

A Theory of Economic Democracy

by

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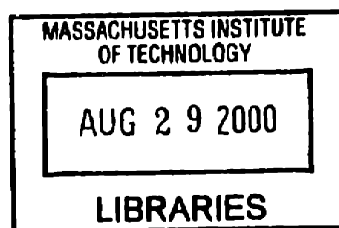
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ABSTRACT

What is economic democracy? What, if anything, justifies it? This thesis argues that liberal theories of justice are objectionable insofar as they emphasize the distribution of resources, having little to say about how production is governed. The commitments central to liberal democracy call for some degree of workplace democracy as well as distributive justice.

Many liberals begin from a set of fundamental values, derive principles of distribution, and propose to organize economic institutions so as to realize these principles. I call this the 'Fabian logic of contemporary liberalism'. And I argue that it cannot be sustained. The values and ideas central to liberal democracy have implications for economic governance that are independent of distributive justice. They call for some degree of workplace democracy.

The thesis defends this claim against three objections: that workplace democracy would be unnecessary in a just society; that there are non-employees -- e.g., community residents -- with a claim to govern the firm; and that workplace democracy is incompatible with liberal neutrality.

The liberal conception of democracy underlying this argument has implications beyond the employment relationship. It suggests, most generally, that liberalism has a stronger connection to democratic institutions than its proponents, and many of its critics, have recognized.

Thesis Supervisor: Joshua Cohen

Title: Professor of Political Science and Philosophy

Dedication

In grateful memory of

Samuel and Mercedes Céspedes,

Kit and Margot Forbes,

&

teachers and staff at the Florida School for the Blind, 1981-1986

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Graduate students have their stories, like everyone else, and the Draconian thesis committee features prominently in this lore. To that extent I have been deprived of a thorough graduate education, and have Joshua Cohen, Michael Piore, and Stuart White to blame. Josh showed a respect for (and patience with) my ideas that is truly remarkable. It was as though one were working with a colleague who happened to have greater experience in some area, as opposed to dealing with a thesis chair. However, working with Josh did require overcoming the fear of plagiarism. The initiated will realize just how indebted I am to his ideas. I, myself, stopped keeping track long ago. Most importantly, Josh taught me that philosophy can be puzzling and difficult, but also important and amenable to reason.

Nor was I less fortunate in the other members of my committee. Many thanks to Michael Piore, who continued to show an interest in my work even though it did not become as empirical as I expected. This is fortunate, too, because his questions and observations have played a crucial role. In Stuart White I had something of a second thesis advisor. He worked with Josh and I to formulate the project. He provided extensive comments on every chapter. And I relied on Stuart for practical advice and informal conversations about the thesis. He was generous with his time and ideas, notwithstanding my habit of turning up at his office unannounced.

Stuart had the good sense to organize MIT's Political Theory Workshop. I presented parts of the thesis on more occasions than I can remember, and each session was quite useful. My thanks to everyone involved. In particular, I should like to thank Alyssa Bernstein, Nien-hê

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It is a bit frightening to imagine my dissertation in the absence of all these colleagues. I can only hope that they will continue to offer their assistance. As is to be expected, though, my debts are much broader. I owe a great deal to Richard Locke and Daniel Kryder. Ricky guided me through general exams, and much of what I know about political economy and industrial relations derives from him. Dan has been a valuable source of advice and encouragement; and insofar as I can read and write history competently, it is because of him. Both did more to advance my graduate studies, and intellectual progress, than anyone could expect.

Since my thesis has been a while in the making, it reflects debts to many friends. That makes it impossible to say who they are. But I should mention the individuals who have humored me with particular forbearance. They are my cohorts Linda Kato, Loren King, Karen Rothkin, and David Burbach; and my friends James Valverde, Jonathan Ladinsky, and Steven Millman. This being an academic affair, I must thank James in particular, who taught me to be professional in my work, and whose faith in my abilities is surely encouraging.

Happy as I am to acknowledge my intellectual and personal debts, I am even happier to finish graduate school without financial ones. For this I have the National Federation of the Blind, National Science Foundation, and Ford Foundation to thank. I also thank Margaret Burnham for providing my first teaching opportunity – and Jill Frank for offering to do so – even though I was an unknown quantity, except in my lack of experience. I am grateful to Arnold Henderson and M. Susan Jones, who assisted students with disabilities when I entered MIT eons

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Many years ago it became impossible to find a decent school in Puerto Rico willing to have me as a student. Those listed in the Dedication ensured that my education would continue. They did so graciously and not without some effort. For this it is impossible to thank them, and I do not suppose that dedicating this thesis to them is sufficient. But it is, I think, fitting.

R. G. V.

Cambridge, May 2000

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Introduction

The collectivist...has thought only of distribution. High wages under State control have been the sum of his ambition; he has dismissed...those who...have contended that no less fundamental is the question of production -- the problem of giving to the workers responsibility and control... The problem of Socialist theory in the present is the reconciliation of these two points of view; for either, alone, is impotent to form the framework of a noble ideal.

--G. D. H. Cole¹

These essays apply G. D. H. Cole's assertion about socialist thought to contemporary, liberal theories of justice. Such theories begin from a set of fundamental values, derive principles of distribution from these values, and propose to organize economic institutions so as to realize these principles. I call this the 'Fabian logic of contemporary liberalism'.² And I argue that it cannot be sustained. The values and ideas central to liberalism have implications for the design of economic institutions that are independent of distributive justice. Echoing G. D. H.

¹ In Jaroslav Vanek, ed., *Self-Management: Economic Liberation of Man*, p. 64.

² This phrase is a reference to Fabian socialism's historical emphasis on matters of distribution, as opposed to workplace democracy. It is not clear, however, whether Fabians would reject the principle of workplace democracy I will be defending. See: Harry W. Laidler, *History of Socialism: A Comparative Survey of Socialism, Communism, Trade Unionism, Cooperation, Utopianism, and Other Systems of Reform and Reconstruction*, chap. 18, especially pp. 189, 193-194, 217-218; Robert A. Dahl, "Workers' Control of Industry and the British Labor Party".

Cole, I argue that liberals should endorse a principle of workplace democracy.

Our question, then, is whether economic institutions ought to be governed democratically, and what this would entail. What is economic democracy? What, if anything, justifies it? I argue that economic democracy should be understood as a principle of justice – comparable to the common principles of distributive justice – according to which employees should govern the firm. “Economic democracy” means “workplace democracy”. This principle derives from the values and commitments central to contemporary liberalism. If we endorse political democracy, equal opportunity, and the right to a decent standard of living, because these arrangements answer to an ideal of fair social cooperation among free and equal persons, then we should endorse the principle of workplace democracy as well.

Workplace Democracy and Philosophical Extension

What do the values central to liberalism require of our social institutions? The answer to this question cannot be derived from the meaning of words like ‘liberty’, ‘equality’, ‘fairness’, and ‘reciprocity’. These values are in need of considerable interpretation, and they may not be compatible with one another. We must use some philosophical method or device for guidance.

A common alternative is to build upon a few basic, intuitively appealing commitments. We might say at least three things. The government of a just society must be democratic in a more or less egalitarian way: in particular, political decisions at the decisive stage should be made through a procedure that meets relatively demanding conditions of inclusiveness, deliberation, and equality. Every person must enjoy certain basic rights, including the right to a

decent standard of living. Economic inequalities should come about through a system of equal opportunity.

These commitments set the background and agenda for liberal political theory. We need a philosophical account or rationale for political democracy, basic rights, and equal opportunity. We need guidance as to how these commitments should be interpreted and accommodated with one another. And we want to know whether liberal values require anything else, and if so, what exactly it is. Hence political theory is a project in the normative explanation, interpretation, and (possible) extension of the liberal - democratic commitment to self-government, basic rights, and equal opportunity.

These essays are concerned, mostly, with the task of extension. What implications does our commitment to democracy, basic rights, and equal opportunity have for the content of liberal justice? On this front, many theorists have been drawn toward a more or less egalitarian conception of distributive justice. According to John Rawls's "difference principle", for example, a society's social and economic institutions should be arranged so as to eliminate any material inequalities that are not to the benefit of the worst off.

I argue that justice demands something beyond political democracy, respect for basic rights, equal opportunity, and distributive justice. It requires economic democracy and, in particular, workplace democracy. The argument turns on the idea of extension just described. Political theory needs to provide a normative explanation of the three basic commitments. I suggest that any plausible, liberal account of the three commitments will warrant some sort of workplace democracy.

The outcome of this argument – the definition of "economic democracy" it entails – is a principle of justice according to which employees are entitled to govern their economic

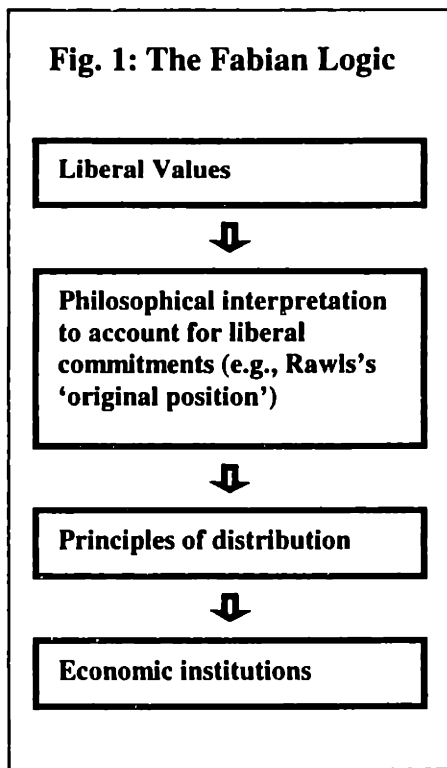
enterprises. For a variety of reasons, this principle does not require a fully democratic economy, such as a system of producer cooperatives. But it has substantial implications. Imagine a system of collective bargaining with democratic trade unions, versus a system with no provisions for collective bargaining or with bureaucratic unions. Or imagine an economy consisting of producer cooperatives versus an economy with state-owned enterprises. Surprisingly, perhaps, liberal theories of justice would not lead us to choose the more democratic alternative in each case, simply because it is more democratic. The principle of workplace democracy would. In this way, it explains part of the appeal of contemporary institutions such as collective bargaining. And it puts the search for new institutions on the right track – the democratic track.

The Motivation for Workplace Democracy

My central claim, then, is that contemporary theories of justice are objectionable inasmuch as they emphasize the distribution of goods and opportunities, having little to say about how production is governed. The idea that liberal theorists are concerned solely with distribution is familiar. For example, Rawls's equal opportunity and difference principles address the allocation of offices and resources. Once these principles have been realized, justice has nothing more to say about the organization of economic institutions.³ Rawls makes this point through his discussion of socialism in *A Theory of Justice*:

It is necessary, then, to recognize that market institutions are common to both

³ This description is incorrect inasmuch as Rawls's first principle of justice has implications for the shape of economic institutions. Yet it is not clear that these are very extensive. (But see note 10 and accompanying text.)



private-property and socialist regimes... Which of these systems and the many intermediate forms most fully answers to the requirements of justice cannot, I think, be determined in advance. There is presumably no general answer to this question, since it depends in large part upon the traditions, institutions, and social forces of each country, and its particular historical circumstances. The theory of justice does not include these matters. But what it can do is to set out in a schematic way the outlines of a just economic system that admits of several variations. The political judgment in any given case will then turn on which variation is most likely to work out best in practice.⁴

Hence we are to determine what principles of distribution ought to be realized and organize the economy accordingly. Notice that this implies the following bit of reasoning. We

begin from a set of fundamental values, such as liberty, equality, fairness, and reciprocity. These lead us to a conception of justice, such as Rawls's equal opportunity and difference principles. From these we derive the appropriate forms of economic organization on a case-by-case basis. We might call this 'the Fabian logic of contemporary liberalism'. (See Figure 1.)

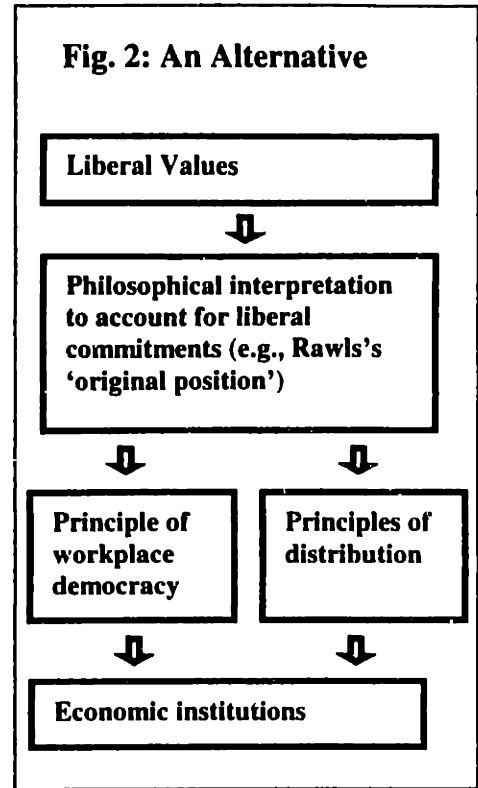
These essays begin from a sense that the reasoning just described – from values and commitments, to principles of distribution, to economic organization – cannot be sustained. The 'values and commitments' may have direct and substantial implications for the 'organization', implications that do not derive from 'distribution'. Many people have asked, in particular, whether the values and commitments central to liberal democracy have implications for the employment relationship. Albert Gallatin, a proponent of profit sharing in the early American republic, put the point well:

⁴ John Rawls, *A Theory of Justice*, p. 242.

the democratic principle on which this nation was founded should not be restricted to the political process but should be applied to the industrial operation as well.⁵

Roughly one hundred years later, Henry C. Adams noted in his presidential address to the American Economics Association that:

The fundamental principle in the theory of Anglo-Saxon liberty is, that the fruits of liberty can be reaped by him alone who has a voice in determining the conditions under which he lives. This is the defense of popular government, and the same argument applies to industrial association.⁶



Moreover, these concerns find an expression internal to Rawls's theory, as evidenced in T. M. Scanlon's review of *A Theory of Justice*. Rawls argued that once a society reaches a certain level of prosperity, it is more important to secure citizens's basic liberties than to pursue additional economic gains. For the parties to his "original position" would adopt this ranking. Scanlon wondered whether the same logic might justify a right to workplace democracy:

Thus one might claim...that as soon as a certain level of basic well-being is attained it becomes and then remains irrational for persons to accept lesser control over the terms and conditions of their working lives for the sake of greater material means and amenities. Indeed, such an appeal to increasing preference seems to me more satisfactory as an argument for industrial democracy than as an account of the priority of traditional constitutional liberties.⁷

⁵ Milton Derber, *The American Idea of Industrial Democracy, 1865-1965*, p. 6.

⁶ Milton Derber, *The American Idea of Industrial Democracy, 1865-1965*, p. 75.

⁷ T. M. Scanlon, "Rawls's Theory of Justice", p. 204 (quotation marks omitted).

Hence there is reason to question the Fabian logic of contemporary liberalism. Interestingly, Rawls appears to step away from this idea in his preface to the revised edition of *Theory*. Contrasting a “property-owning democracy” with a “welfare state”, he says:

One major difference is that the background institutions of property-owning democracy, with its system of (workably) competitive markets, tries to disperse the ownership of wealth and capital, and thus to prevent a small part of society from controlling the economy and indirectly political life itself... The idea is not simply to assist those who lose out through accident or misfortune (although this must be done), but instead to put all citizens in a position to manage their own affairs and to take part in social cooperation on a footing of mutual respect under appropriately equal conditions.⁸

Of course, a property-owning democracy may advance Rawls’s principles of justice more effectively than a welfare state.⁹ But its appeal seems to run deeper. We should keep a small, propertied minority from “controlling the economy”. We should strive for a pattern of ownership that puts citizens “in a position to manage their own affairs”.

So Rawls may be prepared to say that the values and commitments underlying distributive justice have substantial and direct implications for an institutional question that is relatively close to the ground, namely, the distribution of productive property. But why is that all?¹⁰ Suppose that many people must “manage their own affairs” by finding employment. Suppose, too, that managers have power and authority over their employees. How must we arrange this relationship if people are to cooperate “on a footing of mutual respect under appropriately equal conditions”?

⁸ John Rawls, *A Theory of Justice*, p. xv.

⁹ The passage I have quoted makes this point, and Rawls emphasizes it in the two paragraphs thereafter.

¹⁰ Rawls may believe that a property-owning democracy enhances the development and exercise of citizens’s moral powers. (He would add that moving to a democratic economy does not have this advantage.) But this may put the cart before the horse. For instance: do we believe that people should manage their own affairs because the welfare state is harmful, or is the welfare state harmful because we believe that people should manage their own affairs?

The Need for a Theory

One way to understand Albert Gallatin's point is to say that any plausible case for political democracy will justify workplace democracy as well. This has been the most common, liberal argument for a right to workplace democracy. It features in the work of Robert Dahl, Michael Walzer, Christopher McMahon, and others. The argument I will be making is broader, since it draws on commitments other than political democracy. But it is roughly the same. So why do we need a new version of it? The reason is that liberal theorists have raised cogent objections to the 'parallel case argument', though I believe that these objections can be met.

The objections are elaborate. But we can get a glimpse of them by considering three intuitive features of the right to political democracy. First, just societies will continue to face important choices not determined by the principles of justice (e.g. whether to wage war). Political democracy appears to be the appropriate way to settle these questions. Second, we seem to know who is entitled to govern a society democratically: namely, any competent adult who is a legitimate, long-term resident. Finally, the case for political democracy is typically thought to have a certain kind of neutrality. It is acceptable, in some sense, to reasonable persons holding a variety of religious and philosophical doctrines.

The right to workplace democracy faces objections along each of these dimensions. One might be prepared to say that a poverty-stricken coal miner or a low-wage worker in the service sector is in need of some democratic mechanism to represent her interests. But imagine a society with a substantial level of economic equality and prosperity. Positions of influence are

distributed on the basis of equal opportunity. And individuals are secure in their basic rights, including the right to change employers. This situation might shake one's commitment to workplace democracy.

Nor is it obvious which constituency ought to govern a firm. Economic democrats typically assume that employees are the only group with a claim to participation. But some have argued that other groups have an equal or stronger claim. For instance, proponents of "stakeholder theory" hold that corporations should act in a way that balances the interests of those with a substantial stake in their activities. This may justify including these stakeholders -- e.g., community residents, long-term business partners, shareholders -- in the decision-making process. Underlying this view is a democratic intuition: what touches all should be decided by all. Moreover, there are considerations beyond democracy, such as efficiency, that may favor non-employees.

Even if there is a convincing response to these objections, the right to workplace democracy may be incompatible with a commitment to neutrality. The objections described above suggest that the finer points of democratic theory -- e.g., whether firms are voluntary associations -- are the subject of controversy among reasonable persons. Many contemporary liberals wish to define the content of justice without taking one side or another in reasonable, moral controversies. Political democracy, at the level of the sovereign state, is compatible with this sort of neutrality, since the various democratic theories converge on this point. They do not converge on workplace democracy, however. Hence there is a question about whether workplace democracy is compatible with the liberal value of neutrality, a question that does not appear to arise in the case of political democracy.

The Appeal to Local Democracy

In spite of these objections, the parallel case argument may be appealing because there are important similarities between firms and local governments.¹¹ If democracy is good enough for Detroit then it must be good enough for General Motors. Consider, for instance, the claim that workplace democracy would be unnecessary in a just society, because firms would not be in a position to violate people's rights. Proponents of the parallel case argument would respond that this objection undermines the case for local democracy. For suppose that General Motors cannot harm a person's rights because that person has other, more or less desirable employment opportunities. It will also be true that a town or city cannot harm her rights, since there are other, more or less desirable communities nearby. Hence any plausible justification of local democracy is a justification of workplace democracy.

However, critics of the parallel case argument are quick to respond that although there is a right to self-government within sovereign states, there is no such right within towns or municipalities.¹² They are correct insofar as contemporary, liberal theories of justice do not include a right to local democracy. Of course, we might reject this aspect of liberalism and continue to see the parallel between firms and local governments as a consideration favoring workplace democracy. But there may be an argument for workplace democracy that does not take local self-government as a given. That is the sort of argument with which we shall be concerned.

¹¹ See: Robert A. Dahl, *A Preface to Economic Democracy*, chapter 4; Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality*, pp. 291-303.

¹² Richard J. Arneson, "Democratic Rights at National and Workplace Levels".

The Case for Workplace Democracy

Given the difficulties described above, we may suppose that the case for workplace democracy has three parts. We need to show that employees have a strong claim to govern economic enterprises, even in a just society. We must show that other groups do not have a comparable claim. And we need an account of how the principle of workplace democracy – as well as the arguments used to justify it -- is compatible with liberal neutrality.

The argument in each of these steps – especially the first two -- follows the strategy of extension (see Figure 3). Liberalism's 'Fabian logic' proceeds from a set of fundamental values, to principles of distributive justice, to forms of economic organization. However, once we interpret the values central to liberalism so as to account for the three basic commitments, we will want to have a principle of workplace democracy. We will find that society is not a fair system of cooperation among free and equal persons unless it answers to that principle.

Employees

Liberals believe that democracy is the appropriate way for free and equal persons to make social choices within certain associations. These are typically described as associations that exercise political power, facilitate common activity, belong to the public sphere, and so on. But in virtue of what characteristics is an association 'political', 'common', or 'public'? We will find various accounts of what these conditions are, and how they are to be interpreted – that is, we will find various theories of democracy. But there is an appealing theory according to which

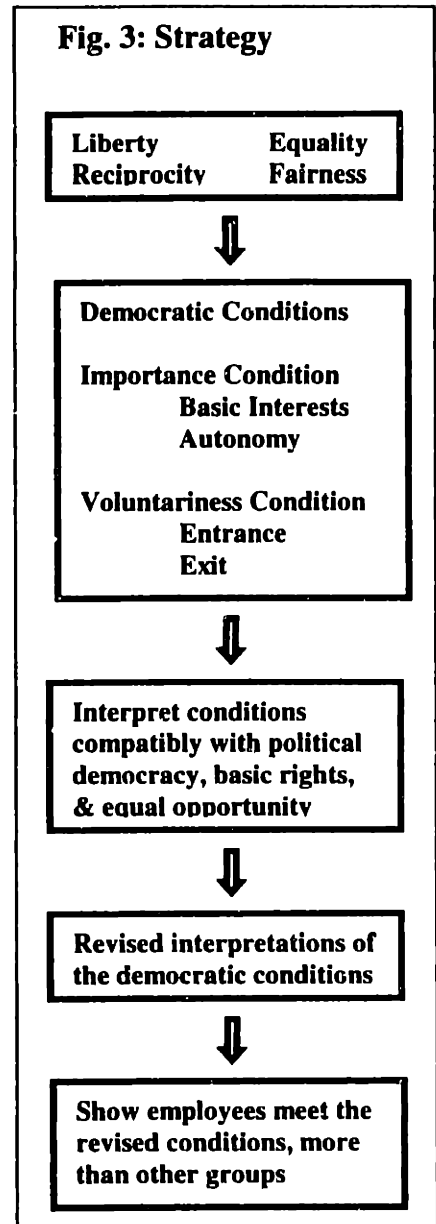
employees are entitled to govern their economic enterprises. And the alternatives to this theory are undesirable inasmuch as they would undermine the right to self-government within sovereign states.

Let us say that individuals have a right to self-government within an association when its decisions play an important role in their lives and when this relationship is not voluntary. To determine whether an association meets the first condition we ask: Does it affect a person's access to resources and opportunities? Do the people who govern the association exercise authority or control over this person? To determine whether the association is voluntary, we ask: How costly would it be to leave the association? Was the person required, in some sense, to join?

I argue that economic enterprises satisfy an appealing interpretation of these conditions. Even in a just society, firms are bound to play an important role in their employees's lives.

They will affect their well-being, for instance by shaping employees's access to economic resources. They will also exercise a high degree of control over many workers. These impositions cannot be regulated through the political process or explained as requirements of justice. And they meet an intuitive interpretation of the 'importance condition'.

In addition, we should not say that firms are voluntary associations. Leaving an economic enterprise can bring substantial costs, even in the context of an otherwise just society.



And employees do not accept these burdens voluntarily. People must seek gainful employment in order to secure the resources needed for effective and equal membership in a just society. Many will not be able to make an economic contribution without joining one economic enterprise or another. Economic enterprises are involuntary, like governments, because many of us cannot -- or should not be expected to -- avoid them.

Let me offer an illustration of these arguments, especially in regard to the claim that employees do not join firms voluntarily. Compare the situation of an employee and an immigrant. The first person is in need of work. There are various companies to choose from, though she does not find any of them entirely congenial. But she has to pick one. While she works there, the company exercises routine forms of control and supervision. After a few years it has become costly for the person to leave: she may have bought a house nearby, developed firm-specific skills, made friends, etc. She would not face these costs if it had not been necessary to join the company to begin with. The second person is from France. At some point he decides, for whatever reason, that France does not suit him. He has the option of moving to Canada, the U.S., Australia, England, Germany, etc. Although he does not think any of these societies is perfect, he has to pick one, and decides on the U.S. While he lives here the government is in a position to affect his basic and autonomy interests. And after five or ten years it has become costly for him to leave. Yet he would not face these costs but for the fact that he had to pick some country or other.¹³

These examples illustrate the idea that firms are not voluntary associations, as well as the strategy used to elaborate it. There is a strong intuition that, after people have lived in a society

¹³ It may be objected that although there are many states, the need to choose a country with one's native language will narrow the range of options. But the example is constructed so as to avoid this objection. It has a French-speaker emigrating to the U.S.

for a certain period of time, they are entitled to democratic citizenship. But if this intuition is correct, we need to revise our account of why the state is an involuntary association. And this revised account may suggest that employees do not join firms voluntarily. For neither the immigrant nor the employee is born into the relevant association. Each chooses to join, and does this in the presence of various, acceptable options. Hence governments and firms are involuntary associations because many of us cannot -- or should not be expected to -- avoid them.

In sum, firms appear to satisfy an appealing interpretation of the conditions that call for democracy. Some liberals will object that this conception of democracy is incorrect. For instance, perhaps a person is entitled to self-government only inasmuch as this prevents violations of her rights. A liberal conception of justice lists the rights that people have. If this conception can be realized, there is no need for workplace democracy. However, this view undermines the commitment to political democracy within sovereign states. If we say that democracy is solely a matter of protecting individual rights, we will be drawn to deviations from the democratic process that few liberal democrats would be willing to accept.

