radical redistribution of resources that many radical egalitarians stand for. As you will see in what follows in my conception S imposes three negative and one positive requirement.

The first negative requirement of S is that your views be not excluded from the consultation process that precedes political decisions. A consultation process may be organized in different ways but in modern democracies the consultation process requires that we grant everyone the right to vote for the candidate or policy of his choice. The right to vote is a defining element of modern democratic system and a *sine qua non* element of the recognition of someone as “maker” of the law. Thus, no conception of S that allows individuals to be stripped from voting power could be correct. But this first requirement of S does not say anything about the way in which your vote must be counted in the consultation process. Therefore, S different

¹⁹ Charles Beitz endorses the idea that citizenship is complex when he argues that citizenship engulfs the different interests we may have as “makers” and as “matter” of politics. See, Beitz, Charles **Political Equality**, Princeton U. Press, pag. 98.

from, for instance, the ideal of Equal Political Impact²⁰, leaves open the possibility that the vote be indirect or within districts and, more controversially, that some people have the opportunity to vote in more than one way (Think in what happens with the aboriginal in New Zealand who can vote either as common citizens do, electing general representatives, or as aboriginal electing aboriginal representatives where the ration votes/representative and the likelihood of electing a representative are both much higher)

The second negative requirement of S is that you be not prevented from sharing your views with others. This second requirement ensues from the idea that politics is a collective constructive process; therefore the way in which we should become makers of the law has to be accordingly collective. Now, given our nature of free and rational beings, the most natural way in which an activity can become collective is by all of us reasoning through it together which requires precisely that we all share our views on the subject of the discussion. This requirement obviously sustains freedom of expression and the right to assembly, which are the most efficient means we know to increment the flow of information among free and rational beings. But in addition, and this is less obvious, this second requirement stressing that the law does not prevent anyone from sharing his views muddles certain justifications for those initiatives that aspire to rid the political forum from certain kind of speech or speech by certain people. In this sense, S makes it difficult to impose quotas in the media and to set limits in campaign financing when the aim is merely to try to achieve the ideal of Equal Political Influence²¹ (however, this kind of measures can be justified if they aim to satisfy what is required by the fourth requirement of S I explain below.)

²⁰ For a definition of the ideal of Equal Political Impact, see fn 1.

²¹ For a definition of the ideal of Equal Political Influence, see fn. 1.

The third requirement of S is that you be not prevented from making a difference in the process of collective decision making. In the context of a massive democracy in order for you to make a difference it is not enough to be franchised with a right to vote and to be able to share your views with others. In addition, the decision making process itself has to be tailored in certain ways. Thus, for instance, if districts are drawn in order to neutralize the way you cast your vote or if the agenda is set in order to make it more difficult for your views to gain general assent you do not have enough political resources and you can not genuinely be considered a maker of the law. However, differently from the ideal of Equal Political Influence, S does not prohibit districts in general, even when they may not be drawn with mathematical precision. S only restricts the reasons you may invoke to justify a district, therefore it finds no problem if your districts are designed to, for instance, fit historical realities or to gather people with similar interests. On the other hand, S does not prohibit either, mechanisms to set the political agenda (provided that they are not conceived with the purpose of making your decision less likely to prevail²²) even if they may have some influence in the likelihood that your decision will be adopted. Finally, the ideal of S, differently from both the ideal of Equal Political Influence and Equal Impact, does not object to mayor electoral systems (The ideals of Equal Political Influence and Equal Impact rule out single district elections and all those systems that do not somehow reproduce our vote in all representative institutions.) S can coexist with many varieties of systems of proportional representation and with single district systems alike.

These three requirements of S will rule out many practices we consider unjustifiable and I think they will improve the quality of the democracies we have. However, they make it only

²² The second and the third requirements of S coincide with the conditions of “anonymity” and “neutrality” that

negatively possible for people to join the collective construction of a Demos. In virtue of its mere *negative* character these requirements can be satisfied without much redistribution of political resources since they just need that we abstain from doing those things we find unjustifiable. The remaining question is whether S should be also associated with some more positive demands that make for each one of us not only *negatively* possible but *factually* possible to be part of the Demos. In short words, is S as conceived above really enough?

Most liberals are in favor of positive demands in politics. Even Rawls, who is far from being a radical egalitarian, thinks that political processes may be deprived of all relevance unless they in fact, and as much as possible, provide for an equal opportunity to influence collective decisions. Indeed, Rawls thinks that the only way to root the priority of the first principle of justice –which arranges the distribution of rights and liberties- over the second –which arranges the distribution of resources- and, thereby, the only way to explain why we should abstain from making trade offs between these two principles –for instance compromising democracy or freedom of speech for the sake of a better distribution of economic resources- is by assuring that the political rights and liberties posses for us what Rawls calls a “fair value”, that is, a somehow equal usefulness for all²³. According to Rawls the fair value of political rights and liberties can be achieved if we make it real for people to have a fair opportunity to hold public offices and to influence the outcome of political decisions²⁴. In short, according to Rawls the guarantee of “fair value” of political rights liberties requires some specific

Arrow popularized years ago. See Arrow, Kenneth “ Current Developments in the Theory of Social Choice”, Social Research vol. 44, pag. 607;622)

²³ See Rawls, John **Political Liberalism** Columbia U. Press, 1993, pag. 326/327.