Other Constituencies

Perhaps other groups -- such as shareholders, communities, stakeholders, and society -- have a stronger claim to govern the firm. These groups might satisfy the conditions that justify democracy to an equal or greater degree than employees. Or there may be values other than democracy, such as liberty and efficiency, which favor these constituencies. I argue that neither of these concerns undermines the principle of workplace democracy.

Do firms satisfy the conditions that justify democracy, with respect to other groups, to an equal or stronger degree than in the case of employees? Drawing on the conception of

democracy described earlier, I argue that they do not. Consider the situation of shareholders and employees. Both have substantial economic interests in a firm's decisions. However, shareholders do not have their daily lives directed and supervised by managers. Typically they face lower exit costs than employees, because capital tends to be more mobile than labor. And it is difficult to argue that shareholders are required to join economic enterprises. One does not need to become an investor in order to be a fully cooperating member of society, anymore than one needs to join a church in order to do so.

Nevertheless, there may be considerations beyond democracy that count against employee control. Yet I argue that these considerations either do not threaten the principle of workplace democracy or, if they do, threaten the more basic liberal commitments as well. Consider the case of efficiency. The most common argument for shareholder control is that it is the most efficient arrangement. But even if shareholder control is efficient, in the economist's sense, this is not necessarily a good reason for it. The standard account of why efficiency is desirable says that it is, in some sense, a neutral value. This neutrality is based on the idea of potential pareto improvements. A more efficient economy is desirable because we *could* use the resulting gains to make some people better off without taking resources away from anyone else. This is accomplished by compensating those who lose as a result of an efficiency-enhancing change in the economy. Whether or not such compensation actually takes place depends on the principle of distributive justice one is trying to realize.

This reveals that an exclusive focus on efficiency is appealing in virtue of what I have called the Fabian logic of contemporary liberalism. If it is true that liberal values privilege distributive concerns when it comes to questions about economic governance, then it is natural to favor arrangements that enhance efficiency. We strive to make 'the pie' as large as possible and

divide the slices equitably. But I have been arguing that liberalism's Fabian logic cannot be sustained. Liberal values have implications for economic governance that are independent of distributive concerns. This may require foregoing some efficiency gains, even if they enhance the degree of distributive justice. Hence the appeal of efficiency, in this case, derives from the lack of a persuasive argument against the Fabian logic.

Liberal Neutrality and Political Liberalism

The arguments I have been describing challenge the Fabian logic of contemporary liberalism. We ought to move from the set of fundamental values to principles of distribution *and* workplace democracy. However, some liberals will object that the Fabian logic has not been set out accurately. They would agree that liberalism begins from the values I have specified, but argue that these values entail a strong requirement of neutrality. We may or may not be able to defend a principle of distributive justice without violating this constraint. But we cannot defend a principle of workplace democracy.

To address this concern, I argue that the principle of workplace democracy, and the arguments offered on its behalf, are compatible with an appealing account of liberal neutrality -- namely, the one in Rawls's *Political Liberalism*. For instance, the case for workplace democracy is a "free-standing" or "political" argument, drawing as it does on values and commitments implicit in the public culture of liberal democratic societies. Of course, there are accounts of liberal neutrality that undermine the principle of workplace democracy. But I argue that they are not very plausible.

By way of illustration, consider the following objection. Democracy needs some sort of neutral justification. That means a justification that is not based on conceptions of the good subject to reasonable controversy. Hence the appeal to values such as liberty, equality, fairness,

and reciprocity. But there may be reasonable controversy about how to understand democracy, and how to accommodate it with other values. Suppose, for instance, that there is reasonable disagreement as to whether firms are voluntary associations. In that case, the objection continues, there cannot be a right to workplace democracy. For we require a justification that does not depend on reasonably controversial premises.

This objection misconstrues the idea of liberal neutrality. It assumes that we should avoid all sorts of reasonable controversy, no matter what they are about. Arguments based on religious and philosophical claims are just as objectionable as those based on liberal values and commitments, inasmuch as both are subject to reasonable controversy. I argue that this is not so. Reasonable disagreement is more troubling in the case of religious and philosophical views than in regard to the interpretation of liberal democratic values and commitments.

Let me offer an illustration of this point. Imagine a debate about whether the state should provide public education, with more or less equal resources devoted to every student. There are two political parties who favor this proposal: the Leninist Party and the Liberal Party. The former argues that educated people are more likely to be atheists. Religion is a form of superstition. So public education is a good thing. The liberals, in contrast, argue that public education is among the requirements of Rawls's difference principle.¹⁴ Now the starting premise in each of these arguments is subject to reasonable controversy. But surely the second argument -- which appeals to a principle of justice derived from liberal democratic values and ideas -- evinces a kind of respect for other, reasonable persons that is not apparent in regard to the first.

¹⁴ I mention the difference principle so as to sharpen the example, although the most natural argument for an egalitarian system of public education derives from Rawls's 'fair equality of opportunity'. Still, this Rawlsian conception of equal opportunity may be reasonably controversial as well.

How the Argument is Presented

Hopefully I have been able to provide a good summary of the essays that follow. They are organized in a simple way. Chapter I explains the principle of workplace democracy and the sort of questions it is intended to address. Chapter II introduces the 'parallel case argument' and shows that existing versions of it are subject to three objections. Chapters III – V present the case for workplace democracy. Roughly speaking, each chapter focuses on one of three steps in the argument, which correspond to the objections described in chapter II. In the conclusion I offer some brief remarks about where the argument is in need of improvement and what implications it might have.

Chapter 1: A Definition of Workplace

Democracy

This dissertation argues for workplace democracy. But that phrase has several connotations. I define it as a principle of justice -- comparable to well-known, liberal principles of distribution -- according to which employees are entitled to govern their economic enterprises. This principle applies the same standard of political equality to economic associations. Employees should govern the firm much as citizens govern the state.

Still, departures from the standard of political equality may be compatible with workplace democracy, for three reasons. The definition applies to “economic enterprises” first and foremost. If we were to ask how employees ought to participate within other associations – e.g., schools or local governments – we might not insist on a full level of participation. In addition, workplace democracy is one among several principles of justice. Suppose that there are substantial trade-offs between those principles; or suppose some people think, reasonably, that there are. In that case it may be acceptable to limit the degree of equal participation within firms. However, we are required to strike a reasonable balance between workplace democracy and other principles of justice. Finally, the right to workplace democracy is alienable. A person might decide, for instance, that she prefers a higher wage to a democratic workplace. This alienability is subject to the condition – and it is a demanding condition – that it not place a significant burden on other people’s exercise of the right in question.

But the principle of workplace democracy has substantial implications for the content of justice and the structure of liberal democratic societies. Contemporary, liberal theories of justice address questions about economic governance with principles of equal opportunity and distributive justice. Liberals attach no independent weight to democracy within economic enterprises. Economies with state enterprises or producer cooperatives, elected or appointed labor leaders, and so forth, would be equally desirable insofar as they satisfied the two distributive criteria. The principle of workplace democracy would strengthen the case for the more democratic option. This would allow us to account for much of the appeal of current arrangements, such as collective bargaining and the election of union leaders. And insofar as we are interested in economic reform, the principle would lead us in a more democratic direction.

This essay aims to describe the definition of “workplace democracy” I have just summarized. Section 1 begins by clarifying our question: how should economic institutions be governed? I emphasize its status as a normative question about what a society ought to require of its economic institutions. Section 2 illustrates how the principle of workplace democracy is supposed to work. It contrasts the principle with a liberal egalitarian approach to questions of economic governance. And it develops the implications of this principle for the choice among five economic arrangements. Section 3 explains the key features of workplace democracy, as I conceive of it: its application to economic enterprises, the focus on employees, its status within a broader theory of justice, and its alienability.

Section 1: Economic Governance and Social Justice

Our question is: how should the economic institutions of a just society be governed? Let me explain what the governance of economic institutions is and what it means to think about it as a matter of justice.

To begin with an illustration, though, consider some ways in which the governance of economic institutions has been structured differently across time and place. Until the 1930s employees in the United States did not have the right to collective bargaining. Unions were legitimate bargaining agents only if employers recognized them. Today, the law requires that if a majority of employees within a workplace desire to be represented by a union, the employer must negotiate in good faith with that union. In Germany, the board of directors of any large company must include a number of worker representatives. Unions bargain with employer associations over wages. And employees at large workplaces have the option of electing a "works council" to represent them on day-to-day issues, with which management must consult and share certain decision-making functions. Hence societies can and do decide to shape the way economic institutions are governed in a number of different ways. Our question is whether some of them are more just than others.

Economic Governance. "Economic institutions" are such things as businesses, trade unions, professional associations, universities, and non-profit organizations. Not included are the family, small clubs, religious organizations, political groups¹⁵, and so on, even though these may be "economic" in a literal sense. Why that is, and where exactly the line is to be drawn, can only be explained once we have a theory of economic democracy. But it is important to focus

¹⁵ Here I have in mind special interest groups, social movement organizations, small political parties, and the like. It is possible for political groups to become part of the basic political institutions and hence become subject to stronger requirements -- the case of the U.S. "two party system" is perhaps the most obvious. But the issue is not for this essay.

clearly at the outset on firms, unions, and the like.¹⁶

“Governance” is the way in which an institution is run. It has to do with how decisions are made, as opposed to the substance of the decisions. It involves decision-making procedures, the influence of various participants within and over those procedures, and the protections of various participants against specific outcomes. The last of these elements blurs the distinction between governance and substance just drawn. This is as it should be. But in the first instance our concern is with how economic institutions are run, not with the actual outcomes they produce.

Governance as social justice. This concern is normative in nature. The issue is not how economic institutions are, have been, or will be governed as a matter of fact. Nor how they must be governed if some specific goal is to be achieved, such as profit maximization or economic efficiency. Instead the question is about the “fair” or “just” way to run economic institutions. Obviously these issues are related. For instance, since economic efficiency is an important value, a question about the fair way to govern economic institutions must encompass questions about the relative efficiency of different arrangements. But it also transcends them. To ask about the just way to govern an institution is to ask, in part, about the role of other values besides efficiency.

This can be understood as a purely ethical issue or as a matter of social justice. On the first reading, it resembles traditional moral questions -- is it wrong to break a promise, to lie, etc. -- in that the answer tells us how an individual should behave, but not whether society is entitled to require such behavior. We can ask how an ethical corporation ought to govern itself. Real-

¹⁶ This is a definition of “economic institutions” relevant to questions of economic governance. The principle of workplace democracy is a bit narrower, referring to “economic enterprises”. See section 3.C.

world companies might not choose to have ethical governance structures, but real-world people don't always keep their promises either.

My focus is narrower. It deals with the ways in which society ought to encourage or require its economic institutions to be governed. Obviously whatever society encourages or requires should be morally sound. But it is possible that some forms of governance may be morally sound even though society should not promote them. To return to our ethics example: usually it is a good thing to keep promises, but laws do not require it, except in the special case of contracts. Similarly, lying is generally a bad thing, but it is not illegal, except in the special case of fraud. My question, then, is whether there are forms of economic governance that are not simply morally desirable, but morally desirable in a way that should lead society to require or encourage them.

Section 2: Illustrations

We should require that the governance of economic enterprises strike a reasonable balance between the values of distributive justice and workplace democracy. At least that is the argument of this dissertation. Here I propose to illustrate this idea in two ways. Section 2.A contrasts the principle of workplace democracy with a liberal egalitarian approach to economic governance. On the latter view, the only purpose of economic institutions is to realize a liberal egalitarian conception of justice. It gives no independent weight to the value of democracy within economic institutions, whereas the principle of workplace democracy does. Section 2.B explains how that principle bears on the choice between five economic arrangements.

2.A: Workplace Democracy and Liberal Egalitarianism

Consider a common liberal conception of justice. It contains principles falling under two (lexically ordered) categories: the basic liberties and distributive justice. The first set of principles requires that a society provide each person with the most extensive set of liberties compatible with an approximately equal set for everyone else. The liberties include freedom of expression, liberty of conscience, the right to privacy, and provision for the requirements of subsistence. They include also a robust and egalitarian system of political democracy.

Next there are two requirements regarding the distribution of offices, goods, and other opportunities. There is to be a substantial (if not absolute) degree of equal opportunity. And there is an egalitarian principle of distributive justice. People are entitled not just to the smallest index of goods required for subsistence, but also to the elimination of inequalities incompatible with such standards as Rawls' difference principle, a brute luck principle, a "mixed conception" where the average position is maximized subject to certain constraints about the minimum position, and so on.¹⁷

These principles are not entirely silent on matters of economic governance. Take the question whether a society ought to have a system of collective bargaining. One strategy is to ask what effect this will have on economic efficiency. But for an egalitarian this is not the right question, because it ignores issues of distributive justice, equal opportunity, and basic liberty. We might want to know, instead, whether collective bargaining would improve the position of the least well-off, promote equal opportunity, and protect individuals against certain forms of

¹⁷ For descriptions of these principles see (respectively): John Rawls, *A Theory of Justice*, especially pp. 54-108; Ronald M. Dworkin, *A Matter of Principle*, pp. 205-213; and Joshua Cohen, "Democratic Equality".

unfair treatment. The system might accomplish these tasks even if it is inefficient in an economic sense.

However, liberal egalitarians do not engage questions of economic governance in a way that is democratic. In particular, they do not give democracy any independent weight within economic institutions. If a number of arrangements are comparable in terms of basic liberty, distributive justice, and equal opportunity, the fact that some of them are more democratic would not count in their favor. This means, also, that egalitarians cannot recognize any “trade-offs” between distributive and democratic concerns, because they have not given the concerns of economic democracy any weight that is independent of the former.

Let me illustrate this point with a couple of examples. Suppose that two liberal societies perform comparably in terms of distributive justice and equal opportunity, though one consists entirely of worker cooperatives and the other of bureaucratic corporations. The egalitarian principles would not lead us to prefer one over the other. Similarly, imagine two economies with comparable performance, both of which have trade unions. In the first economy unions are run by civil servants, while in the second labor leaders are elected by the rank and file. Again liberal egalitarians cannot prefer one of these economies over the other.

However, I will be arguing that employees have a right to govern economic enterprises democratically. This right is comparable in value to the principle of distributive justice. Consider how it bears on the two examples above. Now we would have a good reason to prefer the cooperative economy over the bureaucratic one. Insofar as labor unions are a device for promoting industrial democracy, we would also have a good reason to favor member-elected labor leaders over civil servants. Moreover, we have a reason to prefer these institutions even if they do not promote distributive justice quite as well as the alternatives. Our goal is to strike a

reasonable balance between the value of distributive justice and the right to workplace democracy.

2.B: Workplace Democracy and Five Economic Proposals

There is another way to illustrate how the principle of workplace democracy is supposed to work. Consider five economic arrangements: private property, collective bargaining, mixed property, self-selecting cooperative, and fully cooperative. The first system leaves economic governance entirely in the hands of the market. We might imagine that laws about economic governance resemble the laws applicable to churches or private clubs. The system with collective bargaining is similar, but adds some degree of state support for labor unions. Employers are required to bargain in good faith with a union if a majority of the employees wish to be represented by the union. The mixed property regime goes further. In addition to a system of collective bargaining, the state pursues policies to ensure that there are a good number of democratic enterprises. If democratic firms are somewhat inefficient, for example, the state might provide a subsidy to level the playing field. But the mixed property regime will contain a substantial number of traditional firms.¹⁸ The self-selecting cooperative economy features some mechanism for private firms to become producer cooperatives if a majority of their employees wish them to do so. Finally, the fully cooperative economy has legal restrictions on the establishment of traditional firms. For instance, any firm over a certain size might be required to become a cooperative.

Consider, then, a few points about the relationship between the right to workplace

¹⁸ This proposal is drawn from Richard W. Krouse and Michael McPherson, "A 'Mixed' Property Regime: Equality and Liberty in a Market Economy".

democracy and these proposals. The private property regime appears to be unjust. Unlike the other systems, it does not seek to advance the value of workplace democracy, which is among the principles of justice. This would be acceptable if the private property regime were the only way of realizing, to an adequate degree, some other principle of justice. But that is unlikely. The proponent of a private property regime simply rejects the idea of workplace democracy.

In contrast, one may endorse workplace democracy, give it an adequate degree of weight, while opting for the collective bargaining or mixed property regimes. It is possible that a cooperative economy has substantial costs in terms of efficiency and, thereby, in terms of distributive justice. Depending on the size of these costs, on the precise definition of distributive justice, and on the exact level of importance one attaches to it relative to workplace democracy, it may be reasonable to opt for the second or third proposals. Notice, however, that this decision is based entirely on other considerations of justice. Unless we can identify reasonable considerations of this kind, the right to workplace democracy compels us to move in the direction of the two cooperative economies.

The self-selecting cooperative economy appears to be the closest match for the right to workplace democracy. The fact that people do not have to make their firms democratic gives them the freedom not to exercise their right to workplace democracy. Meanwhile, others' exercise of that right is relatively unconstrained by their position in the labor market, their preferences regarding such things as career and residence, etc. Hence this regime is the most natural way to guarantee an equal but alienable right to workplace democracy. The fully cooperative economy would be the next best thing. For the right to workplace democracy, as I have defined it, places the part about entitlement above the part about alienability. So it would lead us to choose the fully cooperative regime over the collective bargaining and mixed property

regimes.

In sum, the right to workplace democracy has three salient characteristics. It creates pressure for moving to a self-selecting cooperative economy, and if that arrangement is not feasible, a fully democratic economy. It acknowledges, however, that there can be adequate reasons, themselves grounded in considerations of justice, for not doing this. But a pure private property regime seems to be unjust inasmuch as there is a right to workplace democracy.

Section 3: Four Characteristics of Workplace Democracy

This section describes some features of the right to workplace democracy. To begin, consider Rodney Peffer's definition of economic democracy. He calls for a principle of justice that reads:

There is to be an equal right to participate in decision-making processes within social and economic institutions of which one is a member.¹⁹

This principle is part of a broader, Rawlsian conception of justice. Peffer gives the other elements of that conception -- including the difference principle -- absolute priority over economic democracy.

The principle of workplace democracy I want to defend diverges in four salient ways from Peffer's definition of economic democracy. First, there are good reasons to set our definition in the context of a broader theory of justice, as Peffer does. But I will argue that

¹⁹ Rodney G. Peffer, "Towards a More Adequate Rawlsian Theory of Social Justice", p. 265.

workplace democracy is comparable to distributive justice, not lexically subordinate to it. Second, Peffer is unclear as to whether the right to democracy is alienable. The principle I will defend calls for an alienable right to workplace democracy. In addition, it applies to “economic enterprises”, as opposed to “social and economic institutions”. And the principle refers exclusively to employee control, as opposed to control by an association’s “members”.

3.A: Workplace Democracy and Justice

Most definitions of economic democracy are stated independently of a broader, systematic theory of justice. There is said to be a “right” to economic democracy, or a “presumption” in favor of economic democracy, which conveys the sense that democratic governance is valuable. Usually it is recognized that there are other values besides economic democracy, such as individual liberty and distributive justice. But there is no clear sense as to how these values fit together. Is economic democracy an over-riding concern, one among several important values, or a good thing all else being equal?

In contrast, Peffer’s definition provides a clear account of where economic democracy fits in. First we draw up a list of those economic arrangements that satisfy fully the principles of basic liberty, equal opportunity, and distributive justice. Then we pick the one that is most democratic. However, making workplace democracy subordinate to distributive justice will weaken its impact considerably. Any significant increase in distributive justice will trump workplace democracy. The problem is compounded by the fact that there is likely to be reasonable disagreement about what institutions best promote distributive justice. All it would take to undermine workplace democracy, then, is a reasonable claim that an undemocratic

economy would bring a small improvement in the distribution of resources.²⁰ The ‘private-property regime’ described above, or the sort of socialist economy proposed by John Roemer, might satisfy this condition.²¹

The definition I propose does not hold that workplace democracy is subordinate to distributive justice. These principles are comparable, and the task is to find economic arrangements that strike a reasonable balance between distributive justice and employee control. Hence I noted in section 2.B that the right to workplace democracy rules out the ‘private property regime’. It may also rule out Roemer’s socialist economy. The phrase “rule out” does not mean that these proposals are to be avoided, all things considered.²² The point is that if we confine ourselves to the relevant principles of justice – i.e. workplace democracy and distribution – these proposals cannot claim to strike a reasonable balance of the relevant considerations.

Let me make two other observations. Although I have been describing the right to workplace democracy in terms of Rawls’s conception of justice, the definition is not tied exclusively to this view. It is premised, however, on a conception of justice that has something like Rawls’s two principles, with the one calling for basic liberties and political democracy having lexical priority over the other. In addition, there is a question about whether the principle of workplace democracy is subordinate to equal opportunity. Throughout the dissertation I remain agnostic on this point.

²⁰ It may be asked why the priority of distribution over workplace democracy causes trouble, while the priority of liberty over distribution does not raise analogous problems. The answer is this. Rawls’s solution to the second problem is to define the basic liberties with reference to the protection of certain fundamental interests. It is this more restrictive conception of the basic liberties that has priority. But it is not clear that there is an analogous argument in regard to the principles of distribution and workplace democracy. See John Rawls, *Political Liberalism*, Lecture VIII.

²¹ John E. Roemer, *A Future for Socialism*.

²² Other considerations include, for example, the economic problems and political realities obtaining in a given time and place.

3.B: Alienability

The conception of economic democracy that I will be defending is weaker than most other views, including Peffer's, in that the right to workplace democracy is alienable. The typical view is that there is an inalienable right to workplace democracy. Generally speaking, people should not be permitted to opt for undemocratic enterprises. This right would be realized most thoroughly in a fully cooperative economy.

In contrast, the principle of workplace democracy I will be defending requires that the employees of an economic enterprise be able to govern the association democratically, if they choose to do so. The most natural way to institutionalize this idea is to allow a majority of the employees to set up a democratic process. So workplace democracy is an alienable right. A person might decide, for instance, that she prefers a higher wage or fewer hours to a democratic workplace. Hence she might oppose the establishment of a democratic process within her own firm; or she might seek a firm whose employees are known to prefer private control.

The rationale behind this definition is as follows. The argument in chapters III – V will establish, I hope, that individuals have a right to workplace democracy. This right entitles any person to press a claim on others, and accordingly, it imposes an obligation on those others. The claim says that the collective decisions within an employee's economic enterprise should be made in accordance with some democratic procedure; and the obligation is to honor this claim. However, no person has a duty to choose workplace democracy only for himself – it is not a 'claim right' against oneself, so to speak. This entails that, under certain conditions, there is no reason to prohibit a group of persons who do not desire workplace democracy from setting up a traditional enterprise. In addition, it seems reasonable for these persons to say that, if they

constitute the majority within a given firm, then that firm does not have to be governed democratically. They discharge the obligation to respect others' right to workplace democracy by agreeing to decide the question democratically within their enterprise.

Two caveats about this limited alienability are necessary. I am not supposing that people have a right to avoid democratic workplaces. That is why section 2.B noted that, depending on the circumstances, a fully cooperative economy might be the best way to advance the right to workplace democracy, even though it would prohibit most traditional firms. In other words, to limit the demands of the right to workplace democracy is not to say that there is another right that takes its place. The other caveat is that I will not be arguing for the claim that the right to workplace democracy is alienable. Perhaps there is a liberal case for inalienability.²³ But that is a broader question. We would have to argue that there is a right to workplace democracy *and* that the right is inalienable. It is more prudent, I believe, to make good on the first claim in such a way that the right to workplace democracy, though not inalienable, has important implications for liberal democratic societies.

3.C: Economic Enterprises

The definition of "economic democracy" I have proposed says that employees are entitled to govern their economic enterprises.²⁴ It is narrower than other definitions. For one thing, it is concerned with "economic enterprises" – roughly, businesses and large non-profits – as opposed to "workplaces" or "social and economic institutions". The point of this restriction is

²³ For instance: Nien-hê Hsieh has argued that the most plausible explanation of why individuals should not be able to consent to slavery suggests, also, that they should not be able to consent to the employment relationship. See his Ph.D. dissertation, Department of Economics, Harvard University.

²⁴ This narrows the definition of "economic institutions" offered in section 1. There may be some "economic institutions" that are not "economic enterprises".

to focus our inquiry.

What are “economic enterprises”? They include corporations, other profit-seeking firms, large non-profit ventures, consumer cooperatives, mutual associations, and so on. There are two defining characteristics. Their primary purpose is to make profits or provide some sort of public accommodation. They employ a significant number of persons. This definition excludes a wide range of associations, for instance: local governments, schools, political parties, private clubs, religious organizations, small-scale non-profit groups, family-operated businesses, and so on. Hence the terms ‘economic enterprise’ or ‘firm’ are narrower than the terms ‘workplace’ or “social and economic institution”. Nevertheless, I will stick with the standard practice and continue to use the term ‘workplace democracy’.

The point of narrowing the focus to economic enterprises is not to suggest that workplace democracy has no implications for other associations. Instead, it is a way of making our task manageable by avoiding a set of difficult questions. Consider the case of schools. If there is a right to workplace democracy, then we may want to give teachers and other employees some role in governing the schools in which they work. However, education has an important bearing on the life of many local communities, so there may be good reasons to have schools governed by citizens generally. Similarly, parents may have a strong claim to govern their children’s schools. These complications are bound to obscure the case for workplace democracy. Hence we should see how the argument applies to paradigmatically economic associations before considering other settings.

3.D: Employees

Notice, also, that I have defined “economic democracy” exclusively as “workplace

democracy". Usually the term is defined more broadly. It encompasses anyone who belongs to the relevant associations, or whose life is affected by them. These definitions are too broad. For I will be arguing that employees are the only group with a strong claim to govern economic enterprises.

Consider definitions based on the idea of effects. Peter Bachrach and Aryeh Botwinick maintain that workers should have "the right to participate in making decisions in the workplace that affect their lives".²⁵ Of course, economic enterprises also affect the life of the communities in which they are located. Hence Bachrach and Botwinick say that workplace democracy must include "all members of a firm, together with representatives of the community".²⁶ In contrast, I will be arguing that the case for community representation within economic enterprises, as a general proposition, is rather weak. Employees are the group with the strongest claim to govern economic enterprises. Hence the definition of economic democracy refers specifically to employees and not to the parties that may be affected.

The same ambiguity arises in regard to the idea of membership. (Recall Peffer's principle calling for an equal right to participate within "social and economic institutions of which one is a member".) The designation 'member' is too broad. Among the groups that seem to fit the description are the shareholders of a corporation as well as the members of a health club, consumer cooperative, or mutual association. Yet I will argue that employees have a stronger claim to govern the corporation than shareholders. It may be possible to show, also, that their claim is stronger than that attaching to the members of various consumer associations.

²⁵ Peter Bachrach and Aryeh Botwinick, *Power and Empowerment: A Radical Theory of Participatory Democracy*, p. 17.

²⁶ Peter Bachrach and Aryeh Botwinick, *Power and Empowerment: A Radical Theory of Participatory Democracy*, p. 2. Here the authors use the term "members". I believe they do not intend to reject the effects-based view, however.

Hence it seems appropriate to frame the definition of economic democracy in terms of employee control.

Chapter II: Parallel Case Arguments for Workplace Democracy

These essays argue that contemporary theories of justice are objectionable inasmuch as they emphasize the distribution of goods and opportunities, having little to say about how production is governed. The stylized liberal begins with a set of fundamental values, such as liberty, equality, and fairness. These lead to a conception of distributive justice, such as Rawls's equal opportunity and difference principles. Those principles guide the selection of the appropriate form(s) of economic organization for each society at any given time. I call this 'the Fabian logic of contemporary liberalism', and argue that it is mistaken. The 'values' have substantial and direct implications for the 'organization'. In particular, they call for the principle of workplace democracy described in Chapter I.

The purpose of this chapter is not to make that argument, but to describe its promise and the obstacles it faces. Some may be inclined to think that a liberal case for workplace democracy is a non-starter, because the fit between liberalism and the Fabian logic is too strong. This skepticism is evident in Michael Sandel's *Democracy's Discontent*. He juxtaposes two traditions regarding the evaluation of economic institutions. The one prevalent today, to which liberals belong, emphasizes prosperity and distributive justice. An earlier "republican" or "formative" tradition asked whether economic institutions were conducive to political democracy, especially whether they produced persons with the character necessary for democratic citizenship. Nor is

this an accident. The triumph of liberalism's "procedural republic", with its emphasis on fairness and neutrality, explains the post-WWII emphasis on prosperity and distributive justice in American economic policy. To argue against liberalism's Fabian logic, then, is to oppose the force of intellectual history.

To overcome this initial skepticism, I argue in the first section below that Sandel's historical account is not entirely accurate. The contrast between distributive liberals and democratic non-liberals is overdrawn, because it takes a purely instrumental reading of the historical tradition. Civic liberals, republicans, progressives, and others were not concerned simply to enhance political democracy by cultivating good citizens. Their denunciations of "wage slavery" and calls for "industrial democracy" evince a concern about power and authority. In short, there is a substantial liberal tradition concerned not simply with the distribution of goods, but also with the exercise of power and authority that characterizes their production.

This tradition points us in the direction of a common, liberal argument for workplace democracy. It suggests that there is a normative tension between our commitment to political democracy and the lack of workplace democracy. Of course, firms are not the same as governments. But they share several features. These common characteristics are especially evident in the case of firms and local governments. And these are the features that call for democracy, given the values central to liberalism. According to this 'parallel case argument', then, the Fabian logic cannot be sustained. Section 2 describes two versions of the argument, drawn from Robert Dahl's *A Preface to Economic Democracy* and Christopher McMahon's *Authority and Democracy*.

However, this argument is subject to three objections. I describe them in sections 3 – 5. According to the first objection, there is no right to workplace democracy in a just society. For

in that case firms will not make the sort of decisions that ought to be made democratically. The second objection says that workplace democracy is too narrow. Proponents of the parallel case argument have not explained adequately why “economic democracy” should mean “workplace democracy”, that is, employee control. The other concern is that the parallel case argument is incompatible with an appealing conception of liberal neutrality, such as the one in Rawls’s *Political Liberalism*. What its proponents present as “the most plausible” justification of political democracy is, in fact, a reasonably controversial theory of democracy. Since liberals do not want to take sides on reasonably controversial questions, there cannot be a liberal right to workplace democracy.

In short, this essay sets the stage for the argument in chapters III – V. I raise some doubts about Sandel’s apparent view that the history of workplace democracy is not a liberal history. This inquiry points us in the direction of a contemporary argument for workplace democracy, based on a parallel between governments and firms. Yet proponents of this argument have not addressed three liberal objections. Chapters III, IV, and V will undertake to do so.

Section 1: A Liberal Tradition of Workplace Democracy

The ideas of economic and workplace democracy have substantial roots in the culture of liberal societies, for there is a long history of thinking about economic governance in terms of democratic values. Yet it is common to interpret this tradition as non-liberal. In Sandel’s *Democracy’s Discontent*, the democratic approach to economic governance reflects a “formative project”, an effort to cultivate good citizens. Liberals, in contrast, did not view economic institutions in a democratic light. They were interested in prosperity and distributive justice, not

the promotion of civic virtue. There are other formulations of this contrast, of course. Proponents of economic or industrial democracy are said to have held "positive" conceptions of liberty, socialist views, etc. The common thread in these interpretations is that the appeal of a democratic economy is distinctly non-liberal.

I believe that these interpretations are over-stated. Many proponents of economic democracy offered arguments that are easily interpreted in a liberal fashion. If these arguments were sincere, it is hard to believe that they were interested only in promoting civic virtue, positive freedom, and so forth. The arguments evince, too, a concern about the proper exercise of economic power and authority.

Perhaps the most familiar example is the tradition of property-based republicanism. It held that a society in which most individuals own property -- in particular the property with which they earn a living -- is preferable to one in which they do not. A common argument for this claim was that political democracy would be impossible without a wide distribution of property. But republicanism also drew on the idea that control of productive property is an element of economic freedom. Consider, for instance, a remarkable statement from Justice Rufus W. Peckham — who penned the Supreme Court's notorious *Lochner* opinion -- in *U.S. v. Trans-Missouri Freight Association* (an 1897 case holding that the Sherman Anti-Trust Act applied to the railroads). He noted that even if a trust offered lower prices, it would harm the nation in part because:

...it is not for the real prosperity of any country that such changes should occur which result in transferring an independent businessman, the head of his establishment, small though it may be, into a mere servant or agent of a corporation for selling the commodities which he once manufactured or dealt in, having no voice in shaping the business policy of the company and bound to obey

orders issued by others.²⁷

Peckham may have believed that although large economic organizations seem efficient, they bring harmful consequences for political democracy and economic efficiency, for instance because they would undermine a person's character or because they concentrate economic power. But it is hard to escape the language about employees being "mere servants" who are "bound to obey" while having "no voice".²⁸

Industrial democracy -- as opposed to property-based republicanism -- has a significant liberal pedigree as well. The historian Milton Derber, for instance, would agree with Sandel inasmuch as industrial democracy once played a significant role in the course of U.S. history. Derber writes:

...the study of American labor-management history reveals the idea of industrial democracy as a major motivating force of many workers, union leaders, and reformers. Only the economic theme (the desire for more money, job security, improved living standards) seems to match it in importance.²⁹

Yet his account of the intellectual history appears to depart from Sandel's. According to Derber:

the genesis of industrial democracy clearly is attributable to the transfer of ideas about democracy in the city-state and the nation-state to democracy in industry.³⁰

²⁷ Cited in John Buell, *Democracy by Other Means: The Politics of Work, Leisure, and Environment*, p. 24.

²⁸ I am using "property-based republicanism" in a very loose way, and do not mean to imply that Peckham shared the views of those we commonly associate with the tradition, such as Tocqueville or Jefferson. The point is that many people, of very different political persuasions, viewed economic governance partly in terms of the fair exercise of authority and power.

²⁹ Milton Derber, *The American Idea of Industrial Democracy, 1865-1965*, p. 4. In this section I use the terms "economic democracy" and "industrial democracy" interchangeably. Derber's definition of "industrial democracy" is premised on a limited transfer of democracy from the political to the economic realm, and so it may be objected that his statement does not shed light on the existence within cultural and political history of an intuition or a tradition pointing towards economic democracy. But his definition contains enough democratic elements to warrant the imputation (see pp. 19-20).

³⁰ Milton Derber, *The American Idea of Industrial Democracy, 1865-1965*, p. 12.

In Sandel's view there is no "transfer of ideas". Industrial democracy is desirable in virtue of its contribution to good character, especially civic virtue. In contrast, Derber appears to be saying that the reasons once used to justify democracy within the city-state and nation-state were applied to the governance of economic enterprises. Moreover, some of these reasons were liberal reasons.

Consider a few examples from the work of Derber and other historians. The idea of industrial democracy had been present at least since the late 1700s, gained prominence in the 1890s, and enjoyed its greatest currency in the years after World War I. Shortly before the turn of the 19th century, Albert Gallatin, Secretary of the Treasury under Presidents Jefferson and Madison, installed a profit-sharing plan in his factory with the thought that:

the democratic principle on which this nation was founded should not be restricted to the political process but should be applied to the industrial operation as well.³¹

In the late 19th century N. P. Gilman, another proponent of profit-sharing, rejected this analogy but worried about its pervasiveness:

The varied, perpetual, and innumerable labor troubles of our time mean fundamentally this one thing -- that the democratic spirit has invaded the industrial world...universal suffrage and political democracy has forcibly suggested, not to workingmen only, but also to many of the more prosperous classes a false analogy between government and industry. If the one can be carried on by counting hands, then why not the other? Why should there not be industrial democracy as well as political democracy? Why should not the factory and counting room be conducted on republican principles? Why not, indeed, except for the one fact that human nature has not been developed on the line of

³¹ Milton Derber, *The American Idea of Industrial Democracy, 1865-1965*, p. 6.

uniformity of mind and equality of talent.³²

Gilman's worries were not entirely out of place. Analogies between political and economic democracy were common within the late 19th - early 20th century labor movement, even among its more conservative elements.³³ A sizeable group of turn-of-the-century economists, influenced by the work of John R. Commons and Sydney and Beatrice Webb, were sympathetic to the notion of industrial democracy. One of these, Henry C. Adams, noted in his 1896 presidential address to the American Economics Association that:

The fundamental principle in the theory of Anglo-Saxon liberty is, that the fruits of liberty can be reaped by him alone who has a voice in determining the conditions under which he lives. This is the defense of popular government, and the same argument applies to industrial association.³⁴

From 1898 to 1902 the United States Industrial Commission, an eighteen-member panel appointed by President McKinley and Congress to conduct an investigation of U.S. labor relations, heard testimony from over seven hundred employers, labor leaders, and others. Its report noted:

So long as the tradition of freedom is strong in the minds of working people [employers] can not [sic] destroy the aspiration for a measure of self-government in respect to the most important part of life.³⁵

Beyond economics, industrial democracy was an important theme for early twentieth century progressives such as Louis D. Brandeis and Herbert D. Croly. Religious leaders held views

³² Milton Derber, *The American Idea of Industrial Democracy, 1865-1965*, p. 9.

³³ David Montgomery, "Industrial Democracy or Democracy in Industry?: The Theory and Practice of the Labor Movement, 1870-1925".

³⁴ Milton Derber, *The American Idea of Industrial Democracy, 1865-1965*, p. 75.

ranging from hostility towards economic democracy to support for socialism, but many held views compatible with the idea of industrial democracy prevalent in the labor movement and in some sectors of the academy. Employers were of course not keen on the idea, though there were some advocates of profit-sharing (which they called industrial “partnership”). The notion of industrial democracy had its greatest currency during and after World War I, probably as a result of the government's war propaganda and encouragement of workplace organization.

Such enthusiasm was quelled in the anti-union offensive of the 1920s, and it was swept away by the economic hardship of the Great Depression. Yet the tradition of industrial democracy played an important role in the development of New Deal labor legislation, as it informed the efforts of Senator Robert F. Wagner and his associates. For instance, Mark Barenberg contends that:

In light of his embrace of the analogy between political and industrial power, it is not surprising that Wagner, an ardent liberal democrat, thought the most fundamental purpose of the statutory right to collective bargaining was to afford workers sufficient substantive freedom to enable them genuinely to consent to workplace authority relations.³⁶

This history supports Sandel's claim that democratic values have had an important place in the development of American economic institutions. But it does not support his interpretation of that tradition. The arguments above evince a recognizably liberal concern about the exercise of power and authority over competent adults. Of course, there is no reason to doubt that economic democracy was appealing because it promised to make people better citizens. Perhaps this argument was the most common or influential one. But there is reason to question Sandel's

³⁵ Milton Derber, *The American Idea of Industrial Democracy, 1865-1965*, p. 89.

³⁶ Mark Barenberg, "The Political Economy of the Wagner Act: Power, Symbol and Workplace Cooperation", p. 1423.

contrast between non-liberal arguments for economic democracy and liberal arguments for prosperity and distributive justice.

Section 2: The Parallel Case Argument

There is historical precedent, then, for a liberal right to workplace democracy. It would be wrong to impose one interpretation on these arguments. They cut across several centuries, individuals, and political inclinations. Nevertheless there is a recurring theme: that the similarities between governments and firms create a normative tension between our commitment to political democracy and the lack of workplace democracy. In recent decades several political theorists have taken this strategy of argument, among them Robert Dahl, Michael Walzer, and Christopher McMahon. Here, for instance, is one of Dahl's formulations of the argument:

Members of any association for whom the assumptions of the democratic process are valid have a *right* to govern themselves by means of the democratic process. If, as we believe, those assumptions hold among us, not only for the government of the state but also for the internal government of economic enterprises, then we have a *right* to govern ourselves democratically within our economic enterprises.³⁷

This section aims to describe this 'parallel case argument'.

There are many versions of the argument. Still we might think of it as taking the following, generic form. People have a right to political democracy. Any plausible justification of this right is based on the fact that political associations have certain characteristics (e.g., they

³⁷ Robert A. Dahl, *A Preface to Economic Democracy*. His emphasis.

make binding collective decisions). But economic enterprises have the same characteristics. So any plausible case for political democracy is also a case for workplace democracy. Proponents of the parallel case argument emphasize, in particular, the example of local governments. If these associations have the characteristics that call for democracy, how can we say, plausibly, that firms do not have them as well?

Suppose that there is a right to democracy when an association meets two conditions: it plays an important role in a person's life, and this relationship is not voluntary. Call these the *importance* and *voluntariness* conditions. Do economic enterprises satisfy them? That depends on how the conditions are interpreted, since it is not obvious that firms are non-voluntary associations making important decisions. Firms do not typically go to war with one another, for instance, and people have the freedom to come and go. But the same is true of local governments. So any plausible case for the right to local democracy must adopt a different interpretation of the importance and voluntariness conditions. Firms are bound to meet these revised conditions. Therefore, to paraphrase Dahl, it is not clear why political democracy at the local level is justified unless workplace democracy is justified as well.

Let us consider the two conditions more carefully, drawing on the work of Dahl and McMahan. Why do firms make important decisions? One answer is simply to note that firms make decisions that most of us care about. Dahl writes:

Like the government of the state, the government of a firm makes decisions that apply uniformly to all workers or a category of workers: decisions governing the place of work, time of work, product of work, minimally acceptable rate of work, equipment to be used at work, number of workers, number (and identity) of workers laid off in slack times -- or whether the plant is to be shut down and there will be no work at all.³⁸

³⁸ Robert A. Dahl, *A Preface to Economic Democracy*, pp. 113-114.

McMahon, on the other hand, argues that managerial decisions are important because they have moral implications. He says:

Employers in modern societies routinely make decisions that are appropriately assessed on moral grounds, and where the employer is a large organization, the consequences, good or bad, of its decisions are typically much greater than those of the decisions of isolated individuals. But not all of the employees of a particular employer will find the employer's policies morally acceptable. Thus, for some employees at any given time, and for virtually all at some point in their working lives, to comply with managerial directives will be to contribute to a moral or political agenda that they do not share.³⁹

Moreover, it is not simply that managerial decisions have moral implications. They have a bearing on values that everyone takes to be important (even though there is reasonable disagreement about how to accommodate and promote them). In this context obeying managerial commands may be a burden, just as obeying the government is a burden.

Proponents of the parallel case argument also argue that firms are not voluntary associations, properly speaking. Dahl appears to assume that many people have no choice but to join economic enterprises, just as they have no choice but to join political associations. In light of this assumption, the costs of leaving an economic enterprise make the association non-voluntary.

Dahl says:

But is not "exit" (or exile) often so costly, in every sense, that membership is for all practical purposes compulsory -- whether it requires one to leave a country, a municipality, or a firm?⁴⁰

Just after this passage he adds:

³⁹ Christopher McMahon, *Authority and Democracy: A General Theory of Government and Management*

...because exit is so costly, membership in a firm is not significantly more voluntary or less compulsory than citizenship in a municipality or perhaps even in a country.⁴¹

Indeed, whereas one may leave any particular local government and obtain citizenship in any other, one does not have a right to citizenship (i.e. employment) in any particular firm, or indeed in any firm at all.

There is an alternative way to approach the ‘voluntariness condition’. The strategy is to say that democracy is required whenever individuals find cooperation mutually advantageous, even though they have different ideas – rooted in different religious or philosophical doctrines – about what exactly ought to be done.⁴² Christopher McMahon makes this claim explicitly. This is evident in his response to the objection that economic enterprises are ‘private’ associations. Holding that we should draw the public – private distinction with reference to a “contractarian” justification of authority, he says:

Following it, we can define the public sphere of human life as the sphere of those social mechanisms that make it possible for people with conflicting aims, especially moral aims, to live together. I argue that the managers of non-governmental organizations play this sort of public role. The private sphere then becomes the sphere of association among people with coincident aims.⁴³

Elsewhere McMahon writes:

It might be objected that the authority governments exercise is public authority

⁴⁰ Robert A. Dahl, *A Preface to Economic Democracy*, pp. 114-115.

⁴¹ Robert A. Dahl, *A Preface to Economic Democracy*, pp. 114-115.

⁴² This sort of claim is the basis of Walzer’s account of what constitutes *political* power, which he thinks we are committed to exercising democratically. But it does not appear to figure in his reply to the objection that firms are voluntary associations, like monasteries.

⁴³ Christopher McMahon, *Authority and Democracy: A General Theory of Government and Management*, p. 8.

while that exercised in nongovernmental organizations is not, but it is not clear what makes authority public. And on one plausible answer – namely, that a public authority is one that organizes mutually beneficial cooperation among people seeking to advance different conceptions of the moral good – the management of nongovernmental organizations is public.⁴⁴

The idea seems to be that associations are public whenever individuals cannot agree on what the association ought to do, because they have different moral aims, even though they all prefer to have the association do a range of things rather than none at all.⁴⁵ This is a familiar point about the justification of the state's authority. People disagree about what the state should do, yet everyone benefits from having a state (if its actions remain within a certain range).

These, then, are the sorts of arguments advanced to show that firms satisfy the same conditions that justify political democracy.

Section 3: Workplace Democracy is Unnecessary

I have said that the parallel case argument is subject to three objections. The first holds that once justice has been achieved, the case for workplace democracy collapses. We say that there is a 'right' to political democracy, in part, because we cannot imagine a just society with a different political system. But liberals have not found it very hard to conceive of a just society without democratic workplaces. Imagine a society with a good deal of economic equality and prosperity. Offices are distributed on the basis of equal opportunity. Individuals are secure in

⁴⁴ Christopher McMahon, *Authority and Democracy: A General Theory of Government and Management*, p. 288.

⁴⁵ In the introduction to *Authority and Democracy*, McMahon hints at a different view (p. 8). This shifts our attention to what it means for people to live together, in a fair way, and not so much when people who disagree on moral grounds can benefit from cooperating. McMahon's argument centers on the latter view, however.

their basic rights, including the right to change employers. Would we still want to say that there is a right to workplace democracy?

This objection can be elaborated in two ways: consequentialist and non-consequentialist. To explain the difference, let me begin with an example, drawing on the idea of efficiency wages. An employer is offering generous wages, substantially higher than the market rate. Most employers do not follow this strategy, though. And the economy has high levels of poverty and unemployment. In this case, there are two sorts of reasons for favoring democratic procedures. One says that because the employees are eager to keep their jobs, the company will be in a position to violate some of their basic rights. It has the power to treat them in any way, no matter how unfair or degrading, so long as there is no one left in the labor market who finds this form of treatment preferable to poverty and unemployment. The other rationale for democracy is that the employees face very important choices. For instance, they may need to weigh the possible rewards of a new venture against the risk of bankruptcy and destitution. Democratic procedures are the appropriate way to make such decisions, because they answer to values of fairness and deliberation.

In light of this example, we can restate the objection at hand in two ways. The first objection agrees that democracy answers to values of fairness and deliberation. But the economic enterprises of a just society would not meet the conditions that justify democracy. For instance, they would not be in a position to make the kinds of decisions that should answer to those values. Hence workplace democracy is unnecessary. The second objection says that it is incorrect to think of procedures as 'answering to' or 'expressing' values of fairness and deliberation. Their point is to bring about desirable outcomes: in particular, to protect certain individual rights. By definition, firms in a just society would not be in a position to violate

individual rights. So there is no need for workplace democracy.

Let me describe each of these objections in more detail, showing how they apply to the work of Dahl and McMahon.

3.A: Justice Mitigates the Need for Fairness and Deliberation

The first variant on the 'workplace democracy is unnecessary' objection says that, in a just society, economic enterprises will not meet the conditions that justify democracy. This claim bears especially on the idea that firms make important decisions. Recall, for instance, Dahl's observation that economic enterprises affect the availability and conditions of employment. These are just the things that liberal egalitarians are concerned with. They seek to guarantee every individual a set of economic resources and opportunities that is, presumably, adequate. Moreover, suppose that this leaves employers with some discretion. Nevertheless people enjoy a fair scheme of resources and opportunities. So it is not clear why they continue to have a legitimate interest in managerial decisions – that is, an interest that warrants democratic procedures.

Now McMahon's version of the argument appears to avoid this problem. Recall that he emphasizes not the material effects of managerial decisions, but their moral consequences. And it would be impossible to design a just society in which managerial decisions had no moral implications, even if we add that these implications must concern shared values about which reasonable people disagree. Since this is a common argument for workplace democracy, the remainder of this section focuses on it. I argue that it is not clear whether the fact that managerial decisions have moral implications confers on them the sort of importance that would justify democracy. It may be that democracy is required only when decisions have moral implications that meet a certain threshold, and that liberal egalitarian institutions are sufficient to protect individuals

in such cases.

When an employee complies with a managerial decision, this is a burden on her autonomy insofar as she has an obligation to obey and she disagrees with the command. Workers may have to “contribute to a moral or political agenda that they do not share”. Consider one of the two elaborations of this idea implicit in McMahon's work.⁴⁶ You may be part of an organization that treats people unfairly. Indeed, you might be required to administer the treatment. For example, the company might lay off workers for reasons or in a manner that you think is unfair. You may be ordered to pick the people to be laid off, to deliver the pink slips, to argue in court or before the press that the layoffs were necessary, and so on. By following orders you would be participating in a moral project that is misguided, from your point of view.

It is natural to say that the solution in this case is to leave the firm in question. But the issue is not so simple. Leaving a firm is arguably one way of complying with its decisions. Suppose that your boss believes an employee, Mr. Smith, is a bad worker, although you know otherwise. She commands you, “sack Smith”. The boss is very stubborn and bringing the facts to her attention will do no good. She has many things to attend to, though, and would not notice if, instead of firing Smith, you assign him to a different office. What should you do? If your replacement would agree to fire Smith, leaving the organization is one way of complying with the boss's order. At the end of the day Smith is out on the street. So the fact that everyone is free to leave any association does not allow us to escape the question: given that some person(s) must do without individual autonomy regarding a social choice, how do we decide who it shall be?

McMahon's explanation of why managerial commands burden an individual's autonomy,

⁴⁶ The other says that the “projects” to which people are being asked to contribute affect shared values in a way that cannot be regulated. For example, states cannot regulate all the ways in which firms affect the environment. The question is whether this creates a significant burden on individual autonomy, given an otherwise just society.

then, has intuitive force. But how much force? To appreciate its limits, notice that “contributing” to a bad moral agenda is not always felt as a burden. For example: if it were our legal system would come to a grinding halt. Many people are perfectly willing to defend violent criminals, negligent corporations, vengeful divorcees, and so on. The reason is not necessarily that they are immoral or amoral. Nor do lawyers always believe that their side is the right one. Instead they might see themselves as part of an adversarial legal process that is, on balance, just. This point applies also to doctors, professors, editors, negotiators, actors, parents, etc. Contributing to projects with which one disagrees is a fact of life. You may have to conduct an objectionable medical procedure, comment constructively on a misguided research paper, subsidize your child’s enjoyment of violent computer games, etc. People contribute to moral projects with which they agree; they contribute to objectionable projects because there are independent reasons for doing so; and they refuse to participate in other projects. People should be able to avoid projects of this last kind, i.e. ones they reject very strongly. Hence we endorse policies of conscientious objection whenever they are practical. But is it really a significant burden to contribute to everyday, run-of-the-mill projects with which you disagree?

If intuition does not argue forcefully for McMahon’s position, perhaps moral theory does. Let us return once again to Mr. Smith, whom you have been ordered to fire, and who you think undeserving of this sanction. If Smith is a good buddy, a relative, or some equivalent thereof, it might be plausible to say that firing him is a significant burden.⁴⁷ But what if he is a stranger? Any sensible person will agree that there is an imposition when one has to act against one’s reasons. But is it the sort of burden that calls for democracy? Although it’s not possible to

⁴⁷ This comment is inaccurate insofar as moral theorists disagree about whether we have special obligations to certain persons, such as friends or relatives. My point is that the case of special obligations is the only one in which we could hope to find reasonable agreement on the claim that contributing to moral projects with which one

pursue the matter here, I conjecture that reasonable moral doctrines differ on this question. In particular, doctrines lacking a central emphasis on moral autonomy will not tend to view the act of contributing to a moral agenda with which one disagrees as an imposition worthy of the name.