²⁴ Rawls says “the guarantee of fair value for the political liberties is included in the first principle of justice because it is essential in order to establish just legislation and also to make sure that the fair political process specified by the constitution is open to everyone on a basis of rough equality” (opus cit, fn. 22 pag. 330.)

measures to make it possible for each one of us to regard these rights and liberties as especially important and not merely as formal abstractions.

Let me start my own answer to the question of whether S should incorporate some positive requirements by emphasizing that in politics positive requirements are in general problematic. It is true that positive requirements may increment the overall desirability of the system of political rights and liberties that ensues but they do so at the cost of somehow undermining all those democratic systems that, for whatever reason, happen not to meet what positive requirements demand. Notwithstanding this problematic character, I think, we could solve the problem in a principle way. Indeed, if we resort to the idea that politics is a constructive *collective* process we could incorporate a positive requirement of redistribution which honors the idea that mere negative opportunities to influence political processes resources are not enough without, at the same time, flooding real democracies with requirements impossible (at least for the time being) to meet.

The fourth requirement of S is that the system opens up the positive possibility for views like yours to make a difference in the process of collective decision making. This fourth requirement may look alike the third. However, beyond its similarities there are two subtle but very important differences. The first difference is that the third requirement is a negative one –it is pretty much satisfied if the government abstains from preventing you from having influence in the political domain- while this fourth requirement is positive –it requires that some redistributive action be taken by the government such that the views you hold, to use a sportive metaphor, become “politically competitive”. The second difference is that the third requirement is somehow individualistic in nature –it bests upon you a right not to be discriminated against- while this fourth requirement is collectivistic in nature –it aims to grant

not to you but to your views the real ability to make a difference in the political process.

Obviously, the fact that the fourth requirement is collectivistic in nature does not deprive it from having individual importance since making views like yours politically “competitive” gives you as a person a greater –though mediated- opportunity for political influence²⁵ and, therefore, more reasons to think that you are not alienated from politics.

Now, this fourth requirement is not radical. On the one hand, this fourth requirement neither suggests that economic resources that could be spilled over into the political domain by those that have more should be redistributed massively to those that have less nor that economic resources should be redistributed to guarantee each one of us to be able to effectively participate in the political debate without shame (which is something much less ambitious recommended by many moderate egalitarians²⁶.) On the other hand, this fourth requirement does not demand that the political process be radically reshaped to effectively afford each one Equal Political Impact or Equal Political Influence. Therefore, this fourth requirement does not collide massively against the authority of the democratic systems we know. However, the dose of deference to reality this requirement instantiates does not make it innocuous. On the contrary, this fourth requirement does a lot in the direction of including people in the category of citizenship, that is, in the group of those that are both “makers” and “matter” of political decisions. Indeed, by requiring the state to increment the possibility that all views have the opportunity to influence the political process, this fourth requirement provides those groups that may be currently disadvantaged in politics a competitive hedge, making them more able

²⁵ If Owen Fiss is right and the Equal Protection Clause of the Constitution of the United States should be interpreted as a clause that protects groups, the fourth requirement would be constitutionally mandated in the United States. See Fiss, Owen “Groups and the Equal Protection Clause”, Philosophy and Public Affairs vol.5 n. 2.

²⁶ See, Anderson, Elizabeth “What is the point of Equality”, Ethics pag.

to effectuate a political difference and thereby enhancing their role in the construction of the Demos.

To illustrate the impact of this fourth requirement in the shape of our political institutions think in what W. Kymlicka has called “threshold representation”²⁷. A threshold representation guarantees that a group –natives, blacks, women- which is underrepresented in the representative bodies of the political process obtains a minimum fixed representation beyond its performance in the ballot. Threshold representation is a positive measure since it produces the redistribution of political resources from the majority to those that are underrepresented. Consequently, it increments the political leverage of those that are worse off politically speaking by it making them into potential coalition members, shakers of the ideological debate, and options for all those that seek political realignment.

As I cautioned above though, this fourth requirement is not tailored to directly make you more powerful politically speaking. Rather, to use words of O. Fiss, it is a “group-disadvantaging principle”²⁸, that is, a principle that focuses on groups as groups. The question is how could we, in the context of a democratic society, make sense of a principle of politics that does not invigorates individuals but groups specially when this invigoration may be at the expense of some individuals²⁹? The response to this question is problematic if we conceive the point of democracy as eminently distributive. In such a case we would have to say that the basic units of society are not individuals but groups and that, therefore, groups, but not individuals, are entitled to be the beneficiaries of whatever we distribute. This is a problematic response because in plural societies as the ones we inhabit it is rather difficult to find the necessary

²⁷ See, Kymlicka, Will **Multicultural Citizenship: A Liberal Theory of Minority Rights**, Oxford U. Press. 1996.

²⁸ See. Fiss, O Groups and the Equal Protection Clause, Philosophy and Public Affairs, vol. 5 n. 2 pag. 108.