This prospect seems all the more likely if we return to the question of exit. The factual claim that leaving an enterprise can be one way of obeying its decisions is not objectionable. It describes well enough what is going on when somebody withdraws from an association without attempting to prevent the action he objects to. The question is whether this imposition is significant. And once again moral experience does not speak strongly in McMahon's favor. Surely many people feel that leaving an association in protest exhausts, in most cases, their duty to act morally. And it is hard to see how a philosophical argument could establish that their attitude is mistaken. This is, again, a conjecture. But the issues about causation and responsibility that have to be worked through, if we are to show that allowing someone else to act immorally is always an immoral act, are not small philosophical potatoes. They have the sort of characteristics that make for reasonable disagreement. Often they are at the center of philosophical controversy, as in the case of causation.

In short, proponents of the parallel case argument have not explained adequately why firms in a just society would continue to make the kinds of decisions that ought to be made democratically.

3.B: Justice Mitigates the Need for Protection

The other variant of the 'unnecessary' objection says that the parallel argument is based on a flawed conception(s) of democracy. It holds that democratic procedures answer to values of

disagrees is, in general, a significant burden on individual autonomy.

fairness and deliberation. The objection rejects the idea that any procedure can have these virtues. Procedures are desirable only insofar as they have good consequences: in particular, the protection of individuals from profound harms and violations of their rights. Workplace democracy is not needed for this. Hence there is no right to self-government within economic enterprises, even if these associations are important and involuntary in some sense.

Suppose, for instance, that democracy is simply a device for protecting individual rights. Liberals assume that these rights are given in the principles of justice, and that these principles can be realized adequately. Hence democracy has no value within economic enterprises. For it is possible to protect individual rights without democratizing these associations. Suppose, instead, that democracy is a device for protecting individuals against serious or intolerable burdens (whether or not these burdens can be regarded as rights violations). Perhaps there are special circumstances under which economic democracy is necessary to accomplish this task, as in the case of firms with a monopoly in a local labor market. But, in general, just liberal institutions ensure that firms cannot subject individuals to intolerable burdens. Hence there is no right to workplace democracy.

I have said that, according to the consequentialist objection, individuals are not entitled to democracy even if an association is important and involuntary. This seems to be the clearest formulation. Still, it is possible to restate the objection as an alternative interpretation of the two conditions.⁴⁸ Consider, for instance, how the objection applies to the voluntariness condition. Suppose a liberal egalitarian accepts Robert Nozick's claim that an individual act is not coerced unless a violation of the person's rights helps to explain the action. If this is how we ought to

⁴⁸ In this case, the broader conception of democracy may contain non-consequentialist elements. It is simply that one or more of the democratic conditions receives a consequentialist interpretation. For example, democracy might be conceived as a fair and deliberative procedure, but only with regard to the most serious matters.

think about whether an association is voluntary, it is hard to see how economic enterprises can be anything but voluntary. When people join firms in the context of a just society, where their rights are secure, they will be doing so voluntarily.

Section 4: Workplace Democracy Is Too Narrow

The second set of objections to the parallel case argument is that its proponents have not explained adequately why “economic democracy” should mean “workplace democracy”. Both Dahl and McMahon appear to believe that employees are the only group with a democratic claim to govern the firm. However, it is not clear whether one can reach this conclusion, given their conceptions of democracy. Let me discuss each of their views.

4.A: Dahl on Membership

The question arises most clearly in regard to Dahl’s view. He appears to think that employees constitute the membership of an economic enterprise. His *Preface to Economic Democracy* is concerned almost entirely with employee control. In addition, Dahl thinks that allowing non-members to run an association is incompatible with the democratic principle that those governed by a rule should be the ones to make it.⁴⁹ That does not mean that it is wrong to include other groups. There may be reasons to do so deriving from other values, such as efficiency. But Dahl would probably define “economic democracy” exclusively as “workplace democracy”.

⁴⁹ Robert A. Dahl, *Democracy and Its Critics*, p. 107-108.

This claim is puzzling, however, because Dahl has an 'aggregative' conception of democracy. That is, democracy has to do with the equal consideration of interests. Dahl says:

If we accept the Idea of Intrinsic Equality, then no process of lawmaking can be morally justified if it does not take equally into account the interests of every person subject to the laws.⁵⁰

This raises the question why, of all the individuals with on-going relations to a firm, only employees ought to have their interests considered. From this perspective some sort of 'stakeholder theory' seems more natural. If democracy is about considering interests equally, then everyone with a substantial stake in a decision ought to have a voice in making it.

This observation may appear to reflect a confusion. The 'equal consideration of interests' is a standard of political equality among the members of an association. It is not intended as a way of determining who the members are. That question turns on whether a person is bound to obey a collective decision. For instance, recall Dahl's point that firms:

...make decisions that apply uniformly to all workers or a category of workers: decisions governing the place of work, time of work, product of work, minimally acceptable rate of work, equipment to be used at work...

The idea, roughly, is that managers tell workers what to do, and workers are bound to comply.

Yet Dahl does not have a detailed account of what counts as a "binding collective decision" -- and why. So his view remains puzzling. After all, it is natural to determine who is entitled to democratic rights with reference to whatever makes democracy desirable -- in Dahl's

* Robert A. Dahl, *Democracy and Its Critics*, p. 104. Dahl also says: "What does intrinsic equality actually mean? The aspect that seems to me most relevant to the democratic process is expressed in the Principle of Equal Consideration of Interests." (p. 86). See also p. 100.

view, the equal consideration of interests. Why draw upon a different and relatively opaque idea? In the case of political democracy (within sovereign states) there is a good reason. Here we have some salient, intuitive ideas about who the members are. And people with a commitment to democracy tend to converge on these ideas (i.e., the members are the competent, legitimate, long-term residents). So clarifying and motivating the idea of a binding collective decision is not the most urgent task. In the case of economic enterprises, however, it is less apparent who "the members" are. Thus people who find Dahl's equal consideration of interests appealing may be drawn to a broader conception of economic democracy (such as a stakeholder view).

4.B: McMahon on Membership

The most common way of defining 'membership', for democratic purposes, is to say that democracy has to do with the exercise of authority. An individual has a right to govern an association if and only if she has a moral obligation to comply with its commands and such obedience has moral consequences. McMahon takes this approach in *Authority and Democracy*. He thinks that employees -- and shareholders, perhaps -- are the only ones subject to managerial authority. They are the only people with an obligation to undertake disagreeable actions that contribute to the enterprise's moral agenda:

The people who have a right, under democratic principles, to participate in a decision are not those who are affected by it but those whose actions are guided by it. That is, if the possession of authority is a matter of having a right to direct the actions of some group, democracy is *reflexive authority* -- the generation of authoritative directives by those who will be subject to them. The say in determining a group decision that democracy confers is a say in determining what one will do or allow as a member of a group.⁵¹

⁵¹ Christopher McMahon, *Authority and Democracy: A General Theory of Government and Management*, p. 12,

Of course, this passage prompts a natural objection to the idea that employees are subject to authority. Given that there is an exit option, their actions do not have to be guided by the association. We discussed McMahon's response to this concern in section 3.A. He thinks that leaving a firm can be a way of obeying its managers' commands, and of contributing to its moral agenda.

The problem is that this response undermines the idea that employees are the only ones subject to authority. It would seem that whoever thinks leaving a firm is a way of complying with and contributing to its moral actions would also think that employees are not the only ones who do so. Any individual or association doing business with the firm, especially on-going business, is arguably contributing to its moral agenda. Some might even say that business partners sometimes meet the condition more thoroughly than the typical employee. Yet they are not subject to the firm's authority. Why? Clearly they are not "members" of the firm in the traditional sense. But why not redefine the idea of membership to include non-employees? Perhaps because, like employees, they have the option to leave.⁵²

By way of example, consider one of McMahon's illustrations of the claim that employees are subject to authority. He asks us to imagine that we are working for a German railroad company transporting prisoners to a concentration camp. We have three options: cooperate fully with the company's work, leave the company, or interfere with the transfer of prisoners (on a

emphasis in original.

⁵² McMahon might respond that business partners have an obligation to each other in virtue of the implicit or explicit promises they have made. Such obligations do not typically lead to democracy (they are not very robust, and thus do not burden a person's moral autonomy). Yet one has to ask whether the same reasoning which leads McMahon to think that the employee's obligation to obey cannot be derived from a promise should not lead him also to reject promises as the source of obligations between those engaged in business. After all, inter-business relations play an important role in economic coordination, just like employee-employer relations.

regular basis and without being detected). We are subject to authority, McMahon thinks, inasmuch as we have an obligation to choose either the first or second course of action, even though we find both unacceptable. Of course the obligation is out-weighted in this particular case. But the example suggests that employees are subject to managerial authority: they may disagree with the company's policy and may wish to undermine it covertly, but they have a moral obligation not to do so.

But even if this argument is persuasive, it does not apply to employees only. Suppose you own a company that contracts to fix the German trains. You could lower the quality of the service, without detection, and thus slow the transfer of prisoners to the camps. The fact that you do not work for the train company does not make the situation all that different. There are good reasons to interfere with the train company's course of action. But you have an obligation to comply with the maintenance contract in good faith, or to end the contract.

We have seen, then, that it is not clear why 'economic democracy' should mean 'workplace democracy'. Even if employees have a claim to govern the firm, other groups may have an equal or stronger claim.

Section 5: Workplace Democracy and Liberalism

We have yet to consider a third family of objections, namely, whether the parallel case argument is compatible with a liberal conception of democracy. Such a theory has two features. It should be compatible with certain liberal intuitions, in particular, the distinction between 'public' and 'private' associations. And it should appeal, in some way, to people who adhere to

a variety of reasonable religious and philosophical views. The parallel case argument faces an objection along each of these lines.

5.A: Public and Private

The arguments reviewed in section 2 threaten liberalism's distinction between private and public associations. They appear to suggest that people have a right to democracy within associations such as religious groups, private clubs, cultural associations, and so on. Some liberals will argue that this makes the parallel case argument less plausible. To elaborate this objection, let me show that the public / private distinction is indeed under threat and explain why that is a problem.

Consider Dahl's claim that economic enterprises make important decisions. He seems to believe that this is true because the decisions are intended as rules of conduct within the association, are backed by sanctions, and concern things (like employment) that people take to be important. Yet similar considerations can be applied to church decisions. They apply to members generally. They are backed by sanctions. And although we may not share a person's religious faith, we can certainly grasp that being excluded from a religious organization, or sanctioned publicly within the organization, can be a substantial burden. Hence it is not clear why there is a parallel between governments and firms, as opposed to governments and most other secondary associations.

Consider McMahon's approach to the voluntariness condition. The fact of mutually beneficial cooperation and principled disagreement, within a group, make it a public association. Yet this approach cannot sustain a distinction between firms and churches, which McMahon himself wants to draw. Co-religionists share a conception of the good. But they may have

different aims insofar as they take different interpretations of their faith. One may join the Catholic Church, for instance, while believing that it ought to be less hierarchical. Certainly it would be a misconception of religious life to suppose that people do not challenge or disobey the relevant authorities. Moreover, people can change their interpretation of religious texts and doctrines. Or the church authorities may take controversial positions on theological, social, political, and other issues, fueling strong objections among some members. Still, a religious organization facilitates “mutually advantageous cooperation” inasmuch as its members prefer to stay. Consider, on the other hand, the case of firms. Employees might share a conception of the good just as church-goers do. Alternatively they might share a specific aim and a view about how to pursue it, as do the members of a private club. An environmentalist, for instance, might decide to join a company specializing in sustainable technologies.⁵³

Suppose we interpret McMahon’s view in a different way: associations are not public because they facilitate cooperation among their members, but because the members must obey the association in order to avoid social chaos. Many people would say that here lies the force of the cooperation argument for the legitimacy of state authority. And this condition appears to distinguish economic enterprises from apparently private associations such as churches and small clubs. If people could not set aside their differences and cooperate within economic enterprises, society would collapse. Moreover, many social scientists believe that organizations operate more efficiently the less their employees and business partners need to be watched, forced to work hard, and so on. The effort to do these things is costly, and none of the available methods

⁵³ This phenomenon is increasingly common within quasi-governmental, “resident community associations”, which are often undemocratic. Residents join the community and its association, presumably, because it serves an aim(s) that they share. Arguably they accept undemocratic forms of governance in order to pursue these aims. See: Daniel A Bell, “Residential Community Associations: Community or Disunity?”; Douglas Frantz, “The Town That Disney Built”; David L. Kirp, “Pleasantville”.

is full proof. Avoiding these costs may benefit everyone in the long run, or many people at least. In short, cooperation within economic enterprises prevents social chaos and offers the prospect of universal gains. On the other hand, it would appear to be much harder to argue that churches, sports leagues, social clubs, and so on are needed to prevent social chaos.

Yet this revised interpretation is unable to sustain the distinction between private and public associations. On the one hand, economic enterprises are not always in the business of preventing chaos. Would things really be so bad without The Sharper Image, Ben & Jerry's, and the World Wrestling Federation? On the other hand, it is now common for social scientists to argue that churches, clubs, and other private associations are essential for, or at least conducive to, the health of a modern democracy. We need not worry whether these arguments are correct, or whether they are concerned with the sort of chaos that McMahon has in mind. They simply bring home a point: even if a given type of association were necessary to avoid social chaos, it does not follow that it is public, in the sense that would entitle its members to self-government.

Suppose, then, that the public / private distinction is in jeopardy. Why is there a problem? After all, a proponent of the parallel case argument could say that there are values other than democracy, such as religious liberty. The boundary between public and private associations reflects the way in which we accommodate these values. Arguably, though, this response misses the point. The liberal's objection says that accounting for the public / private distinction is one of the tests used to identify an adequate theory of democracy. It is an intuitive datum or fixed point that a liberal democratic theory has to account for. The parallel case argument produces a theory(s) that cannot do this. To that extent, the objection concludes, it is not an argument compatible with liberalism.

5.B: Liberal Neutrality

The other concern is that the parallel case argument is incompatible with an appealing conception of liberal neutrality, such as the one in Rawls's *Political Liberalism*. Notice, first, that democracy is typically thought to have *some* sort of neutral or impartial justification. Both Dahl and McMahon call for a justification that is acceptable (in some sense) to people who endorse a variety of philosophical and religious doctrines. Dahl speaks of the democratic process as being at least "reasonably justified". And he believes that the idea of "intrinsic equality" that is at the heart of democratic theory can be endorsed from a wide variety of religious and philosophical doctrines.⁵⁴ McMahon is more explicit. He suggests that:

...the question of democracy in the managerial sphere be approached as it is in the governmental sphere, not by considering whether it is called for by certain conceptions of the good life, which may not be widely shared, but rather by considering whether it is required if managerial authority is to be appropriately exercised.⁵⁵

So there is some connection between democracy and the notion of neutrality among competing religious and philosophical views.

The difficulty is that workplace democracy may be incompatible with an appealing interpretation of liberal neutrality, namely, the one in Rawls's *Political Liberalism*. Rawls has argued that workplace democracy should not be among the principles of justice. The reason is that it is incompatible, in some way, with political liberalism, which aims:

...to resolve the impasse in the democratic tradition as to the way in which social institutions are to be arranged if they are to conform to the freedom and equality

⁵⁴ Robert A. Dahl, *Democracy and Its Critics*, pp. 83 & 85-87 respectively.

⁵⁵ Christopher McMahon, *Authority and Democracy: A General Theory of Government and Management*, p. 169. See also pp. 3-4.

of citizens as moral persons. Philosophical argument alone is most unlikely to convince either side that the other is correct on a question like that of private or social property in the means of production. It seems more fruitful to look for bases of agreement implicit in the public culture of a democratic society and therefore in its underlying conceptions of the person and of social cooperation... With the two principles of justice on hand, we have a possible common court of appeal for settling the question of property as it arises in the light of current and foreseeable social circumstances.⁵⁶

Moreover, political liberalism may be even more restrictive than Rawls thinks. For instance, some commentators have argued that the conclusions about distributive justice that Rawls defended in *A Theory of Justice* – in particular, his “difference principle” -- are no longer defensible given the methodological commitments of *Political Liberalism*. The same may be true of a right to workplace democracy.

By way of illustration, let me formulate one of these objections in reference to McMahan’s view. He thinks that democracy needs some sort of neutral justification. That means a justification that is not based on “certain conceptions of the good life, which may not be widely shared”. But the discussion in sections 3 and 4 suggests that conceptions of democracy may not be widely shared. In particular, we encountered questions about how to interpret the conditions of ‘importance’ and ‘voluntariness’; whether democracy has any value apart from its consequences; and whether it has to do with the power to affect others or to guide their actions. Apparently there are competing conceptions of democracy, just as there are competing conceptions of the good life. Since McMahan thinks that the case for democracy must set aside the latter sort of controversy, would he not want to set aside the former as well?

In sum: the parallel case argument may not be compatible with liberalism’s commitment to neutrality, even if we find the argument persuasive in other respects.

⁵⁶ John Rawls. *Political Liberalism*, pp. 338-339.

Chapter III: Workplace Democracy

in a Just Society

This essay begins the case for workplace democracy. Recall that this argument consists of three main steps. I need to show that employees have a strong claim to govern economic enterprises, even in an otherwise just society. Then I have to show that other groups do not have a comparable claim. Finally, I must address the concern that these arguments – and the principle of workplace democracy they are intended to justify – are incompatible with political liberalism.

This chapter focuses on the first step. The strategy of argument resembles the ‘parallel case argument’ described in Chapter II. Since liberals are committed to political democracy, presumably they believe that the values central to liberalism call for democratic procedures within associations meeting certain conditions. A ‘theory’ or ‘conception’ of democracy provides an account of what these conditions are and how they are to be interpreted. I will argue, first, that there is an appealing theory of democracy according to which employees are entitled to govern their economic enterprises. Then I will defend this theory against two competing views, arguing that they would undermine the right to self-government within sovereign states.

Suppose, then, that individuals have a right to self-government within an association when its decisions play an important role in their lives and when this relationship is not voluntary. Call these the *importance* and *voluntariness* conditions. Sections 2 and 3 below show that economic enterprises satisfy an appealing interpretation of these conditions. Section 2

argues that firms are bound to play an important role in their employees' lives. Although this assertion may seem obvious, it faces some difficult questions. Why would firms continue to play such a role in a just society? And even if they did, why isn't political democracy an appropriate and sufficient response? I argue that, even in a just society, firms are bound to make decisions of concern to their employees. Firms will affect their employees' well-being, for instance by shaping their access to economic resources. They will also exercise a high degree of control over many workers. These impositions meet an intuitive interpretation of the importance condition. And they cannot be regulated through the political process or explained as requirements of justice.

Section 3 argues that employees should not be said to accept these burdens voluntarily.⁵⁷ Firms appear to be voluntary associations because no one has to join a particular firm, and because people have the option of self-employment. Yet I argue that economic enterprises are not voluntary associations. People must seek gainful employment in order to obtain many of the benefits to which they are entitled; and they have a moral obligation to make an economic contribution, which cannot be exercised without joining one economic enterprise or another. That makes these associations non-voluntary. Firms are involuntary, like governments, because many of us will never be in a position to avoid them.

Hence firms appear to satisfy appealing interpretations of the importance and voluntariness conditions. Yet some liberals will object that these interpretations are incorrect, drawing on two lines of argument. The first says that a person is entitled to democracy only inasmuch as this prevents violations of her rights. The liberal conception of justice lists the

⁵⁷ Here the argument focuses on whether employees join firms voluntarily. I do not discuss the matter of exit costs in this chapter, but see section 2.B in chapter IV.

rights that people have. We are assuming that this conception can be realized. Hence there is no case for workplace democracy. The second objection takes the same form, but it focuses on profound harms as opposed to rights. Democracy has value only when it helps to protect people from such burdens. Yet that is just what liberal institutions do. So there is no case for workplace democracy. Sections 4 and 5 address each of these objections. I argue that both views are incompatible with a commitment to political democracy within a sovereign state.

However, it is apparent that all of these arguments turn on what we mean by 'a just society'. So I begin by setting out a conception of justice to serve as background.

Section 1: Background Conception of Justice

The conception I have in mind is a liberal egalitarian view -- the one described in chapter I, section 2.A -- with one important modification: citizens have a prima facie, moral obligation to work. The following sections describe these two elements, as well as the reasons for using them.

1.A: Egalitarian Principles

Recall that the egalitarian view contains principles falling under two (lexically ordered) categories: the basic liberties and distributive justice. The first group of principles calls for a society in which each person enjoys the most extensive set of basic liberties compatible with an approximately equal set for everyone else. The liberties include freedom of expression, liberty of conscience, the right to privacy, and provision for the requirements of subsistence. They include also a robust and egalitarian system of political democracy.

Next there are two requirements regarding the distribution of offices, goods, and other opportunities. There should be a substantial (if not absolute) degree of equal opportunity. And there is an egalitarian principle of distributive justice. People are entitled not just to the smallest basket of goods required for subsistence, but also to the elimination of inequalities incompatible with such standards as Rawls' difference principle, a brute luck principle, a "mixed conception" where the average position is maximized subject to certain constraints about the minimum position, and so on.⁵⁸

I have chosen these egalitarian principles for two reasons. First, they constitute a relatively well-known and popular view. Second, they provide an appropriate test for the 'workplace democracy is unnecessary' objection. Notice that we must avoid two extremes in considering this objection. On one side is the danger of adopting a demanding conception of justice and a utopian attitude about the possibilities for its realization. Democracy is appealing inasmuch as there is something worth deciding. The closer we move toward a perfect world, the less likely that condition is to hold. On the other hand, we might adopt very weak principles of justice and/or a highly pessimistic attitude regarding their realization. Then the claim that workplace democracy is unnecessary loses much of its force. Economic enterprises would be in a position to affect individual lives quite deeply. To frame the discussion adequately, then, we assume that justice is defined by some liberal egalitarian view; and that this view has been realized as fully as it is reasonable to expect.

⁵⁸ For descriptions of these principles see (respectively): John Rawls, *A Theory of Justice*, especially pp. 54-108; Ronald M. Dworkin, *A Matter of Principle*, pp. 205-213; and Joshua Cohen, "Democratic Equality".

1.B: The Obligation to Work

We will also assume that the citizens of a liberal democratic society have a prima facie, moral obligation to make an economic contribution. The sort of obligation I have in mind is captured in Rawls's quip that -- assuming jobs are not scarce -- "...those who surf all day off Malibu must find a way to support themselves and would not be entitled to public funds."⁵⁹ The idea is that people have a moral obligation to make an economic contribution. But the obligation is contingent. Some people might find other means of support, and it may not be necessary to employ those who wish to avoid work. So I am not proposing that it is necessarily wrong to surf all day. But citizens have an obligation to make an economic contribution inasmuch as it is necessary and others are unwilling to pick up the slack.

The assumption that there is an obligation to work entails that the argument below is not applicable to one variety of liberalism: namely, the "unconditional basic income" variety.⁶⁰ As the name implies, proponents of this view hold that people are entitled to a substantial income whether or not they make an economic contribution (or convince others to do so on their behalf). Surfers would be entitled to public funds. Now, there may be a case for workplace democracy even in these circumstances. But the argument I will be offering is not it. So it is important to explain why we should assume, in opposition to the 'unconditional basic income' view, that there is an obligation to work.

Consider, then, three reasons for the assumption. First, most people would agree that there is such an obligation (as defined above). Few of us would expect others to cover our all-day-surfing

⁵⁹ John Rawls, *Political Liberalism*, p. 182 n. 9.

⁶⁰ Philippe van Parijs, "The Disfranchisement of the Elderly, and Other Attempts to Secure Intergenerational Justice".

expenses. In addition, there is an appealing case for the obligation to work, in the context of a liberal democratic society. For such a society offers the enjoyment of several basic liberties, a system of equal opportunity, and a decent standard of living. These arrangements characterize a fair system of cooperation among free and equal persons. But the obligation to work seems to flow from these values as well. It expresses, for instance, the idea of fair *cooperation*. These two points suggest, finally, that we will continue to see many liberal democratic societies without an unconditional basic income. So it is worth asking what justice requires of the employment relationship in this setting, even if one believes that the ideal is an unconditional income.

Section 2: Firms Make Important Decisions

With this background on hand, let us consider whether economic enterprises meet the first condition for democracy, the importance condition. This section argues that, even in a just society, firms will make decisions of legitimate concern to their employees. In particular, firms will affect their employees' well-being and exercise control over them. These effects are discussed in sections 1.A and 1.B, respectively.

Of course, it is not surprising that firms should affect their employees' well-being or exercise control over them. Why do these facts require extensive discussion? There are three reasons. First, one may have thought that a just society will not have a great deal of variation across economic enterprises with regard to their distribution of resources, the assignment of offices, and the conduct of work. Firms will be promoting a just distribution of goods. Offices will be allocated on the basis of equal opportunity. And work will be conducted in the most

efficient way. So many economic decisions will be determined, in a sense, by the fact that firms are encouraged to promote social justice. This may leave firms with a great deal of discretion, of course. But then we face a second question, namely, whether these remaining issues are a matter of *legitimate* concern. Firm decisions may affect a person's access to economic resources, for instance. Yet by definition she already enjoys a fair share. So the fact that economic enterprises affect their employees' material interests does not imply, without more, that it is unfair to deny them a say in these decisions. Still, suppose that it is. Liberals will then say that citizens have the ability to address these concerns through government regulation. It is not clear why democracy at the level of the firm is needed also.

Hence this section makes three general points. Economic enterprises are bound to affect the welfare of and exercise control over their employees, even in a just society. These effects are a matter of legitimate concern, that is, an interest that other people ought to give fair consideration. And they cannot be addressed effectively through the political process.

2.A: Welfare

Firms affect their employees' well-being in three principal ways. They influence the level of economic resources each person enjoys. They affect the ability to keep one's job. And they determine how work is to be conducted. These effects will continue to exist in a just society; they cannot be regulated very effectively through the political process; and they are of legitimate concern to employees.

Material resources. The first kind of effect involves a person's access to income and wealth. Any liberal egalitarian society will be subject to unpredictable economic changes, which will be detrimental to some of its members. Often it will be impossible to say whether these

changes make the distribution of resources more or less just. Yet it is reasonable to care about one's access to income and wealth, because we would prefer a larger amount of resources and because we plan our lives based in part on expectations about what that amount will be.

Let us begin with a preliminary, empirical observation: downward mobility is not a rare thing in advanced industrial societies. At least that is true of the United States. The clearest evidence emerges in cases of job displacement due to layoffs and business failures. Typically, younger employees achieve a substantial increase in earnings by moving from one job to another. This becomes costly with age, however. Robert Topel, for instance, reports immediate earnings losses of 15-40% for displaced workers. The same studies suggest that this is a long-term setback. Five years on earnings remain 15-30% below their pre-displacement levels. Drawing on such evidence, Topel concludes:

...the private costs of unemployment are large and persistent. The prototypical spell is not the transitory interruption of earning power depicted in many classroom exercises; it leads to a permanent reduction in wealth as old skills become less valuable. Many of the "unskilled" who now occupy the lower reaches of the earnings distribution once had much higher earning capacity.⁶¹

Indeed, he estimates (very roughly) that, in 1988, 7% of those in the bottom decile of the earnings distribution had been displaced from the 40th percentile or above.⁶² Other research tends to confirm the view that, for a significant sector of the U.S. labor force, losing a job can entail substantial economic costs.⁶³

⁶¹ Robert Topel, "What Have We Learned From Empirical Studies of Unemployment and Turnover?", p. 115.

⁶² Robert Topel, "What Have We Learned From Empirical Studies of Unemployment and Turnover?", p. 114.

⁶³ For reviews see: Bruce C. Fallick, "A Review of the Recent Empirical Literature on Displaced Workers"; and Lori G. Kletzer, "Job Displacement". Firms also have an unpredictable effect on employee resources through their pension policies. See, for instance, *The Wall Street Journal's* coverage of the shift to "cash-balance" plans, especially the articles by Ellen E. Schultz.

A perfectly just society might be able to avoid these sorts of change. Yet I want to argue that there is bound to be a significant degree of uncertainty about one's access to material resources, even in a just society. Four considerations point toward this conclusion. First, there is some ambiguity about what principle of distributive justice egalitarians should endorse. It might be Rawls' difference principle, some brute luck principle, or a mixed conception, among others. This assumption is not unwarranted: egalitarians do in fact disagree about what principle is truly just.⁶⁴ And the various principles differ in their distributive consequences. Second, there can also be disagreement about what degree of inequality any one of these principles is compatible with.⁶⁵ Third, egalitarian principles usually allow inequalities resulting from differences in individual choices, family backgrounds, and ability to contribute to the welfare of others. Even if we knew which principle to choose, and how exactly it should be interpreted, it is possible that this principle would permit an unspecified level of inequality. Fourth, egalitarians are usually unclear about what institutions their principles require. Ronald Dworkin, for instance, thinks that anything from a negative income tax to a system of market socialism might be necessary.⁶⁶ But these institutions may lead to very different distributive outcomes.

These considerations suggest that economic uncertainty is a fact of life in modern, market economies. It is not simply a function of unjust social arrangements. Hence the principles of justice leave a substantial degree of uncertainty for some persons about what resources they will have from time to time. And it will be difficult to tell whether many of these changes enhance or

⁶⁴ For example, see: John Rawls, *A Theory of Justice*; Ronald M. Dworkin, *A Matter of Principle*, pp. 205-213; and Joshua Cohen, "Democratic Equality".

⁶⁵ Witness the dispute between Rawls and G. A. Cohen about what the difference principle requires. Cohen's "Rescuing Justice From Constructivism" (unpublished draft) contains a brief summary of the controversy.

⁶⁶ The reason is that this issue raises difficult social-scientific questions: e.g., does it turn on the particular institutions and traditions of a society? See for instance Rawls' comments on social democracy and market socialism (John Rawls, *A Theory of Justice* pp. 273-274). For a survey of the broader question, see Will Kymlicka,

detract from social justice. Given this type of uncertainty, we need to show that it leads to legitimate interests (as defined above). Two considerations suggest that it does. First, income and wealth are things upon which it is appropriate to base claims of justice. And the difference between positions in the distribution may be significant, according to common sense standards of quantitative significance. So people will have a legitimate stake in certain economic decisions. Indeed, some will have more of a stake in such decisions than in the meat and potatoes of liberal egalitarianism (e.g. the nature of the tax laws or the specific principle of distributive justice guiding state policy).

The second consideration is that people build their lives given expectations about the resources they are likely to have in the future. Liberalism requires that individuals adapt their plans and aspirations to what can be achieved given the amount of income and wealth they can realistically hope to obtain. Yet economic decisions can upset a person's realistic expectations quite rudely. Nevertheless, individuals will be expected to adjust their plans accordingly. There may be no way around this problem if we are to have an innovative and growing economy. But the possibility of class mobility -- especially downward mobility -- is a reason for people to take a legitimate interest in their access to income and wealth.

In sum, economic enterprises have a substantial impact on people's access to economic resources. This is likely to continue even in a just society. And in such a society economic resources would continue to be a locus of legitimate interests.

Employment. For most people, employment is the key source of material goods. Firms affect a person's access to economic resources, as described above, in part through their employment decisions. Yet the impact of losing one's job is not always restricted to a decline in

one's income. It can be disruptive in deeper ways. After a bit of evidence in support of this claim, I argue that the problem will continue to exist in a just society.

Job losers meet with substantial psychological turmoil and significant disruptions in their lives.⁶⁷ They are more likely to suffer from a range of psychological problems, such as heightened anxiety and a decline in self-esteem.⁶⁸ They are somewhat more likely to divorce.⁶⁹ Some studies report a positive correlation between aggregate unemployment and suicide rates.⁷⁰ It is not simple to attribute causality in these cases – e.g., perhaps those with bad marriages tend to be bad employees because of it, and happen to divorce after losing their job. Still, the psychological and sociological findings complement one another. Since we know that job loss has negative psychological consequences, we may suppose that it produces marital instability (say). Moreover, qualitative research on job loss underscores this assessment. Summarizing some of this work, one scholar explains that it:

⁶⁷ "Job loss" means losing a job involuntarily. It need not involve getting fired or laid off – e.g., compare Nathan Bennett, Christopher L. Martin, Robert J. Bies, and Joel Brockner, "Coping With a Layoff: A Longitudinal Study of Victims" and Paul Attewell, "The Impact of Family on Job Displacement and Recovery" -- though this is probably the typical case.

⁶⁸ Quantitative studies are discussed in: Carrie R. Leana and Daniel C. Feldman, "The Psychology of Job Loss", especially p. 273; Janina C. Latack, Angelo J. Kinicki, and Gregory E. Prussia, "An Integrative Process Model of Coping with Job Loss"; and Nathan Bennett, Christopher L. Martin, Robert J. Bies, and Joel Brockner, "Coping With a Layoff: A Longitudinal Study of Victims". A thorough treatment of the psychology of layoffs may be found in Carrie R. Leana and Daniel C. Feldman, *Coping With Job Loss: How Individuals, Organizations, and Communities Respond to Layoffs*.

⁶⁹ Paul Attewell, "The Impact of Family on Job Displacement and Recovery"; D. Lester and K. Abe, "The Regional Variation of Divorce Rates in Japan and the United States"; W. Sander, "Unemployment and Marital-Status in Great Britain". There may be effects on other family members as well, children in particular. See Carrie R. Leana and Daniel C. Feldman, "The Psychology of Job Loss", p. 276.

⁷⁰ This finding is not consistent across different studies, countries, and groups. But it appears that sometimes there is a connection between unemployment and suicide. Presumably this reflects the strain of being unemployed. I do not know whether being out of the labor force involuntarily -- as opposed to unemployed -- increases the likelihood of suicide. See: F. E. Caces and T. Harford, "Time Series Analysis of Alcohol Consumption and Suicide Mortality in the United States, 1934-1987"; T. Norstrom, "The Impact of Alcohol, Divorce, and Unemployment on Suicide: A Multilevel Analysis"; D. Lester and B. J. Yang, "The Relationship Between Divorce, Unemployment, and Female Participation in the Labor-Force and Suicide Rates in Australia and America"; B. J. Yang, "The Economy and Suicide: A Time-Series Study of the USA"; D. Lester, "Domestic Integration and Suicide Rates in the Provinces of Canada"; G. Gmel, J. Rehm, and A. Ghazizouri, "Alcohol and Suicide in Switzerland -- An Aggregate-Level

...emphasizes the domino effects of job loss: conflicts often develop with spouses, and children used to a middle-class existence may resent being pushed downward and become hostile to the job loser. Displaced workers face a severe loss of self-esteem, many missing their professional identities intensely, and some come to blame themselves for their situation. Displacement becomes an assault on people's expectations about life itself. Their ideas about the rewards that follow hard work are violated, and their sense of values and their own place in society are called into question. This shock may be transmitted to children, some of whom become less trusting in education as a route to mobility and security, seeking quick material success instead.⁷¹

In describing this evidence I have glossed over an interesting question, namely, whether the effects of job loss are due to the loss *per se* or the effect of being unemployed. There is no gainsaying the fact that unemployment can be a burden. But the passage above suggests that the job-loss itself causes trouble. Also, some of the psychological and other effects we have discussed occur relatively soon, suggesting the impact of losing one's job as opposed to being unemployed.⁷² For instance, Janina C. Latack and her colleagues report that:

...studies of unemployed individuals, particularly white-collar employees, revealed that the impact of job loss is considerable, even without long-term or chronic unemployment.⁷³

In any case, the evidence we have reviewed suggests that involuntary unemployment can be a significant burden, either because it entails losing one's job or because unemployment is a burden.

Clearly avoiding these effects is a legitimate interest. Would they exist in a just society?

Analysis".

⁷¹ Paul Attewell, "The Impact of Family on Job Displacement and Recovery", p. 68.

⁷² Carrie R. Leana and Daniel C. Feldman, "The Psychology of Job Loss", pp. 272-275

⁷³ Janina C. Latack, Angelo J. Kinicki, and Gregory E. Prussia, "An Integrative Process Model of Coping with Job Loss".

I assume that any modern economy in which the market plays an important role is going to have a substantial degree of employment turnover. The question is whether this will bring the effects described above. Certainly the financial strain of displacement would be less.⁷⁴ Perhaps we would not have a culture in which employment has quite the place it has in the United States. Imagine a society of surfers who fulfill their moral obligation to work, attaching no other meaning to it. They shrug off being fired or laid-off and enjoy their increased time at the beach, while of course seeking other avenues of employment. But this world is unlikely to exist. Along with a society in which people feel an obligation to work comes a society in which many will attach meaning to their work. This implies that losing one's job can be harmful.

There are three reasons. As long as people feel an obligation to work, losing a job is going to be a source of strain. Otherwise the obligation will not be effective. Further, as long as work consumes a major portion of someone's life, losing a job will be stressful. It will naturally occur to the person that she has failed, even though she has put in a lot of time and effort. Finally, it will not always be possible for the person to tell herself: "Oh well, at least I'm helping to maximize the position of the least advantaged." The degree of uncertainty regarding the principles of justice and their realization, discussed earlier, make this sort of explanation difficult. Displacement and unemployment will sometimes be experienced as displacement and unemployment, as opposed to sacrifices for the sake of justice. Hence, for some people, losing a job will be a significant burden even within a just society.

The Conduct of Work. Beyond the area of resources and employment, many economic decisions affect the circumstances under which work is performed. Such effects have a strong

⁷⁴ An important point because financial strain appears to be a key factor producing psychological and other problems. See Carrie R. Leana and Daniel C. Feldman, "The Psychology of Job Loss", pp. 276 & 289.

connection to citizens' legitimate interests because they are substantial and because they are bound to be of concern whatever one's conception of the good.

Economic decisions affect the nature of work in three substantial ways.⁷⁵ They determine the nature of productive technologies, for instance the choice between technologies compatible with mass production and those compatible with craft-like production. They also determine the organization of work. Although technology has an important impact on how work is organized, it usually does not settle every normatively significant question in this area. For instance, there are assembly lines with and without job rotation: and it is possible to use technologies such as "just-in-time" inventory management and statistical process control in ways that enhance or curtail worker autonomy.⁷⁶ Economic decisions have yet another impact in that they determine the distribution of burdens within the workplace. For example, what steps should be taken in order to reduce or increase output -- change the pace of work, lay people off (and who), work on Sundays? How should desirable or undesirable shifts and tasks be allocated?

These effects will be important from the perspective of virtually everyone's conception of the good, although any particular effect may not be. By way of illustration, consider two cases in which the conduct of work matters to people we may have thought indifferent to it. Not long ago *The Wall Street Journal* described the efforts of a Whirlpool factory near Nashville, Tennessee to accommodate the practices of Muslim employees. These measures include slight changes to the organization of production (given the technology in use). For instance: "Whirlpool had

⁷⁵ Studies on the relationship between work and economic institutions and decisions include: Harry Braverman, *Labor and Monopoly Capital: The Degradation of Work in the Twentieth Century*; Michael J. Piore and Charles F. Sabel, *The Second Industrial Divide: Possibilities for Prosperity*; David F. Noble, *Forces of Production: A Social History of Industrial Automation*; David Montgomery, *Workers' Control in America: Studies in the History of Work, Technology, and Labor Struggles*; Richard Sclove, *Democracy and Technology*; Barbara Garson, *All the Livelong Day: The Meaning and Demeaning of Routine Work*.

⁷⁶ A good discussion of this latter point is Janice A. Klein, "The Human Costs of Manufacturing Reform".

supervisors assign relief teams for prayer times, just as they do for other kinds of breaks.” Similarly, safety regulations were changed so women could wear head scarves near production areas (though the company insists that employees wear steel-toed shoes instead of sandals).⁷⁷ Turning to another case, in 1995 the Carson City, Nevada sheriff’s department refused to accommodate a new employee when she refused to work from Friday to Saturday evenings. The department distributed shifts according to a seniority-based bidding system. Being a new hire, she was assigned to the weekends, which carry a higher workload. This conflicted with her religious obligations.⁷⁸ Now these examples are not straightforward. Using relief teams for religious accommodation means that they cannot be used for something else; giving Friday evenings and Saturdays off to devout persons means that others have to take these shifts. Yet the examples illustrate how people with very different moral views can have a common interest in the conduct of work.

In short, the fact that economic decisions affect the workplace substantially, and that almost anyone will think some of these effects are important, suggest that people have a legitimate interest in how work is conducted. Economic enterprises make the vast majority of these decisions: they are not determined by the principles of justice, nor can they be made through the government.⁷⁹ We have seen, too, that the same holds in other areas of legitimate concern, namely access to employment and resources.

2.B: Control

Next we consider whether economic decisions, in a just society, will involve the exercise

⁷⁷ Timothy D. Schellhardt, “Workplace: In a Factory Schedule, Where Does Religion Fit In?”.

⁷⁸ Charles J. Muhl, “The Law at Work”.

of control. Here “control” means the more or less sustained and extensive regulation of a person’s daily life. The discussion goes as follows. First I illustrate the kinds of control many people encounter at work, then explain why these practices constitute a significant imposition. Finally I argue that limited schemes of workplace participation and employee rights are not sufficient to address this problem, which is likely to persist in a just society.

Control. Economic decisions involve a more or less detailed and prolonged regulation of individual conduct in the workplace. This is a truism, I think. Still it merits some discussion. Many political philosophers sympathetic to economic democracy have not given the exercise of control its due, focusing instead on “big picture” questions – e.g., the fact of moral disagreement within economic enterprises.⁸⁰ In addition, liberal egalitarians sometimes appear insensitive to the character of workplace control. When one confronts this sort of power, the view that justice consists only in the realization of principles of distribution (say) begins to look somewhat limited.

Managers exercise control over subordinates with respect to the conditions of employment as well as supervision.⁸¹ Often a job comes with a host of preconditions or forms of control related indirectly to the actual work. Some companies require job applicants and, to a lesser extent, current workers to undergo drug tests.⁸² Some administer tests for honesty and

⁷⁹ This argument may be thought to justify only a limited form of workplace participation. See 2.B on this issue.

⁸⁰ The clearest examples are Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality*, pp. 291-303; and Christopher McMahon, *Authority and Democracy: A General Theory of Government and Management*.

⁸¹ Beyond the sources cited below, this paragraph has benefited from: Barbara Ehrenreich, “Nickel-and-Dimed: On Not Getting By in America”; Tom L. Beauchamp and Norman E. Bowie, eds., *Ethical Theory and Business*, pp. 268-275; Manuel G. Velasquez, *Business Ethics: Concepts and Cases*, pp. 394-414.

⁸² A 1988 Labor Department study reported that 3% of worksites in the U.S. were conducting some form of drug testing, with a much higher rate for job applicants. The rates are higher for large workplaces, and have been rising since the 1980s. Hence in 1992-1993, 48.4% of private worksites with 50 or more full-time employees were conducting tests. Of these, 23.6% tested all employees and about 55% had random or regular tests (as opposed to testing those under suspicion). These figures varied considerably across region, industry, and number of employees.

appropriate attitudes.⁸⁵ Dress codes and uniforms are ubiquitous. Some firms adopt non-standard rules regarding appearance. In 1994, for instance, Blockbuster Video ordered male employees to avoid long hair, and fired some who refused to comply. Other companies ban beards.⁸⁴ Employees may be required to use back entrances. They may be forced to attend meetings to resolve workplace issues, provide motivation, warn against unions, and so forth.⁸⁵ Workers may have to submit to searches of their desks and lockers.⁸⁶ Companies restrict what people can say on (and possibly off) the job. One scholar quotes this rule from a bus company in the 1970s:

The company requires its employees to be loyal. It will not tolerate words or acts of hostility to the company, its officers, agents, or employees, its services, equipment, or its condition, or...criticisms of the company to others than...superior officers.⁸⁷

A more reasonable example, perhaps, might be speech codes intended to prevent sexual harassment. Moreover, employees may be under more or less sustained scrutiny as they work.

but nowhere were they insignificant. The figures for job applicants are probably higher. In sum, a significant number of employees and a substantial number of job applicants must undergo drug tests. See: Tyler D. Hartwell, Paul D. Steele, Michael T. French, and Nathaniel F. Rodman, "Prevalence of Drug Testing in the Workplace"; and "Surveys Reach Different Conclusions About Prevalence of Drug Testing".

⁸³ I am not aware of extensive, quantitative studies on psychological testing. In the U.S. the practice has been increasing since Congress banned the general-purpose use of lie detector tests. An article on the U.K. reports: "although estimates vary, it's very likely that around 80% of the bigger businesses in the U.K. – represented by The Times 1000 – now use psychological testing for one purpose or another." (Malcolm Starkey, "Testing the Tests: Psychological Employment Tests".) On the U.S. see: Peggy Schmidt, "Lie-Detector Tests in a New Guise"; J. William Townsend, "Is Integrity Testing Useful?"; and Geoffrey Brewer, "Shrink Rap: Is it Smart -- or Just Plain Crazy -- to Use Psychological Tests When Hiring and Developing Employees?".

⁸⁴ Charles J. Muhl, "The Law at Work"; Timothy D. Schellhardt, "Workplace: In a Factory Schedule, Where Does Religion Fit In?".

⁸⁵ Barbara Ehrenreich, "Nickel-and-Dimed: On Not Getting By in America".

⁸⁶ W. Michael Hoffman and Jennifer Mills Moore, *Business Ethics: Readings and Cases in Corporate Morality*, p. 243.

⁸⁷ David W. Ewing, *Freedom Inside the Organization*. Cited in W. Michael Hoffman and Jennifer Mills Moore, *Business Ethics: Readings and Cases in Corporate Morality*, p. 242.

Barbara Ehrenreich describes a supervisor at a restaurant in Key West, Florida, whose management was “generally calmer and more ‘professional’” than others she encountered:

Then there’s B.J., a.k.a. B.J.-the-bitch, whose contribution is to stand by the kitchen counter and yell, “Nita, your order’s up, move it!” or “Barbara, didn’t you see you’ve got another table out there? Come on, girl!” ... On my third night, she pulls me aside abruptly and brings her face so close that it looks as though she’s planning to butt me with her forehead. But instead of saying, “You’re fired”, she says, “You’re doing fine”. The only trouble is I’m spending time chatting with customers... Furthermore I am letting them “run me”... Finally she tells me not to take her wrong. She tries to say things in a nice way, but you get into a mode, you know, because everything has to move so fast.⁸⁸

There are other forms of supervision besides hollering. Employees may have to ask permission before taking a res.room break, and may be denied the opportunity.⁸⁹ Factory workers may have to use a time clock. Telemarketers might have their calls monitored. Offices can be arranged so as to allow constant observation.⁹⁰

Control and legitimate interests. People have a legitimate interest in avoiding others’ exercise of control. There are two reasons. Controlling people entails a burden on their moral autonomy. The range of decisions a person is able to consider and determine is restricted. In addition, relations of control strike one as objectionable for reasons independent of individual autonomy. They appear as an inappropriate way for people with an equal dignity to be required to interact with one another.⁹¹

Of course, any single instance of control does not seem very troubling, either on grounds

⁸⁸ Barbara Ehrenreich, “Nickel-and-Dimed: On Not Getting By in America”.

⁸⁹ The federal government issued a regulation regarding restroom breaks in April 1998. This will not, of course, eliminate the need for workplace decisions in this area, even assuming the regulation is followed. See: Marc Linder, “Viewpoint: A Fight for Restroom Rights”; Barbara Ehrenreich, “Nickel-and-Dimed: On Not Getting By in America”.

⁹⁰ Barbara Garson, *All the Livelong Day: The Meaning and Demeaning of Routine Work*.

⁹¹ I take the distinction between these two reasons from Raz’ introduction to Jozeph Raz, ed., *Authority*.

of autonomy or inter-personal relations. When I go to the doctor's office I am subject to a variety of controls, for instance the process by which appointments are scheduled and payment is arranged. But fortunately these visits are infrequent. So the types of control they involve are not troubling. However, the examples above suggest that, for many people, workplace control is considerably more pervasive.

Control and Workplace Democracy. We need to ask two other questions. Does workplace control support a principle of workplace democracy, as opposed to a limited sort of workplace participation? Would it exist in a just society? The impression that these forms of control only support a limited kind of workplace participation derives from two accurate observations. People express considerable interest in influencing decisions that affect their work environment, showing little interest in broader company policies and strategies. In addition, it seems that they have good reason to do so. For instance, someone who works construction will be more interested in who her foreman and coworkers are than in the company's choice of advertising agency, say, given that the work is not always safe.

These points are important in deciding how to accommodate a principle of workplace democracy with other principles of justice. But they do not bear on what that principle requires, in the first instance. Although there is definitely a distinction between "management" and "workplace" issues, it is often fuzzy. What people do on the shopfloor affects the choices that managers face, and the decisions managers make affect the options available on the shopfloor. Consider a few examples of the first side in this relationship. How a company monitors employees will depend in part on how it chooses to compensate them. How it organizes production depends in part on what investments it has made in the past and is willing to make in the future. Whether employees have to wear uniforms may depend on the firm's marketing

strategy. Clearly these connections will vary with time and place. But there do not appear to be any solid and stable patterns. Hence it seems that the exercise of control at work is a reason for economic democracy (though it is a stronger reason for workplace participation).

Will these forms of power disappear, more or less, in a just society? An empirical, comparative answer is beyond the scope of this essay. Still we may ask whether control is inevitable and, if so, whether it can be constrained appropriately. First, there can be good reasons for the exercise of control. Problems of information asymmetry, moral hazard, and collective action create uncertainties that any organization will have to address through some sort of control. Second, imbalances of power distort people's perspective. Subordinates may regard it as more unjust than it is, and superiors may be given to abuse it. On this last point: notice that powerful people tend to oppose any effort by their subordinates to organize themselves independently. U.S. businessmen are notoriously anti-union. But university administrators can be hostile too.⁹² Even the people who run "progressive" organizations may not want *their* employees unionized, although they favor unionization everywhere else. Public servants often oppose independent client organizations.⁹³ Local politicians derail efforts to mobilize the poor. For whatever reason, then, the tendency to think that there is no need to share one's power cuts across ideological and political lines. Given these problems, it is hard to imagine that there would not be a considerable number of workplaces with a substantial degree of control in a just society.

It is tempting to think, however, that employees could be protected by a scheme of workplace rights (for instance rights to privacy and due process). Yet the examples given above

⁹² For some evidence, from the union activist's point of view, see: Andrea Cole, "How Yale Workers Defied Union Busting".

⁹³ Michael Lipsky, *Street-Level Bureaucracy: Dilemmas of the Individual in Public Services*.

may pass muster under such a standard. Drug tests, uniforms, searches, time clocks, regular supervision, speech codes, and so on are not unreasonable on their face. They can be said to advance the association's goals. This claim will often be controversial, no doubt, but it can also be reasonable. The examples above are troubling because some people have power over others, not because anyone's rights are being violated.

Section 3: Firms Are Not Voluntary Associations

I argued in section 1 that when individuals join economic enterprises, as employees, the company's decisions play an important role in their lives. These effects will continue to exist in a just society, and they cannot be regulated through the political process. However, it is common to think of firms as voluntary associations, and to say that democracy is not required in that case. This section argues that firms are not voluntary associations, on an appealing interpretation of that phrase. The reason, intuitively, is that individuals do not join an association voluntarily when they cannot avoid such associations altogether. States are not voluntary, in part, because it appears that we have to join some state. It appears also that many people have to join some economic enterprise. In contrast, no one has to join a monastery. That is one reason why there is a right to democracy within states – and arguably economic enterprises – but not monasteries.

That intuitive statement carries the argument's main thrust, but it is far too simple. After all, there is a plethora of employment options. People are free to move from one company to another. Moreover, there is always the option of self-employment. One may have a private practice, set up a retail business, work as a consultant or free-lancer, etc. So although there is an

intuitive case for thinking that firms are not voluntary associations, there appears to be an intuitive argument for thinking that they are.

Yet recall the second assumption about justice entered in section 1.B: along with the benefits of a just, liberal democratic society comes a prima facie, moral obligation to work.⁹⁴ When we combine this premise with an appealing account of when associations are involuntary, it is clear that firms are not voluntary associations. This account may be stated briefly in the following principle:

Voluntariness Principle. An association is not voluntary if an individual must join the association, or one similar to it, in order to fulfill the obligations or obtain the benefits of just social cooperation.