²⁹ This is the key question of, for instance, reverse discrimination.

intimate interdependence between different individuals to say that for the purposes of distribution, the group this interdependence constitutes, is more important than the individuals themselves³⁰. But if you think with me that the prior purpose (or at least part of it) of democracy is the construction of an authoritative Demos not such a problem arises since you could circumvent the question of whether, for purposes of distribution, our group identity is more important than our individual identity. Pivoting around the constructive side of politics you could just argue in defense of a group-disadvantaging principle that groups are the relevant units simple because in the massive societies we know individuals happen to be mediated by groups –paradigmatically political parties and social movements- in the process of political construction.

Having said all this, is S enough? Does the satisfaction of the four requirements I proposed above guarantee that we will be both makers and matter of political decisions as it is required by a democratic culture? It seems to me that even when the fourth requirement only advocates for a minor redistribution of political resources it succeeds in making us count in politics in the two required ways. Indeed, when views like ours –even if they are not the views of each one of us- are made politically competitive it will be as likely as possible (at least as likely as it is possible in the context of a massive and plural society) that our voice and our interests will be part and parcel of the political process. The political leverage the fourth requirement distributes grants to every relevant view the fair opportunity to make a political difference and, in this way, assures that the interests and the will of all –though mediated by groups- are taken into count by the political process.

³⁰ Fiss finds that for certain purposes –for the distribution of certain goods e.g. higher education- blacks in the United States do satisfy the standard of group’s existence and thereby count first and foremost as groups. The claim of Fiss does not impress me as wrong simple because Blacks in the USA are, as Fiss himself claims, a very special kind of group (see opus cit. fn. 27 pag. 150).

13. Let me finish here with a disclaimer. The central idea of S is that for the purposes of the construction of an authoritative Demos it is only required that the proper threshold of distribution of political resources be met. S only implies then that once people have enough political resources a further redistribution does not add anything in terms of the ability of the political system to legitimize its decisions and, conversely, that those inequalities in the distribution of political resources that do not amount to a violation of S do not undermine the authority of the political system. According to S then, Brazil, for instance, will not be more democratic –and therefore Brazilians will not have more reasons to abide by the law- if proportional representation was adopted. Argentina will not be more democratic either if its federal districts were drawn with mathematical precision.

In light of the limited scope of the core claim of S we do not have to think that S is incompatible with E or that S assumes that E is something undesirable, inconvenient or more generally wrong. Those that believe in S may recognize all the reasons they want in support of E –the best of which, I think, is that E makes it easier to realize the Aristotelian value of *philia politike*-. Further, supporters of S may also endorse the idea that as a matter of fact inequality makes it more difficult for a political system to survive over time³¹. In short, a believer of S is not prevented from faulting a political system for not being egalitarian enough provided that he stays away from arguing that the non-egalitarian features of a democratic system –a system that satisfies S- affect the ability of the system to convert power into authority.

³¹ A supporter of S is not prevented either to agree with those that claim that income inequality increases socio-political instability which in turn decreases investments which, in turns makes democracy more difficult or that more economic equality increases the perception of legitimacy of the system. See, Castañeda, Jorge “Democracy and Inequality in Latin America: A Tension of the Times”, pag. 49.

After my disclaimer you could now ponder about the relevance of S. If E may still operate as a political virtue -enabling us to demand that a political system should be more egalitarian than it currently is- what is the importance of everything I have said above? Well, I think it is very important. In the first place, it sets the record straight. S, and not E, is the sovereign virtue of politics. Second, enthroning S allows us to solve the difficult problem of transition, that is, the problem we face in our transit from where we are as a political community to where we should be. E somehow sways the only branch where we can sit. Indeed, if E were the supreme value of politics it would be difficult to produce organic change in our communities for the simple reason that the only way in which we could make our communities change -more egalitarian for instance- is through politics, but if E were a supreme value politics, even democratic politics, will be thoroughly undermined. Third, S allows us to pay due attention to stability and efficiency in politics. Indeed, if E were the sovereign virtue every deference to stability, that is, to the need to generate the habits required for the survival through time of the political system, and every deference to efficiency, that is, to the need to be able to deliver as much as possible of what the community values, would be considered as sub-optimal deviations with costs in the worthiest currency of the most important virtue. Instead, if we think that S is what reigns in politics, stability and efficiency will have much more leeway to operate. In such a case, the need to compromise equality for the sake of stability and efficiency will be considered as necessary amalgamations among the many virtues that regulate our political life but not as sub-optimal arrangements only necessary in the tragic circumstances of the day. Finally, the recognition that E is not the core value of democracy will allow us to see in new light protracted discussions and somehow strength our appreciation of the way in which we have organized our political life. Thus, for

instance, if S were the first virtue people would be unable to fault constitutions and judicial review as anti-democratic *per se* since both may be perfectly justified in terms of the forth requirements of S, that is, as means to increment the political competitiveness of all views. Obviously, we could still be able to fault constitutions and judicial review for being anti-egalitarians –which they are- but this statement has much less punch specially when we recognize that E is not the only political value.