The principle has two features of particular relevance here. It holds that an association may be involuntary even if an individual joins willingly, as long as she would otherwise have to join a similar association. For example, immigrants to the United States join this association willingly. On the stated principle, though, the U.S. is regarded as non-voluntary – with respect to these immigrants -- insofar as they must join one nation or another. In addition, the voluntariness principle approaches the question whether someone “must join” from a moralized perspective. It draws explicitly on an underlying theory of justice which specifies what obligations people have and what things they are entitled to. If one follows this approach, economic enterprises are not voluntary associations. For even in a just society there are going to be many people who will have to join one firm or another in order to obtain the benefits of social cooperation and/or fulfill their obligation to make an economic contribution. In contrast, there is no obligation to join

⁹⁴ The following argument does not depend on the egalitarian view described in 1.A. The benefits of a just, liberal democratic society are political democracy, equal opportunity, and the basic liberties (including a decent standard of living).

religious groups, cultural organizations, etc. And it is possible for everyone to obtain the things they are entitled to without joining these groups.

Let me spell out this argument in the following way. Section 2.A explains the moralized, justice-centered account of why it is that many people have to join economic enterprises. Section 2.B explains why the need to join some economic enterprise – as opposed to a particular enterprise – creates a right to self-government.

3.A: Why Many People Have to Join Economic Enterprises

The voluntariness principle says that people are required to join an association when they have a moral obligation to do so, where this obligation derives from the value of social justice, or when joining is a precondition for obtaining the benefits thereof. On the liberal egalitarian view, there is a moral obligation to make an economic contribution that others value. For many persons, this obligation to work is really an obligation to join economic enterprises, for two reasons.

First, some people are bound to find self-employment very costly. They may not have the skills necessary to run a viable business. They may find the risks and other aspects of entrepreneurial life especially stressful. Of course, some societies come closer to providing acceptable self-employment opportunities for everyone. This may have been the case -- with respect to white males at least -- in the early periods of U.S. history. Nevertheless, self-employment is not a realistic option for a large number of persons in any modern economy.

There is a second reason why the obligation to work is an obligation to join economic enterprises.⁹⁵ We cannot pose the issue simply as a question about whether people could survive

⁹⁵ The following argument focuses on the right to a decent standard of living. A similar argument derives from the right to political democracy, inasmuch as the sacrifices required to avoid economic enterprises may undermine the opportunity to participate fairly in the political process.

tolerably without joining an economic enterprise. A liberal democrat believes that individuals are entitled to a level of resources that is decent, not tolerable. No one denies that, for many people, going into business has huge costs in terms of time, financial risk, and so forth. These individuals cannot make good on their obligation to work without depriving themselves of the resources to which they are entitled. In that sense they are forced to join economic enterprises. Of course, some persons will decide that the risks and costs of striking out on their own are worth taking, and a democratic economy will continue to have substantial opportunities for them to do so. But that cannot mean that people who find this option disagreeable are not forced to join economic enterprises.

To see why, consider a parallel to the state. There are people who prefer to live in the wilderness or on private islands. These places are more or less beyond the reach of governmental authority. No doubt one could say that people in these places are still, technically, under governmental power. But we should set aside this formalism. The fact is that even today it is possible for people to live most of their lives without belonging to any political association, if they are prepared to take the necessary steps. That is not to say, though, that states are voluntary associations. The question is not what choices we face, but what choices we are entitled not to face. We should not be required to choose between living in an undemocratic state and living on a deserted tropical island -- even though many people would find the latter option very appealing. The reason is that we are entitled to the things that membership in a just society provides. Similarly, people should not be required to choose between undemocratic firms and self-employment, even though many people find the latter very appealing. The reason is not that it is literally impossible to avoid economic enterprises. It is that many people cannot do so while obtaining the things to which they are entitled.

These, then, are the reasons why many people have to join economic enterprises. It may help to contrast them with an alternative view, presented in G. A. Cohen's work on proletarian unfreedom. Cohen argues that workers are not forced to sell their labor-power to capitalists. He begins from the premise that people are not forced into something unless they lack an acceptable alternative. Why? Because that is the meaning of statements such as, "I was forced to do that". They are a way of saying something like, "I had no option worth considering". And Cohen argues that people have an acceptable alternative to joining economic enterprises, namely, self-employment. He says:

I have in mind those proletarians who, initially possessed of no greater resources than most, secure positions in the petty bourgeoisie and elsewhere, thereby rising above the proletariat. Striking cases in Britain are members of certain immigrant groups, who arrive penniless, and without good connections, but who propel themselves up the class hierarchy with effort, skill, and luck. One thinks – it is a contemporary example – of those who are willing to work very long hours in shops bought from native British bourgeois, shops which used to close early. Their initial capital is typically an amalgam of savings, which they accumulated, perhaps painfully, while still in the proletarian condition, and some form of external finance. *Objectively speaking*, most British proletarians are in a position to obtain these. Therefore most British proletarians are not forced to sell their labour-power.⁹⁶

Given this argument, it is clear that Cohen's view differs from the one presented here with respect to methodological, substantive, and empirical claims. Methodologically it holds that we should determine whether people are forced into doing things without drawing on a background theory of justice. Substantively, it says that people act involuntarily only if they have no acceptable alternative, whereas the principle stated above says that people act involuntarily when the alternatives would deprive them of things to which they are entitled or

⁹⁶ G. A. Cohen, "The Structure of Proletarian Unfreedom", pp. 240-241, his emphasis; see also p. 256. The qualifiers regarding "objective" conditions refer to the fact that Cohen is setting aside subjective obstacles such as

keep them from acting justly. Empirically, Cohen appears to think that self-employment does not carry prohibitive costs for anyone, whereas I have asserted that it does. Why should one prefer my approach to Cohen's?

We may set aside the substantive question, because that is the subject of sections 4 and 5. I will also set aside the empirical question. It is not too controversial to say that self-employment carries prohibitive costs for some people, and Cohen's assertion to the contrary is puzzling. But let me say something on the methodological issue. Should we steer clear of justice in determining whether people are forced to do things? The answer is no, I believe. The justice-based approach is not as counter-intuitive as Cohen thinks, and his linguistic method less appealing than he believes.

Cohen argues that the justice-based approach leads to absurd conclusions. He is concerned, in particular, with Robert Nozick's claim that a person acts involuntarily if and only if her rights have been violated. Cohen responds that, on this view, we are required to say that criminals go to prison voluntarily, inasmuch as their incarceration is legitimate.⁹⁷ The point I want to make is that this argument is appealing because Nozick sees the absence of a rights violation as a sufficient condition for voluntary action. In contrast, my aim is not to offer an exhaustive account of what makes an action voluntary or involuntary. So it is possible to say that people go to prison involuntarily.

On the other hand, the alternative to a moralized, justice-based approach appears to be

diffidence.

⁹⁷ G. A. Cohen, "The Structure of Proletarian Unfreedom", p. 238.) It is worth noting that this argument may not be as simple as Cohen appears to think. Consider the following dialectic. Nozick: our action is involuntary, also, if people respond legitimately to our violation of their rights. Cohen: not everyone found guilty is guilty (i.e. has violated a right). Nozick: but they would agree to the judicial system. Cohen: this reflects the possibility that others will violate their rights, which makes the judicial system involuntary. In any case, Cohen offers another example against Nozick's view: See G. A. Cohen, *Self-Ownership, Freedom, and Equality*, p. 36.

Cohen's linguistic method. And it is rather indeterminate. Cohen's essay illustrates this point well, so let me simply list several examples. First, determining whether option A is particularly bad relative to option B requires a comparison of their expected utilities. Yet this requires standards of comparison "which are absolute *in some sense*".⁹⁸ Indeed, one aspect of this question leads Cohen to admit that there is:

...an indeterminacy in the ordinary concept of constraint, on which I have relied: when estimating the goodness or badness of courses of action, with a view to judging whether or not an agent is forced to do something, should we consider his preferences only, or apply more objective criteria? The ordinary concept appears to let us judge either way.⁹⁹

Also, using expected utility requires assessing probabilities and utilities in the real world, and this will often render "intractably moot" the question whether a person is forced to do something.¹⁰⁰ Moreover, Cohen's account must face difficult questions about which (if any) internal obstacles can be said to make a person unfree: an aversion to risk, for instance. (And if we regard these internal states as preferences, then we return to the problem of measuring utilities.)

There is a problem beyond this indeterminacy in Cohen's method: namely, that it seems to regard people as free even if everyone agrees that their alternate courses of action are immoral. To see why, notice that self-employment is not the only option to working in a firm. One may also go on the dole or beg, for instance. Let us assume that everyone thinks these things are wrong. Still it is clear that many people are able to do them for long periods of time.

⁹⁸ G. A. Cohen, "The Structure of Proletarian Unfreedom", p. 258, his emphasis.

⁹⁹ G. A. Cohen, "The Structure of Proletarian Unfreedom", p. 259.

¹⁰⁰ See G. A. Cohen, "The Structure of Proletarian Unfreedom", p. 259. Cohen says that this is not an objection to his view, because the question often is intractable. But it deprives his account of the clarity and indubitability that might be thought to follow from the fact that it is linguistically- as opposed to morally-grounded.

So they appear to be acceptable alternatives for these persons. Now this result is not incompatible with the way we usually talk. When stating that I am free to break a promise, I might be saying that although this would be wrong, the moral burden involved would not be very great. Nevertheless, it would be odd to argue that firms are voluntary associations with this logic. If justice imposes obligations on individuals, then other of its elements must reflect these obligations. Cohen's method is unattractive in part because it does not allow this.

3.B: From Firms in General to Particular Firms

We have seen that many people have to join economic enterprises. Next I want to suggest that people do not join a particular firm voluntarily if the obligation to join firms in general is among their reasons for doing so. In order for membership in an association to be involuntary, we do not have to be born into the association. Nor do we have to select the association from among a set of undesirable or limited options. It is enough that our decision to join reflects the obligation to choose among the relevant class of associations. For example, suppose the state requires its citizens to join some political party. Then political parties would not be voluntary associations. It does not matter whether we have one, ten, a hundred, or a thousand different parties. Of course, the degree of choice may have a bearing on the urgency of the case for democracy. But the obligation to join some association is a sufficient condition. If a person joins party X because she has to join some political party, then her relationship with party X is not voluntary.

This view allows us to construct an intuitively appealing account of the degree to which sovereign states, firms, and 'private' associations are voluntary or involuntary. States meet the condition most fully because many people do not choose their citizenship and because, among

those who do, the choice tends to be relatively circumscribed. Although many people have to join economic enterprises, typically they have more options from which to choose. Still their choice is not voluntary inasmuch as it is premised on the obligation to join one enterprise or another. Private associations such as churches and small clubs are voluntary associations. Generally, there is no sense in which citizens are required to join these organizations.

Now, even if employees do not join their firms voluntarily, perhaps we do not need the principle of workplace democracy. It may be sufficient to have an economy in which some fraction of the employment opportunities are with democratic firms. If we return to the five economic arrangements described in chapter I, section 2.B, the idea is that a 'mixed property regime' suffices to make firms voluntary associations. In this case people have a realistic option of working for a democratic firm. Hence those who choose traditional firms do so voluntarily: that is, they express a preference for the traditional employment relationship. Thus, allowing a majority of the workforce to opt for democratic arrangements, or requiring these arrangements as a matter of law, would be unnecessary.

It is hard to see, however, why the presence of *some* democratic alternatives implies that people accept the traditional employment relationship voluntarily. Given that people have to join economic enterprises, we do not know what their preferences really are. The factors that enter into a person's choice are multi-faceted and complex. Among them are geographical location, earnings, quality of work, and career prospects. Often a person has to consider other individuals in making these decisions (e.g., spouses, children). So the claim that joining traditional firms reveals a preference for the traditional employment relationship is puzzling. As Michael Walzer has argued -- with respect to firms and local governments -- we should presume that people do not seek to place themselves under others' power and authority:

Anyway, residence does not constitute an agreement to despotic rules even if the rules are known in advance... A man who joins a monastic order...seems to be choosing a way of life rather than a place to live (or a place to work). We would not pay him proper respect if we refused to recognize the efficacy of his choice. Its purpose and its moral effect are precisely to authorize his superior's decisions, and he can't withdraw that authority without himself withdrawing from the common life it makes possible. But the same thing can't be said of a man or a woman who joins a company or comes to work in a factory. Here the common life is not so all-encompassing and it does not require the unquestioning acceptance of authority. We respect the new worker only if we assume that he has not sought out political subjection.¹⁰¹

Hence we should regard economic enterprises as non-voluntary associations, even if there are democratic firms available.

Section 4: Democracy as Protective of Rights

The final sections of this essay consider two liberal egalitarian objections to the argument in sections 2 and 3. Let me summarize that argument briefly. The question we have been addressing is this: why should liberals endorse a right to workplace democracy, where this right is understood to be as important as distributive justice and not a device for realizing some other principle of justice? I began with the premise that individuals have this sort of right within associations meeting two conditions: its decisions play an important role in their lives, and this relationship is not voluntary. Section 2 argued that the economic enterprises of a just and democratic society are bound to meet the first condition. They will affect their employees' welfare and exercise control over them, in ways that cannot be regulated politically or explained

¹⁰¹ Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality*, p. 299.

as promoting justice. Section 3 argued that firms are not voluntary associations, with respect to their employees, because many people will have to join economic enterprise if they are to fulfill their obligation to work and obtain the resources to which they are entitled.

However, some liberals will object to this argument, questioning its underlying claims about when people are entitled to self-government. There appear to be two consequentialist conceptions of democracy that might back up this objection. They hold, respectively, that democracy is merely a device for protecting individuals from violations of their rights and from serious harms. Liberal principles are designed to accomplish these tasks, and we are assuming that they can be realized adequately. Hence there cannot be a right to workplace democracy. This section focuses on the rights view while section 5 turns to the serious-harms view.

The claim that democracy is valuable only insofar as it secures individual rights is familiar. In the past decade a number of liberal egalitarians have adopted such a view. Richard Arneson has deployed it against workplace democracy *per se*. And Philippe van Parijs has proposed that egalitarians should design political institutions with the sole aim of achieving social justice.¹⁰² In response I argue that the rights view is incompatible, in various ways, with our commitment to political democracy at the level of the sovereign state.

Arneson's argument against workplace democracy is as follows. Democracy is to be understood as a device for promoting good outcomes. These outcomes do not include values which democratic procedures "embody" or "realize": they are simply the empirical consequences of setting up and using the procedures. Of these consequences, by far the most important is protecting every person's rights. We are assuming that these rights are given in the liberal

¹⁰² Richard J. Arneson, "Democratic Rights at National and Workplace Levels"; Richard J. Arneson, "Socialism as the Extension of Democracy"; Philippe van Parijs, "The Disfranchisement of the Elderly, and Other Attempts to Secure Intergenerational Justice".

egalitarian principles of justice, and that these principles can be realized without a democratic economy. Hence there can be no right to workplace democracy.

In response, I want to raise two objections. They allege that the rights view is *unpalatable* and *insecure*. The view is unpalatable in that it countenances reforms of the political system that few democrats will accept. It is insecure in that its proponents are often unwilling to follow the view to its logical conclusions, invoking democratic values in an ad hoc way.

4.A: The Rights View is Unpalatable

The rights view is unpalatable insofar as it countenances reforms that no democrat would allow. Arneson maintains, for instance, that there is nothing unfair about giving extra votes to persons with greater education. We might give Ph.D.s more votes than everyone else if doing so raises a society's "justice score", as he puts it.¹⁰³ But why restrict ourselves to the *quantity* of education? We could distribute votes according to its *quality* also. So Ivy League graduates would get more votes than everyone else. Van Parijs applies this method to the task of restraining senior citizens, who are thought to threaten social justice. There would be nothing unfair about disenfranchising everyone over 70, for instance.¹⁰⁴ Indeed, we might disenfranchise every man in order to promote women's rights; exclude every white person in order to help African-Americans; etc. On the rights view there would be nothing wrong with using any proxy to exclude people hostile to social justice. This all sounds highly unpalatable.

To see why it *is* unpalatable, consider the following situation. Suppose we face three

¹⁰³ Richard J. Arneson, "Democratic Rights at National and Workplace Levels".

¹⁰⁴ Philippe van Parijs, "The Disfranchisement of the Elderly, and Other Attempts to Secure Intergenerational Justice".

decisions in the near future: whether to allow human cloning, whether to fund a trip to Mars, and whether to impose strong sanctions on a neighboring country. Although these questions are related to issues of justice in various ways, it would be implausible to fold them into the “good consequences” that social choice procedures ought to promote. Yet according to Arneson and van Parijs, political equality with respect to these social choices has no value (or no value relative to justice). If people over 70 do not get a vote on these questions, or if people without Ph.D.s get fewer votes, there is no question of fairness. This result, I suggest, is profoundly undemocratic.

At this point a proponent of the rights view may offer two responses typical of the consequentialist position in metaethics.¹⁰⁵ He will say that the undemocratic results identified above can be excluded on the basis of empirical considerations. For instance, Arneson rejects the idea of giving more votes to the educated on the grounds that it would entail psychological harms to those with fewer votes. What if that empirical claim turns out to be wrong? In that case someone who endorses the rights view will say that there is no good reason to reject the proposal. Human actions are not good or bad in and of themselves, but only according to their consequences. To claim otherwise is irrational or superstitious. For what exactly is it about these actions that makes them good or bad, if not their consequences? Social choice procedures are just one form of human action. So they are neither good nor bad apart from their consequences.

My response to this argument is not to engage the consequentialist position – though it is not the only game in town – but to suggest that it is lacking in force with respect to liberal

¹⁰⁵ In formulating and responding to the following objection, I am indebted to T. M. Scanlon, “Contractualism and Utilitarianism”, as well as the introduction to Samuel Scheffler, ed., *Consequentialism and Its Critics*

democratic theory. For the commitment to political democracy, equal opportunity, and a decent standard of living are not philosophical “primitives”. Their appeal needs to be accounted for. This account will draw on an underlying conception of persons, of their interests, and of social cooperation.¹⁰⁶ Given this background, it is harder to claim that valuing procedures, apart from their consequences, is irrational or superstitious. It simply derives from the philosophical backdrop. If we already believe that everyone is due certain rights, opportunities, and resources, because they have a common dignity as free and equal persons, it is not surprising to find that procedures can be good or bad apart from their consequences. It is far more natural to say – for instance – that giving extra votes to Oxford graduates offends against this common dignity than to say that it is wrong because some people are too sensitive.

4.B: The Rights View is Insecure

Interestingly, too, proponents of the rights view are not always able to follow it determinedly. Perhaps some editing would resolve these apparent inconsistencies. Yet they reveal the extent to which the rights view is at odds with democratic values. Although there are hints of this problem in Arneson’s work¹⁰⁷, it is particularly evident in van Parijs’ essay on the elderly.

Consider several examples. In the introduction to the article van Parijs uses a quote to motivate its question, and the passage reads in part as follows:

The vote should not be a privilege in perpetuity...but a share in the continuing

¹⁰⁶ Some such arguments may be consequentialist. My point is that if there is a plausible consequentialist argument for the claim that *every person* is entitled to the three commitments, this argument is likely to provide reasons for acting *as if* democratic procedures had non-consequentialist virtues.

¹⁰⁷ For instance, see Richard J. Arneson, “Democratic Rights at National and Workplace Levels”, p. 145.

fate of the political community, both in its benefits and risks. The old, having no future, are dangerously free from the consequences of their own political acts, and it makes no sense to allow the vote to someone who is actuarially unlikely to survive, and pay the bills for, the politician or party he may help elect...¹⁰⁸

This introduction is puzzling. For these appear to be principles of political equality. Later in the article van Parijs seems to blur the justice - democracy distinction once again. He is considering a family of proposals for lowering the electorate's median age, including one that would distribute plural votes on the basis of life expectancy. He says:

If the underlying principle is that people should be empowered to influence decisions in proportion to the extent to which they are likely to have to bear the consequences of these decisions, then there is no reason not to differentiate further... If implemented, therefore, the proposal would give one more vote to women than to men in the 24-30 and 52-57 ranges, thereby further increasing female majorities in western electorates. As this is unlikely to stop men from grabbing far more than an equal share of elected positions (and presumably paying the associated toll in reduced life expectancy), perhaps one should not feel sorry for them.¹⁰⁹

Here we have two apparent claims about political equality. Perhaps van Parijs would justify them on consequentialist grounds. But it is an odd choice of words. Van Parijs notes, too, that life expectancy varies with a person's race. So African-Americans would get fewer votes. He argues that this would be unjust.¹¹⁰ But why? If political equality has no value, apart from its consequences, then distributing votes on the basis of race is no more unjust than distributing social security or license plate numbers on that basis – a minor harm, perhaps, but something that should stand in the way of justice? More generally, there is constant attention in van Parijs'

¹⁰⁸ Philippe van Parijs, "The Disfranchisement of the Elderly, and Other Attempts to Secure Intergenerational Justice", p. 292.

¹⁰⁹ Philippe van Parijs, "The Disfranchisement of the Elderly, and Other Attempts to Secure Intergenerational Justice", p. 305.

¹¹⁰ Van Parijs rejects the proposal as such, not simply because of its consequences. See p. 306.

article to making sure that the proposals are not “repugnant”. Where this repugnance comes from, though, is not always clear. To a large degree, I think, it must come from the appeal of democratic values that are independent of social justice (as Arneson and van Parijs conceive of it).

Section 5: Democracy as Protection from Harm

Consider a second objection to the argument in sections 2 and 3. People are entitled to democracy only if the social choices in question impose serious harms upon them (whether or not these harms can be understood as rights violations). In one of his essays Arneson appears to endorse a view like this.¹¹¹ He says that democracy is intended to protect people from “serious” or “intolerable” burdens. Hence he allows that employees in a one-company town might be entitled to workplace democracy. Since they have no other employment opportunities, and leaving the community may have huge emotional costs, they may be subject to serious impositions. In most cases, though, the ability to change jobs ensures that people will not be subject to terrible burdens. Hence they have no right to democracy.

Let me offer a couple of responses to the ‘serious harms’ view. Section 5.A argues that the view is counter-intuitive. It would prompt a set of restrictions on the political agenda that seem unattractive, from a democratic point of view. Nevertheless, the serious harms view may continue to be appealing. The reason is that it would prevent a state from engaging in arbitrary forms of coercion. Section 5.B addresses this concern. I argue that the conception of democracy

¹¹¹ Richard J. Arneson, “Democratic Rights at National and Workplace Levels”.

contained in sections 2 and 3 is demanding enough to prevent arbitrary forms of coercion.

5.A: Counter Intuitions

The serious harms view is contrary to some basic political intuitions. This becomes apparent if we ask whether the political agenda in a liberal democratic society should be limited to questions with serious or intolerable repercussions for some group of citizens. We might imagine a supreme court with the power to strike down any legislation that does not meet this standard. This would entail substantial and intuitively unacceptable restrictions on the state's regulatory power. Yet the serious harms view creates pressure to move in this direction.

By way of example, consider the controversy leading to the Supreme Court's decision in *City of Boerne v. Flores* (1997).¹¹² A Catholic parish in Boerne, Texas needed to expand its church. Sometimes 40 to 60 people could not be accommodated at Sunday masses. The archdiocese petitioned the city for a building permit. But the church had been designated part of a historic district, under a city council ordinance seeking to preserve historical landmarks. So the city refused to grant a building permit. Is this legitimate?

If we accept the 'serious harms' view, it would appear that the answer is 'no'. We would need to ask whether a democratic decision to preserve historic sites protects some people from serious or intolerable burdens. That seems far-fetched. In this case, of course, the heavier burden seems to fall on the parishioners. Still, suppose we find some history buffs who would suffer gravely the lack of sufficient historical landmarks. Next it would be appropriate to require that the city make its ordinance as unrestrictive as possible. For instance, it might be sufficient if

¹¹² The following example concerns a local government. But the argument would probably remain applicable even if the policy in question had been adopted at the state or federal level.

the ordinance applies only to public buildings. Or the city might be required to compensate any property owner who wishes to remodel her building.

If this analysis is correct, the ‘serious harms’ view is counter-intuitive. Are we really prepared to say that democratically elected governments have to jump through so many hoops in order to protect historical landmarks? It is sobering to consider what laws will become suspect if we follow this logic determinedly: prohibitions on marijuana use and polygamy; zoning and housing codes; funding for the arts, public places, and popular events; local religious holidays; speed limits and seatbelt laws; robust workplace and consumer safety regulations; etc. Only those laws that could survive something like a “strict scrutiny” test would remain standing.

5.B: Arbitrary Coercion

Notwithstanding the argument in section 5.A, the serious harms view may continue to be appealing inasmuch as it will prevent some citizens from exercising arbitrary coercion over others. Here I want to argue that the democratic conditions set out in sections 2 and 3 already perform this task.

Some democrats might be tempted to argue that a democratic law – for instance, one enjoying a high degree of popular support – cannot be arbitrary. It might be wrong in a deep and disturbing way. But its democratic pedigree ensures that the law is not arbitrary. However, this view is open to question. For instance, some liberals endorse a weak presumption that people ought to be left alone. This presumption has two aspects. It says that people should not be required to do one thing or another without some plausible reason. And it implies that there ought to be significant “space” for individuals to do whatever they wish. Both ideas are common in contemporary political philosophy. Peter de Marneffe writes, for instance, that:

When the government interferes with a liberty for a reason that is a bad reason in itself, it violates a general moral right, which I will call the *right against arbitrary government interference*.¹¹³

Thomas Nagel, on the other hand, distinguishes between the “impartial” and “partial” points of view, and argues that individuals must have some degree of freedom from the requirements of impartiality.¹¹⁴ We are not slaves to others’ well-being. These sorts of claims have not gone unchallenged. But suppose we accept them.

The conception of democracy underlying the argument in sections 2 and 3 is compatible with this weak presumption in favor of liberty. For suppose a person’s liberty is restricted – in favor of a democratic decision – when his actions meet two conditions: they have a significant impact on others that they reasonably care about; and there is a sense in which these others do not choose to be thus affected. In this case, it is hard to see how the person whose liberty is restricted suffers coercion without plausible reasons. Interests deriving from whim, zealotry, prejudice, selfishness, bad judgment, and so on will not meet the first condition. And as I argued in section 3.B, these conditions place a substantial class of associations beyond the reach of democratic principles. This creates a significant space for Nagel’s “partiality”. In short, the case for workplace democracy is based on a theory that does not sanction arbitrary forms of coercion.

¹¹³ Peter de Marneffe, “Rights, Reasons, and Freedom of Association”, p. 147 (his emphasis).

¹¹⁴ Thomas Nagel, *Equality and Partiality*.

Chapter IV: Rival Constituencies

I have argued that employees have a strong claim to govern their economic enterprises. However, that is not enough to justify the principle of workplace democracy described in Chapter I. Perhaps other groups have a stronger claim to govern the firm. Among these constituencies are shareholders, communities, “stakeholders”, and “society”. Each has a reasonable claim to govern the corporation.¹¹⁵ Yet I will argue that we ought to regard employees as the firm’s key constituency.

The idea that employees do not have the strongest claim to govern economic enterprises can be made out in two ways. The first says that, according to democratic principles, other groups have an equal or stronger claim. For instance, since community residents are affected by business decisions, they should be included in the decision-making process. The theory of democracy used in Chapter III provides a way of addressing this issue. I will argue that employees satisfy more of the conditions that call for democracy -- and satisfy them more strongly -- than any other group. Hence democracy calls, first and foremost, for employee control. This argument is developed in section 2 below.

Nevertheless, one may object that there are considerations beyond democracy that count against employee control. For instance, the values of liberty, community, and efficiency might

¹¹⁵ Technically a corporation is one kind of firm or economic enterprise (as defined in chapter I). The present chapter uses the terms interchangeably. This is a matter of convenience and is not intended to indicate a narrower focus.

favor other constituencies. Yet these values pose a threat to the principle of workplace democracy only insofar as they threaten, too, a number of commitments central to contemporary liberalism. Consider the case of liberty and community. I argue that these values are not necessarily in conflict with employee governance. If interpreted in such a way as to create a conflict, they will be incompatible with political democracy, equal opportunity, and the right to a decent standard of living. These are among the defining features of a just society. Hence it may not be appropriate to rely upon demanding interpretations of liberty and community when designing economic institutions.

It should be apparent, of course, that the strategy of argument in this chapter resembles the one in Chapter III. I argue that employees have the strongest claim to govern economic enterprises according to an appealing conception of democracy. Then I defend that conception – in this case, from objections based on values other than democracy – by suggesting that the competing views have undesirable implications for a set of commitments characteristic of a just, liberal democratic society.

The essay is organized as follows. Section 1 describes some of the competing views about who ought to govern the firm. Section 2 addresses this controversy in light of the democratic theory used in Chapter III. Sections 3 and 4 address considerations other than democracy.

Section 1: Arguments Favoring Other Constituencies

Many scholars suggest that firms should be designed to advance the interests of

shareholders, local communities, stakeholders, and society. This section describes each of these views, and the arguments typically made for them. I draw mainly on discussions of business ethics and corporate law in the United States.

1.A: Shareholders

The first view is that corporations ought to serve their shareholders.¹¹⁶ This idea seems clear enough. But there are important variations on it, reflecting issues along two dimensions. First is the question whether corporations serve *shares* or *shareholders*. In the typical enterprise, votes are allocated to each share, so that a person has as many votes as she has shares. In contrast, cooperatives give each member a single vote, even if they do not have equal ownership stakes.¹¹⁷ Secondly, there is a question about whether corporations ought to serve every shareholder, or those with effective control. On the latter approach, the people with the most votes get to run the firm as they see fit. Many proponents of the shareholder view adopt a different position. They claim that corporations must serve the interests of every shareholder. For instance, Milton Friedman argues that it is wrong for the shareholders who control the corporation to spend its profits on socially responsible activities:

I have, for simplicity, concentrated on the special case of the corporate executive... But precisely the same argument applies to the newer phenomenon of calling upon stockholders to require corporations to exercise social responsibility... In most of these cases, what is in effect involved is some stockholders trying to get other stockholders (or customers or employees) to contribute against their will to "social" causes favored by the activists. Insofar as they succeed, they are again imposing taxes and spending the proceeds.¹¹⁸

¹¹⁶ This section draws on Margaret M. Blair, *Ownership and Control: Rethinking Corporate Governance for the Twenty-First Century*; and Roberta Romano, ed., *Foundations of Corporate Law*.

¹¹⁷ John P. Bonin, Derek C. Jones, and Louise Putterman, "Theoretical and Empirical Studies of Producer Cooperatives: Will Ever the Twain Meet?", p. 1295.

¹¹⁸ Milton Friedman, "The Social Responsibility of Business is to Increase Its Profits"; in Milton Snoeyenbos,

Corporate law reflects this position, to a degree, in that managers have a fiduciary duty to advance the interests of shareholders as a group. (In practice, though, the “business judgment rule” limits the importance of this duty.)

There are three main arguments for shareholder control. One draws on the value of economic liberty. The parties who join a corporation agree, voluntarily, to give shareholders control. Corporations have no purpose other than facilitating voluntary cooperation. Hence shareholders have a right to govern the corporation (assuming that is how the firm has been set up).

The second argument is based on efficiency. The sole purpose of economic institutions is to maximize aggregate wealth. Hence we must encourage firms to maximize profits. This result is most likely if we allocate control rights to the group with the greatest incentive to maximize profits. Shareholders make up this group, for at least two reasons. First, their dividends depend largely on the firm’s profit. Shareholders are the “residual claimants”. Second, the value of a shareholder’s investment depends on the stock market, and hence on the value other investors attach to the firm. Profits are the key determinant of this assessment.

Finally, shareholder control may reflect democratic values.¹¹⁹ This notion finds occasional expression in the business press, as commentators celebrate the diffusion of share ownership. Various mandatory features of the corporate law -- such as shareholder meetings and quorum rules -- suggest the influence of democratic considerations. So does the fact that most firms attach the same number of votes to each share, and that departures from this practice have

Robert Almeder, and James Humber, eds., *Business Ethics*, p. 76.

¹¹⁹ This view is suggested in Henry Hansmann, *The Ownership of Enterprise*, p. 43. (Although it is not clear whether he intends to endorse it.)

been controversial. We might suppose, then, that shareholders have the sort of relation to the corporation that citizens have to the government. The company affects their life and acts in their name. Besides it is their company. Hence they have a right to govern it democratically.

1.B: Community

Some writers believe that the residents of a firm's community should have a voice in its decisions. For instance, there have been calls for including community representatives on corporate boards. Michael Shuman's *Going Local!* encourages reformers to set up corporations whose voting shares are restricted to local residents.

The arguments for such arrangements draw on the values of distributive justice, political democracy, and community. Corporations may visit substantial hardship on individuals whose community they abandon. Intuitively this seems incompatible with distributive justice. To prevent these changes when they are unnecessary, or to ensure that the transition is as painless as possible, we might give community members a voice in the corporation's decision-making process.

Alternatively, community control may be a way of advancing the value of democracy. Local governments enjoy a great deal of latitude in regulating economic enterprises. But the emergence of national and international markets may impose strong limits on this power. As long as corporations are free to abandon communities whose policies do not suit them, the degree of self-determination within these communities is restricted. Thus we might give local residents a voice in corporate decisions.

The case for local control may derive, lastly, from the value of community. Michael Shuman asks, for instance, "if you wanted to set up a business that would strengthen your

community, what kind of corporate structure would you choose?"¹²⁰ The easiest way to understand this argument is to recall the stylized distinction between liberals and communitarians. The former value prosperity and distributive justice, because these things make it possible for each person to choose and pursue her own ends. Communitarians value our attachment to a community, which provides us with a set of ends we do not choose. Liberals will want a system of corporate governance that produces the most goods we can distribute fairly. Communitarians will prefer a system that nourishes community. Giving local residents a voice in corporate affairs may serve the latter purpose.

1.C: Stakeholders

The stakeholder view is that corporations should act in a way that balances the interests of those with a substantial stake in their activities.¹²¹ This is how managers should think. It may ground proposals for changes in corporate law, such as measures authorizing managers to decline takeover offers. And it may prompt a range of governance reforms, such as the inclusion of stakeholder representatives on corporate boards.

The term "stakeholder" has been defined in various ways, but the idea is that any group of persons affected substantially by a firm's actions has a stake in its decisions. In general this appears to hold with respect to employees and shareholders. In some cases it holds for local communities, consumers, and business partners. All of these groups hold a right to have their interests taken into account, perhaps through a voice in the decision-making process.

The case for this view appears to be essentially democratic. If someone is affected by a

¹²⁰ Michael Shuman, *Going Local! Creating Self-Reliant Communities in a Global Age*, p. 85.

¹²¹ For a summary of the stakeholder view see Thomas Donaldson and Lee E. Preston, "The Stakeholder Theory of the Corporation: Concepts, Evidence, and Implications".

decision, her interests ought to be considered. This standard is not derived from the value of distributive justice, and may be incompatible with it. Why, for instance, should the claims of wealthy managers or shareholders be on a par with those of employees? The answer appears to be that stakeholder theory is about the way in which the power to affect a person's life ought to be exercised. What touches all should be decided by all.

1.D: Social Responsibility

The remaining view, often going under the label of "corporate social responsibility", suggests that corporations should be encouraged to act responsibly.¹²² This notion is notoriously unclear. Let us suppose, however, that social responsibility has the following two characteristics (we shall be concerned mainly with the second).

First, corporations should respect those values enjoying unanimous or near-unanimous acceptance within the society. Consider the question whether firms should be allowed to make charitable contributions. Many proponents of shareholder control are skeptical of corporate philanthropy. The managers who decide on these donations are gratifying their consciences at the expense of shareholders and/or society. Only contributions that increase profits should be permitted. Those who adopt the social responsibility view have the resources to reject this analysis. An economic system in which profit seeking plays an important role may be desirable because it produces wealth. But if a corporation finds that it is possible to survive in this cutthroat environment, while making charitable contributions, then so be it. The result is a reasonable accommodation of the values at hand, philanthropy and prosperity. It is true that managers have the privilege of determining which contributions are the most "responsible". But

¹²² See for instance William C. Frederick, "From CSR1 to CSR2: The Maturing of Business-and-Society Thought".

managers make many controversial decisions. Why should this one be especially noteworthy? Moreover, any firm that undertakes very unpopular activities will come under pressure to desist. Hence the practice of corporate philanthropy can be endorsed on the basis of a reasonable interpretation of social responsibility -- as a balance between the value of prosperity and the support of charitable organizations with widespread legitimacy.

The argument for social responsibility, thus conceived, is prudential. The thought is that corporations are in a position to serve widely shared goals that would otherwise go unattended. It is true that the money corporations spend on charitable activities could be given to shareholders, consumers, or the state. These actors could put the money into philanthropic work. But it is not clear that they would. Shareholders face collective action problems, for instance. It may not be efficient or prudent to leave charity in the hands of the state. Hence we should allow corporations to promote widely shared goals if and when they are able to do so.

The second interpretation of "social responsibility" says that corporations should be more responsive to the outcomes of a democratic political process.¹²³ A headline in Ralph Nader's *Multinational Monitor* summarizes the sentiment well: "Judge to GM: Do I Have to Arrest You?"¹²⁴ Often it appears that corporations have the ability to scoff at the outcomes of the political process, or that they have too much political influence. Their governance systems should be designed so as to reduce this possibility. Indeed, some activists object to the corporation's legal personality on this basis. They argue that elected legislatures should be able to threaten recalcitrant companies with extinction. This interpretation of social responsibility,

¹²³ Some have defined "economic democracy" along these lines: that is, as a fuller and more egalitarian control of economic enterprises by citizens. This appears to be the argument in Edward Sankowski, "Freedom, Work, and the Scope of Democracy", especially pp. 233-237. In addition, he raises an interesting objection to employee control (p. 236), which I cannot consider here.

¹²⁴ Russell Mokhiber and Robert Weissman, "Judge to GM: Do I Have to Arrest You?"

then, is derived instrumentally from the value of political democracy.

Section 2: The Democratic Case Against Other Constituencies

Our first question is whether democratic principles favor employees over other potential constituencies. Drawing on the theory of democracy introduced in Chapter III, this section argues that employees have a stronger claim to govern their economic enterprises than other patrons.

Recall that the right to self-government turns on two pairs of questions, which I have called the *importance* and *voluntariness* conditions. To determine whether an association meets the first condition we ask: Does it affect a person's access to resources and opportunities? Do the people who govern the association exercise authority or control over this person? To determine whether the association is voluntary, we ask two other questions: How costly would it be to leave the association? Was the person required, in some sense, to join? Moreover, recall that the answer to these questions must continue to hold given the institutions of an otherwise just society. For example, it is not enough to show that firms currently exercise control over their employees. The question is whether they will continue to do so once justice has been realized.

In Chapter III I argued that these conditions are met in the case of employees. Corporations affect their welfare and exercise control over them. Employees are required to join economic enterprises inasmuch as people have to work. Of course, these arguments draw on specific interpretations of the four conditions. The case for these interpretations is that we must

use them in order to explain our commitment to certain defining characteristics of a just society, such as the right to political democracy.

This section applies the same conception of democracy to the case of shareholders, communities, and stakeholders. I argue that these groups have a much weaker claim to govern the corporation. The results are summarized, very roughly, in Table i below.

2.A: Stakeholders

“Stakeholder theory” suggests that anyone with a substantial stake in a corporation has a prima facie right to be included in its decision-making process. Employees usually meet this condition. But so do shareholders and local communities. In some cases there may be consumers or long-term business partners with a substantial stake. So it would be hard to argue that employees are the key constituency.

In response, let me explain why the justification of democracy on the basis of a “stake” is rather weak. The first problem is that, intuitively, we think the *kind* of stake at issue is an important consideration. People develop emotional or habitual connections to sports teams, rock stars, product labels, and so on. These are sometimes “substantial” in some quantitative sense. But it is not clear that they are the sorts of interests that entitle one to democratic procedures. Hence we need to draw a short-list of legitimate interests. Following a number of contemporary political philosophers, I have defined this list to include those resources and opportunities that everyone needs in order to advance their particular goals.

Table 1: Claims to Govern the Firm Compared

	Importance			Voluntariness	
	<u>Welfare</u>	<u>Autonomy</u> <i>Authority</i>	<u>Control</u>	<u>Entry</u>	<u>Exit</u>
Stakeholders	mod.	no	no	no	no
Shareholders	weak	weak	no	no	weak
Communities	weak	no	no	mod.	mod.
Employees	mod.	weak	strong	mod.	mod.
Citizens*	strong	strong	mod.	strong	strong

* This line refers to sovereign states. It is included by way of comparison.

The conditions under which a person acquires a stake also seem to be relevant. People who join social, cultural, or religious organizations may come to have a stake in the group's decisions. In some cases we may be prepared to say that

their stake constitutes a legitimate interest. But if the person joined the group in an *entirely* voluntary way, it is not clear whether they retain a right to self-government within that association. The issue is unclear because we face, in effect, two individual wills: that of the person who joined the undemocratic association in the past, and that of the person who now thinks the association should be democratic. Though our concern is to treat this person equally, it is not clear which of her wills we ought to respect.

Similarly, we are inclined to ask whether a person's stake in an organization is avoidable by way of exit. Imagine a situation in which people can avoid things they find disagreeable at virtually no cost. Suppose, for instance, that although the passengers in a train compartment disagree as to whether smoking should be allowed, there is the option of moving to another car.¹²⁵ If every passenger has this option, it is not clear who ought to leave. But since the costs of leaving are so low, it does not seem to matter how that question gets settled – through a democratic procedure, customary rules, chance, etc. Moreover, suppose that a few of the

¹²⁵ The railway car example is from Brian Barry, "Is Democracy Special?".

smokers will have trouble moving to the other car (their luggage is very heavy). Then it seems that they should not be the ones to leave. In sum, people may not be entitled to democracy when the costs of avoiding a decision are very small.¹²⁶

Beyond these problems about the kind and conditions of the interests at issue, the stakeholder view appears to ignore the idea that democracy has something to do with the exercise of authority.¹²⁷ Consider the following case. There are two people investing an equal amount of money. One person buys shares in company X, while another buys the option to purchase shares of company X in the future (at or above the current price). Shortly thereafter company X must decide whether to market genetically modified crops. If it does not enter this line of business, its share price will fall, hurting both investors equally. So each person has the same “stake” in the company’s decision.¹²⁸ Yet arguably the first investor has a stronger claim to govern the corporation. Since she owns a part of the company, she will be contributing to a course of action that may be disagreeable. Moreover, the corporation undertakes this project in the name of its shareholders. In contrast, the second investor is quite removed from the corporation’s activities. The company does not act in the name of those who own the option to own the company, and their contribution to its project is rather indirect. Hence it is possible for people to have equal stakes in a decision, while having unequal claims to a say in those

¹²⁶ This argument assumes that the social choice procedure is not objectionable. For example, even if moving to another car were costless, it seems unacceptable to say, “Joe should be the one to move because his skin is darker than ours.”

¹²⁷ See: Christopher McMahon, *Authority and Democracy: A General Theory of Government and Management*; Jozeph Raz, ed., *Authority*.

¹²⁸ In fact, the second investor’s stake is likely to be larger. Suppose each person invests \$1,000. One puts the money into 10 shares at \$100 each. The other buys an option to purchase 1,000 shares at \$100 per share -- the option to buy each share costs \$1. (The second investor spends \$1,000 on the cost of the options contract -- not the shares -- which is presumably a small fraction of the share price quoted in the contract.) Suppose the share price falls to \$50. The first investor is out \$500. The second investor is unlikely to exercise her options, which means that she has lost \$1,000.

decisions. The reason is that democracy is not simply about interests or stakes, but also about one person's ability to be the author of another's actions.

In sum, the stakeholder view does not provide a successful approach to corporate governance. It does not incorporate considerations about the kinds of interests at issue, the conditions through which people acquire and retain these interests, and the way in which associations exercise authority. These are important factors in determining whether a group of individuals is entitled to democracy.

2.B: Shareholders

Shareholders have a strong claim to govern the corporation only with respect to the first of our four conditions.¹²⁹ If an individual does not have a diversified portfolio, he has a great deal at stake in a company's decisions. Although diversification appears to be the norm, many individuals concentrate their investments – even their long-term investments – within one or a few enterprises. On the other hand, I have argued that employees can have a lot invested in their jobs as well. So we may conclude that employees and shareholders have a comparable claim in this regard.

Arguably shareholders fall under a corporation's authority, but they are not subject to managerial control. The degree to which shareholders are subject to authority depends, again, on the degree of diversification. One person is under another's authority when she has a moral obligation to contribute to a course of action with moral implications. If one's investment is concentrated, one is making a substantial contribution to a project with moral implications. Of

¹²⁹ Ian Shapiro has offered a brief argument against shareholder control. It appears to turn on the fact that shareholders face lower exit costs and are able to diversify (though Shapiro notes that they are not subject to control). The argument here does not point to diversification. And it emphasizes the issues of entry and control as

course this holds for employees as well. Shareholders contribute their money while workers contribute their time. In addition to this, employees are subject to more or less constant supervision and direction. For this reason we would want to give employee control priority over shareholder control.¹³⁰

Shareholders are likely to face lower exit costs than employees. Both parties face a monetary opportunity cost when leaving a firm. In the case of shareholders the costs generally end at this point. For employees the opportunity costs extend beyond monetary concerns, because they spend much of their time at work, and are subject to managerial control. Moreover, changing jobs may require that a person change her residential community and professional aspirations. Hence the costs of exit are likely to be higher for employees.

It is difficult to argue that shareholders are required to join economic enterprises. People invest their money in search of rewards above and beyond what they could earn through “honest work”. They are not entitled to these rewards.¹³¹ Nor is there a moral obligation to become a shareholder. In a sense, shareholders are like churchgoers. The latter make an “investment” of time, energy, and commitment in a religious association. This “investment” is risky inasmuch as one may come to have a serious disagreement with the organization. But the act of joining is close to the ideal of a voluntary action. In contrast, people have to work in order to obtain the resources needed to take part in society as free and equal citizens.

In sum, we should draw two conclusions from this discussion. There are some reasons to

well as exit. See Ian Shapiro, *Democratic Justice*, pp. 163-164.

¹³⁰ This argument supposes that managerial control is a reason for workplace democracy, as opposed to a limited sort of consultation. Section 2.B in chapter III offers a case for that premise.

¹³¹ Investments do give rise to legitimate interests. But people can have a legitimate interest in something without being entitled to it as a matter of justice. If I win \$100,000 at the roulette wheel, I acquire a legitimate interest in this money. But my decision to gamble was entirely voluntary, since I am not entitled to the \$100,000.

think that shareholders have a legitimate claim to govern the corporation. Firms affect the resources they enjoy, and investing elsewhere may have substantial opportunity costs. Yet this prima facie claim is weak relative to that of employees. Shareholders are not subject to managerial control, face lower exit costs, and have no obligation to join economic enterprises. This argument does not depend on the fact that many shareholders can diversify their investment. It is simply that working is a more ubiquitous aspect of life than investing.

2.C: Communities

Next consider the residents of a firm's local community. There is a sense in which they meet the conditions that justify democracy. However, I will argue that in a society with working systems of local and workplace democracy, the importance condition is unlikely to be met.¹³² Hence we should seek employee control before community control.¹³³

It is safe to assume that, even in a just society, corporations will have a significant impact on the well being of local communities. Their decisions have a bearing on economic conditions, the quality of the environment, the character of public spaces, etc. Often these effects derive from the actions of many economic enterprises taken together. But it is possible for individual firms to have a substantial impact on local communities. And it is difficult to predict when and where this will be the case. Similarly, there is a sense in which community residents are subject to authority. In this case, let us say that authority exists when a person surrenders her judgment about what she will do or allow as the member of a group. Firms will make decisions bearing on this question: for example, whether or not to sell pornographic material. So there is a sense in

¹³² I assume that communities satisfy the voluntariness condition comparably to employees.

¹³³ Notice that this argument is analogous to the objection -- described in the Introduction and in chapter II -- that workplace democracy would be unnecessary in a just society.

which they exercise authority over community residents.

Yet the natural response is to have a system of democratic local governments with substantial powers. In making this argument, it may be helpful to focus on some specific examples. Consider two cases, then, relevant to the question whether economic enterprises have a bearing on a community's welfare. The first is cited in Michael Shuman's *Going Local*, from which I have taken the case for community control. In 1982 Wal-Mart opened a store in Nowata, Oklahoma. Soon half the town's shopkeepers were out of business, in part because they could not compete. But twelve years later Wal-Mart closed the store in Nowata, because it would draw business away from a new, larger store, to be located in nearby Bartlesville, Oklahoma. The *New York Times* described the consequences as follows:

Wal-Mart has outraged and hobbled this struggling city of barbed wire, comatose oil fields and 3,900 people since shutting its store here [in 1994]. Public services have been cut, taxes have risen, and jobs are scarcer. Wal-Mart bank deposits and wages that helped sustain the economy have shrunk. People now have to take to the highways to shop for clothes and household goods.

As if to symbolize the relationship between business and the political community, cuts in public services included shutting down city hall an hour earlier each day. A couple years later Marc Cooper described a similar case in the *Nation*. B. P. America decided to close a profitable oil refinery in Lima, Ohio, after refusing to accept several buyout offers. He described the expected impact as being "of warlike proportions":

A payroll of \$31 million will be lost. Gone will be 455 jobs at the refinery itself – jobs averaging some \$70,000 a year in wages and benefits. Another 1,000, perhaps 2,000 jobs of those working in companies doing business with the plant will also evaporate. Local utilities could lose \$25 million in revenue. A public school district will be starved for income. All told, the B. P. closure will cost this

small city a whopping \$100 million a year or more.¹³⁴

Of course, these descriptions do not exhaust the impact that Wal-Mart and B. P. had on these communities. The fact that people are more likely to travel long distances to do their shopping may, for instance, have a substantial impact on a town's sense of community. Marc Cooper provides another example:

But more important, the B. P. refinery closure robs Lima...not only of its identity but of its dignity. "When you come down to it," says Ken Belcher, manager of the local electric company, "it really hurts to see how powerless we are as a community"... [T]he people of Lima feel that their world has been turned upside down, and that they are on the receiving end of the shaft while faceless others are doing the drilling.¹³⁵

These examples illustrate the impact that firms can have on local communities. Moreover, they suggest that there is a sense in which the importance condition is met. But the examples indicate, also, that the case for community control is not very strong. Notice, first, that communities may not meet the importance condition if there is an adequate system of local democracy. The people of Nowata and Lima had, in their local governments, a relatively powerful device for affecting the actions of companies like Wal-Mart and B. P. America. Indeed, Michael Shuman draws on Nowata's story to illustrate this point. He says:

Few local governments in the world enjoy the powers that American communities have to prevent this kind of economic debacle. U.S. mayors and city council members have a policy toolchest that enables them to invest, contract, zone, tax, lobby, and police. They have the ability to spend public funds on almost anything. While these powers are not unlimited, it's fair to say that the problem facing U.S. local governments is not the absence of powers, but the absence of

¹³⁴ Marc Cooper, "A Town Betrayed: Oil and Greed in Lima, Ohio", p. 11.

¹³⁵ Peter T. Kilborn, "When Wal-Mart Pulls Out, What's Left?".

political will to exercise them.¹³⁶

Although Marc Cooper emphasizes Lima's powerlessness, it is not clear that this derived from a lack of realistic options. Lima's residents appear to be politically conservative, and Cooper describes considerable opposition to, or hesitation about, playing hardball with B. P.¹³⁷ This is not to say that these communities are to blame for what happened. The point is simply that local democracy provides the potential for action.

There are two other observations. Notice that, in the case of Lima and Nowata, the interests of employees and community residents are very similar. The local employees would be excellent representatives of the community. This sort of virtual representation will be much less effective in the opposite direction. Most community residents have little reason to concern themselves with the viability of a given firm – unless it plays a large role in the community – or with the quality of work and exercise of authority in the firm.¹³⁸ In addition, B. P. and Wal-Mart played a key role within their local economies. Economic enterprises may not always fit this description. The importance condition directs our attention toward firms – or groups of firms – whose practices have a significant impact on the community's legitimate interests.

So we must ask whether the importance condition is met in light of these observations. Given a system of local democracy, there is very little sense in which firms will exercise authority over the community -- if anything it is the other way around. Should Wal-Mart begin

¹³⁶ Michael Shuman, *Going Local! Creating Self-Reliant Communities in a Global Age*, p. 149.

¹³⁷ The hesitation may have been due, in part, to pressure from state officials, since B. P. operates another plant in Ohio. But Cooper does not appear to think that this explains the response of Lima's residents.

¹³⁸ This contrast has another aspect. The more urgent a community's interest, the more likely that it will be an employee interest as well. For instance, the more serious a company's threat to the local environment, the more urgent the employee's interest in preventing it. But the opposite is less likely. If employees have an urgent concern, they may be able to press it successfully against the community. But there is no mechanism of the sort just described. The community's interest in the issue does not track the urgency of the employees's interest.

to sell pornographic material, for instance, the community might regulate this aspect of the business. There is no sense in which companies exercise control over community residents (although, again, now the community may exercise some degree of control and supervision over the firms' managers). So the 'autonomy' aspect of the importance condition is not met.

The institutions of political and workplace democracy will also weaken the degree to which firms affect a community's welfare. Many of the effects in question are relatively predictable and amenable to state regulation. It is not surprising that factories pose environmental risks, that shopping centers lead to increased traffic, and so on. These problems are readily addressed through inspections, zoning regulations, etc. In addition, there are more imaginative forms of state policy. For example, corporations might be required to share certain kinds of information with community leaders. Local residents might be allowed to conduct unscheduled inspections of a company's environmental practices. Among those issues that cannot be addressed through state policy, no doubt there is a good number in which the employees and the community have similar interests. Within this subset of possibilities, there will be many cases in which the firm(s) in question does not have a significant impact on the community. Hence the 'welfare' aspect of our importance condition is met only when economic enterprises that do not employ many local residents make consequential decisions that are not easily regulated through the political process. I conjecture that these cases are likely to be few and far between.

In short: given a modern society, with an adequate scheme of local democracy, and some degree of workplace democracy, the vast majority of communities will not meet the importance condition. Hence we ought to give employees a voice before communities. In making this argument, I do not intend to suggest that all is well with the relationship between local

governments and economic enterprises in the United States. The cases of Lima and Nowata suggest that a greater degree of local democracy may be in order. If community representation were the only way to go about this, then there may be cases – e.g., the Wal-Mart playing a key economic role without employing many local residents – in which we would have to accommodate the claims of employees and community residents. Generally, though, the case for community participation within economic enterprises is relatively weak.

Section 3: Liberty and Community

Some arguments for shareholder and community control begin from the values of liberty and community (respectively). In this section I suggest that we should not adopt these approaches to economic governance. The reason is that they face a dilemma. On the one hand, we can define “liberty” and “community” in a number of common sense ways. But on this basis it is not clear why shareholder or community control is preferable to employee control. The alternative is to adopt more precise definitions of liberty and community. These will produce the “right” conclusions. But I argue that they are incompatible with three defining characteristics of a just society, namely, political democracy, equal opportunity, and the right to a decent standard of living.¹³⁹

¹³⁹ Notice that the second part of this argument is just the opposite of the case for employee control. I argued that when we interpret the idea of democracy in a way that is compatible with the three liberal commitments, we will conclude that employees have a prima facie right to govern the corporation. Here the argument is that the values of liberty and community militate against employee control only when they are interpreted in a way that is incompatible with the three commitments.

3.A: Liberty and Community are Indeterminate

Suppose we say, for the sake of argument, that liberty or community should have a central place in the design of economic institutions. One may have thought that this leads naturally to shareholder or community control. Yet the issue is rather more complicated. I will make this point with respect to liberty at some length, and deal briefly with the question of community.

Let us consider two common definitions of liberty, ones we might suppose are obviously incompatible with workplace democracy. The first says that freedom is the absence of external, man-made constraints.¹⁴⁰ It is a function of the number of actions a person can take without interference from others. The laws prohibiting murder, for instance, restrict my freedom inasmuch as the state will interfere with my murderous designs. However, these laws increase my liberty, all things considered, because the chaos in a world of legalized murder would increase the number of constraints on my actions. Now the striking thing is that this sort of argument is quite tenuous in regard to employee control. One might argue that requiring every firm of significant size to be a producer cooperative would lower the constraints imposed on most individuals.

The other interpretation of liberty derives from the idea of self-ownership.¹⁴¹ Each person has a set of property rights in herself. She is not at liberty when someone impinges on these rights. To understand this definition, consider the possibility of forcing someone to donate blood. On the “constraints” view described above, this practice is not immediately objectionable. Your freedom not to donate is comparable to my freedom to force you. On the

¹⁴⁰ This is the common, ‘negative’ conception of liberty, associated for instance with Hobbes. See the second paragraph in Part 1, chapter XIV of *Leviathan*.

¹⁴¹ This view is often called a Lockean conception of liberty. See Robert Nozick, *Anarchy, State and Utopia*.

self-ownership view, however, your blood is your property. Forcing you to donate it is a violation of your property rights.

This conception of freedom offers the most plausible argument against employee representation, and I shall return to it in section 3.B. Yet even here the view needs to be much more precise. To say that people own themselves is not to say what rights ownership entails. Nor does it determine the manner in which things external to all of us are owned.¹⁴² One could, no doubt, offer a plausible argument that workplace democracy is required once we interpret the ideas of “self-ownership” and “world-ownership” in the appropriate way. Hence the property-based conception of liberty proves indeterminate with respect to economic governance.

The same difficulty arises in regard to community. That this value should lead to community control seems evident. Yet several communitarians have been sympathetic to some sort of economic democracy.¹⁴³ The reason, of course, is that the value of community does not tell us which community is key. The communitarian case for economic democracy, stated very roughly, is that our national political community requires that we approach economic governance from a democratic perspective. In addition, economic democracy might be a way of building communities within economic institutions. Hence the case for community control does not derive from the value of community *per se*, but from a commitment to relatively *small-scale* and *geographical* community. The broader value of community is indeterminate with respect to most questions about economic governance.

¹⁴² G. A. Cohen, *Self-Ownership, Freedom, and Equality*.

¹⁴³ E.g.: Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality*; Michael J. Sandel, *Democracy's Discontent*.

3.B: Specific Conceptions of Liberty and Community

I have argued that the values of liberty and community do not lead necessarily to shareholder and community control. Yet they can be interpreted so as to yield these conclusions. At this point one might ask whether these interpretations are “correct”. Yet we can approach the issue in a different way. I will argue that these interpretations are incompatible with a commitment to political democracy, equal opportunity, and the right to a decent standard of living. That does not mean that they are wrong. But it means that they are not the sort of view that should serve as the basis of cooperation for a society featuring reasonable yet conflicting moral doctrines.

Our aim is to find values with which to design economic institutions. Individuals endorse a range of reasonable moral views that are not always compatible with one another. I have suggested a test for determining which (if any) of these doctrines should be used to design economic institutions: can the doctrine account for the three basic commitments? The idea is that these commitments are among the defining features of fair cooperation in a pluralistic society. When a moral view cannot account for them, this suggests that this view is unlikely to be the appropriate way to design just social and political institutions.

Any conception of liberty that is clearly incompatible with employee representation would be incompatible with the basic commitments. Obviously I cannot establish this point conclusively in this essay. Yet a little reflection on the idea of self-ownership is suggestive. Recall that the implications of this view depend on how we define the “bundle of rights” attached to self-ownership and world-ownership. In order to rule out employee representation, these rights will have to be defined broadly. Then it will be possible to place strong limits on political democracy, equal opportunity, and the right to a decent standard of living. Robert Nozick has

gone further than anyone else in this direction. But even “left libertarians” who endorse an unconditional basic income have an uncertain commitment to political democracy.¹⁴⁴ In short, to rule out workplace democracy for the sake of Lockean liberty is also to rule out much of what we think is constitutive of a just society.

The same strategy of argument applies in regard to community. Any account of the value of local community that rules out employee control will also pose a challenge to the basic commitments. For these commitments entail substantial levels of interference with local affairs. This possibility is evident in contemporary discussions of international justice. For instance, philosophers who emphasize the autonomy of national communities – such as Rawls – find that it is not clear whether we are entitled to require every country to govern its affairs democratically.¹⁴⁵ This indicates that a demanding account of the value of local community may be incompatible with our commitment to political democracy.

Section 4: Efficiency and Political Democracy

Let us consider a different strategy of argument, pointing toward shareholder control and social responsibility. These arguments are based on a value(s) that has -- or is assumed to have - - general acceptance. Hence the case for shareholder control points to efficiency, and the case for community control or social responsibility to political democracy. In addition, these arguments are “instrumental” in that the proposed governance arrangement addresses a practical

¹⁴⁴ See the discussion of Philippe van Parijs' views concerning democracy in chapter III, section 4.

¹⁴⁵ I am referring, of course, to Rawls's *Law of Peoples*. But it is a rather impressionistic reference. Also, I do not mean to suggest that Rawls is ascribing intrinsic value to national communities, as opposed to individuals.

problem in the realization of the value in question (as opposed to being an expression of that value). Shareholder control is a way of encouraging firms to create the most wealth. Social responsibility is a way of tying corporations more closely to the results of a democratic political process.

These arguments should not lead us to reject the idea that employees are the key constituency. Section 4.A addresses the efficiency rationale for shareholder control, while section 4.B considers the case for social responsibility.

4.A: Efficiency and Shareholder Control

The most common argument for shareholder control is that it produces the highest level of wealth for society as a whole. Some economists have raised doubts about the link between shareholder control and wealth creation.¹⁴⁶ But I want to abstract from that question. This section argues that even if shareholder control is efficient, in the economist's sense, this is not necessarily a good reason for it.

The standard account of why efficiency is desirable says that it is, in some sense, a neutral value. Consider Friedrich Hayek's discussion of the claim that corporations have a social responsibility. He argues that allowing shareholders to govern the firm is the best way to advance the public interest, partly because this is more efficient. Although Hayek does not explain why efficiency is desirable, the following passage is suggestive:

Power, in the objectionable sense of the word, is the capacity to direct the energy and resources of others to the service of values which those others do not share. The corporation that has the sole task of putting assets to the most profitable use

¹⁴⁶ Margaret M. Blair, *Ownership and Control: Rethinking Corporate Governance for the Twenty-First Century*; Roger E. Alcala, "Reinventing the Corporation"; David L. Levine, *Reinventing the Workplace: How Business and Employees Can Both Win*.

has no power to choose between values. It administers resources in the service of the values of others.¹⁴⁷

We ought to seek efficiency, then, because it is a neutral goal. It does not have moral implications in and of itself, but allows everyone to pursue their own values more effectively.

Now, the most common explication of this neutrality is based on the idea of potential pareto improvements. One state of affairs (X) is more efficient than another (Y) if and only if some people are better off in X while everyone else is no worse off in X than they were in Y. Such pareto improvements are exceedingly rare, because almost any economic change creates winners and losers. But there can be potential improvements. In this case the change from Y to X is efficient because it would be possible to compensate those who lose as a result of the change. Again, compensation is very rare. But that is part of what is supposed to make efficiency a neutral value. A society may or may not choose to compensate the people who lose in a move from Y to X, depending on an underlying conception of distributive justice. If Bill Gates loses \$199 billion when a new economic policy is introduced, leaving him with a mere billion or so, it is not clear that he should be compensated. Hence we ought to structure corporations so as to maximize aggregate wealth. Then we can use this wealth in the right way.

This account of the case for economic efficiency shows that its appeal is premised on the value of distributive justice. There is reason to favor efficiency only because it makes it possible to achieve a better distribution of resources. That suggests the following observation. If the expected increase in efficiency is to be a reason for supporting shareholder control, we have to believe that this increase is likely to produce an improvement in the distribution of resources.¹⁴⁸

¹⁴⁷ Friedrich A. Hayek, "The Corporation in a Democratic Society: In Whose Interests Ought It and Will It Be Run?", pp. 100-101.

¹⁴⁸ This is stronger than the Kaldor-Hicks condition, which requires that compensation could take place, not that it is

At this point we encounter two difficulties with the efficiency argument for shareholder control. First, it is not clear that we would know when a person is entitled to compensation, because we face a significant degree of uncertainty as to whether distributive justice has been achieved. There are different principles to choose from (even if we consider only egalitarian principles). Many of these principles have competing interpretations. Most of them allow an unspecified level of inequality. And there are difficult questions about what institutions are most likely to realize a given principle (properly interpreted). Given this sort of uncertainty, it is hard to justify every increase in efficiency as a contribution to distributive justice.

Nevertheless, let us evaluate the efficiency argument for shareholder control at its strongest. Suppose that we structure economic institutions so as to maximize aggregate wealth, and that this is likely to enhance distributive justice. Given this assumption, the efficiency-based argument for shareholder control would be persuasive only if justice had no component other than the allocation of material goods. The case for workplace democracy is designed to counter just this assumption. If the argument is persuasive, then it may be necessary to forego some of the efficiency gains that enhance the degree of distributive justice. Here there is a parallel to the principle of equal opportunity. If we have reason to believe that people have a right to an equal start in life, it is not enough to object that this would be inefficient in the economic sense.

4.B: Social Responsibility

Finally, let us examine the idea of social responsibility. The idea that corporations have to serve "society" is not very remarkable. For one thing, if we believe that the state has sovereignty over its economy, then we believe that the corporations therein may be required to

likely to.

act responsibly. The corporation's responsibility to "society" trumps its responsibility to its employees inasmuch as the state is sovereign over the economy. It is difficult for a liberal democrat to avoid this conclusion. For any liberal theory of democracy is bound to suggest that political democracy has priority over workplace democracy.

Nevertheless, the idea of social responsibility should not be thought to undermine the case for workplace democracy. To examine this issue we need an example of how social responsibility might be incompatible with employee control. So consider a democratic, state-socialist economy. We have nationalized firms whose managers are appointed by the state. The government, in turn, is elected through a highly deliberate and egalitarian political process. The justification for this proposal is that the state-appointed managers ensure that corporations act in a responsible way (where that term refers to widely-accepted values as well as the government's economic and social policies).

Let me offer two observations about this proposal. First, the case for employee control may be interpreted as addressing a different question. It assumes that we are going to have a decentralized economy, for reasons of expediency. In light of this it asks how the institutions of a decentralized economy ought to be governed. The question of nationalization is not at issue. The same response holds for other proposals that draw on the idea of social responsibility. For instance, some reformers have called for ending the corporation's legal personality, so that a legislature may threaten recalcitrant businesses with extinction. Again, we may understand the case for employee control as supposing that such a proposal is unwise. So long as corporations are going to be legal persons, how should they be governed?

Moreover, the case for employee control suggests that the proposed socialist economy is undesirable, even if we abstract from matters of expediency. This economy would not promote

social responsibility very well, because workplace democracy is an important aspect of a just society. When an organization affects a person's welfare and exercises control over her actions, and when she cannot easily avoid these organizations, she has a right to govern that association democratically. Thus employee control is a key aspect of the corporation's social responsibility. The nationalized economy is objectionable because it has no place for it.

In this context the parallel to local governments is helpful. Should the institutions of Cambridge, Massachusetts be designed so as to promote social responsibility? The answer is 'yes' inasmuch as we believe that the state of Massachusetts and the government of the United States have legitimate sovereignty over the city of Cambridge. But if we can make a successful argument for local democracy, then there is a sense in which the answer is 'no'. For now we are in position to say that democracy is among the key values that "responsible" local governments are supposed to realize.

Conclusion

I have argued that employees are the firm's key constituency. This claim will be agreeable to proponents of economic democracy, who define "economic democracy" as "workplace democracy". However, they tend to see employees as the firm's *only* constituency. My claim is weaker: namely, that employees are the key constituency. By way of conclusion I want to explain what the difference is and why it matters.

Most democratic theorists who study economic governance believe that employees are the corporation's *only* constituency. According to Christopher McMahon, for instance,

employees have a right to participate because they are subject to a certain kind of authority, whereas other groups are not. Hence they have the sole claim to govern the firm.¹⁴⁹ Moreover, this argument prompts the view that it is undemocratic – i.e., wrong insofar as democratic principles are concerned -- to include other constituencies. For suppose that people not subject to an association's authority have a democratic voice in its decisions. Presumably the exercise of authority is, to that extent, illegitimate. That does not mean that it is wrong to include other groups, all things considered. There may be reasons to do so deriving from other values, such as efficiency. Nevertheless, it is undemocratic.¹⁵⁰

The claim I have defended is somewhat weaker. It is that employees are the firm's key constituency. Their ability to govern economic enterprises must be secured before anyone else's. Also, it may be legitimate to adopt procedures that favor employees over other groups. But these constituencies may have a democratic claim to inclusion. In short, employees are not the only constituency, but they are the most important one.

This distinction may appear to be meaningless. It is difficult to include more than one group in a firm's decision-making process, and perhaps impossible to include more than a couple, without running into serious problems of efficiency.¹⁵¹ Therefore, to say that employees are the key constituency is to say that they are the only one. However, this objection overlooks the fact that, in many cases, we have to choose governance procedures given a limited set of options. Thus we may want to know whether shareholders or communities have *any* legitimate claim to govern an economic enterprise, and how weighty that claim is. For instance, as long as

¹⁴⁹ See section 4.B in chapter II.

¹⁵⁰ I am not sure whether McMahon would accept this extension of his view, or whether it is correct. But it seems to be a natural move.

¹⁵¹ Henry Hansmann has emphasized the costs of collective decision-making. See Henry Hansmann, *The Ownership of Enterprise*. His brief discussion of the stakeholder view (p. 44) is relevant here.

shareholders are going to run the corporation, should we allow firms to issue shares with different numbers of votes? On the view I have defended there is some reason to think that the answer is 'no'. On the view I have attributed to most economic democrats, there are no such reasons. The only people with a right to govern a corporation are its employees.¹⁵²

In sum, I have argued that employees are the firm's key constituency, though not necessarily its only one. This allows us to include a right to workplace democracy among the principles of justice. However, it keeps the underlying theory of economic democracy flexible enough to address questions involving other patrons when the circumstances call upon us to do so.

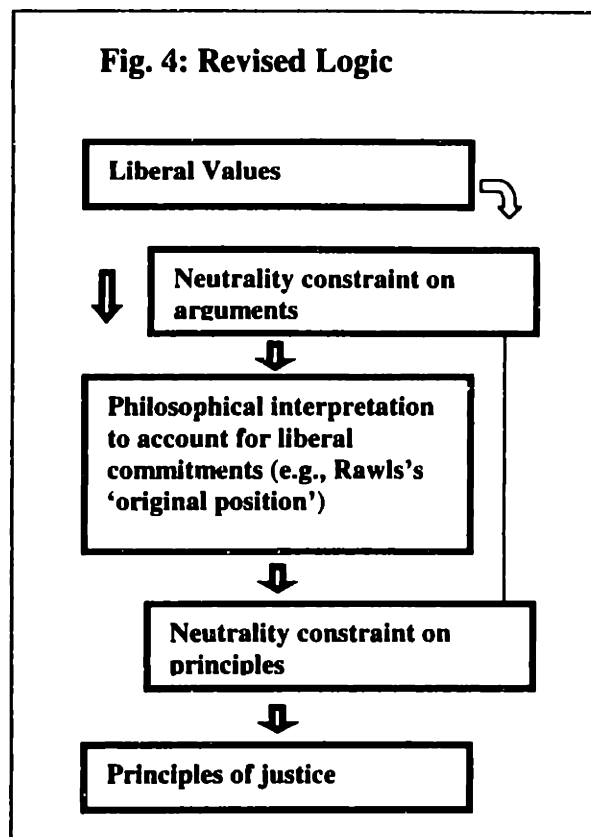
¹⁵² Some economic democrats, such as Christopher McMahon, are unsure as to whether shareholders have a claim to govern the firm. But the point in the text holds for other groups, such as communities.

Chapter V: Political Liberalism and Workplace Democracy

The preceding chapters presented a case for workplace democracy. It may be summarized as follows. Liberals believe that democracy is the fair and deliberate way for free and equal persons to make social choices within associations meeting certain conditions. There are various accounts of what these conditions are and how they are to be conceived – various theories of democracy. Economic enterprises satisfy an appealing interpretation of these conditions, even in a just society, with respect to their employees more strongly than with regard to other groups. Other conceptions of democracy, which may undermine this result, are inappropriate inasmuch as they cannot account for certain paradigmatic features of a just, liberal democratic society.

This is a common, liberal strategy of argument for workplace democracy. The argument says that if one endorses certain basic commitments – i.e., political equality, equal opportunity, and the right to a decent standard of living -- because these commitments answer to values of fairness and reciprocity among free and equal persons, then one should also endorse the right to workplace democracy. It is a process of triangulation, as it were, in which we locate the principles to guide economic governance with reference to a set of liberal-democratic values and commitments.

However, this argument faces a series of objections based on the idea of neutrality. The view I have attributed to contemporary liberals – the ‘Fabian logic’ – is that we proceed from a set of basic values, to principles of distributive justice, to specific economic arrangements. However, some liberals will object that this is an inaccurate portrayal of their view. They would agree that liberalism begins from the values I have specified, but argue that these values entail a strong requirement of neutrality. Some principles



of distributive justice are compatible with this requirement, but the principle of workplace democracy is not. (This alternative interpretation of the ‘Fabian logic’ is depicted in Figure 4.)

The response to this concern is in two parts (roughly similar to the presentation in chapters III and IV).¹⁵³ I will argue that the principle of workplace democracy -- and the arguments offered on its behalf -- are compatible with an appealing conception of liberal neutrality. Then I will defend that conception against some alternative views that would raise difficulties for workplace democracy.

Arguably the fullest account of liberal neutrality is Rawls’s *Political Liberalism*, so it is natural to frame the discussion around this work. Now the argument in chapters III and IV is compatible with the philosophical method recommended in *Political Liberalism*. According to

¹⁵³ “Roughly” because there is an important difference (regarding the strategy’s second part). In chapters III and IV the argument was relatively pragmatic, drawing on the three basic commitments. This chapter addresses some issues within political liberalism, and it is assumed that the competing views are able to account for the basic

Rawls, the principles of justice should flow from “political values” such as liberty, equality, fairness, and reciprocity, as opposed to religious and philosophical doctrines. The appropriate interpretation of these values is to be derived by careful examination of a society’s public culture, a process in which we:

...look for bases of agreement implicit in the public culture of a democratic society and therefore in its underlying conceptions of the person and of social cooperation...

The argument presented in chapters III and IV takes this form (roughly speaking). It is based on points of agreement implicit in any plausible, ‘political’ justification of key liberal commitments.

However, the fact that the argument has the right form does not entail that it is compatible with political liberalism. There are two reasons. For one thing, Rawls appears to think that there are considerations against counting workplace democracy among the principles of justice, even if the argument for it is persuasive and has the right form. Responding to the claim that the parties to his “original position” would choose a right to workplace democracy, Rawls says:

...the question of private property in the means of production or their social ownership and similar questions are not settled at the level of the first principles of justice... Moreover, even if by some convincing philosophical argument – at least convincing to us and a few like-minded others – we could trace the right of private or social ownership back to first principles or to basic rights, there is a good reason for working out a conception of justice which does not do this.¹⁵⁴

Hence there are considerations against workplace democracy, even if the argument for it is persuasive and compatible with political liberalism’s philosophical method.

commitments. So the discussion has to be more explicitly philosophical.

The other source of skepticism derives from a rejection of Rawls's constructivist method. This concern takes various forms, but the version I will devote most attention to is this. The point of Rawls's method is to strike a kind of neutrality between certain religious and philosophical doctrines. This neutrality is desirable in part because those doctrines are subject to reasonable controversy. But the values and ideas that the constructivist method claims to be implicit in the public culture are, in fact, reasonably controversial. If such controversy counts against religious and philosophical doctrines, then it counts against these ideas and values as well, and hence against Rawls's method. So we need a different approach. George Klosko suggests a "method of convergence":

The alternative method I propose begins with an attempt to find areas of agreement between existing comprehensive views. Once such an area is identified, we would proceed to derive principles with the most robust possible normative content... The first stage of this alternative method, to which I refer indifferently as convergence or the method of convergence, can be represented visually as a Venn diagram, with a highlighted area of agreement – or overlap – between different comprehensive views, in spite of their other differences.¹⁵⁵

This method may be incompatible with the case for workplace democracy set out in chapters III and IV. For I have entered claims that conflict with some comprehensive doctrines: e.g., firms are not voluntary associations, consequentialist accounts of political equality are not plausible. The argument for these claims follows Rawls's constructivism: we must make these claims in order to have an appealing account of basic liberal democratic commitments. But it appears to be incompatible, by definition, with Klosko's method of convergence.¹⁵⁶

¹⁵⁴ John Rawls, *Political Liberalism*, p. 338.

¹⁵⁵ George Klosko, "Political Constructivism in Rawls's *Political Liberalism*", p. 638.

¹⁵⁶ This is a conjecture, however, because the character of Klosko's method – especially its second stage -- is unclear. See pp. 638, 642-643, 643-644, and note 28 on p. 644.

This chapter asks whether political liberals can endorse the right to workplace democracy. Section 2 argues that the principle of workplace democracy is compatible with political liberalism, as Rawls conceives of it. Sections 3 - 5 defend this version against the claim that its constructivist method is not sufficiently 'political'. If this argument is successful, we will have reason to believe that there is no conflict between workplace democracy and liberalism's commitment to neutrality.

Section 1: Social Justice and Political Liberalism

Let me begin with a background sketch of Rawls's political liberalism. This view may be described in terms of three distinctive features: a method for defining justice, the claim that this method achieves a kind of neutrality, and an account of why we should seek such neutrality.

1.A: Political Constructivism

According to Rawls, the principles of justice should flow from "political values" such as liberty, equality, and fairness, as opposed to religious and philosophical doctrines. The appropriate interpretation of these values is to be derived by careful examination of a society's public culture, which reveals the points of agreement implicit in that culture.

This method is evident in a passage from Rawls' *Political Liberalism*, just following the one cited above. According to Rawls, political theory does not aim to describe the content and metaphysical status of justice in a way that is convincing to anyone at any time. Its purpose is helping:

...to resolve the impasse in the democratic tradition as to the way in which social institutions are to be arranged if they are to conform to the freedom and equality of citizens as moral persons.¹⁵⁷

For this reason, we assume that the people to whom a justification is addressed are committed to a set of political practices and institutions: the rule of law, political democracy, freedom of conscience, etc. We assume that they reject certain paradigmatic forms of racial, class, and gender discrimination (e.g., racial segregation).¹⁵⁸ Underlying these commitments, we suppose, are such values as liberty, equality, fairness, and reciprocity. Political liberals develop a conception of justice by drawing on these points of agreement. In the passage at hand Rawls describes this strategy as follows:

It seems more fruitful to look for bases of agreement implicit in the public culture of a democratic society and therefore in its underlying conceptions of the person and of social cooperation...¹⁵⁹

The idea is to draw a connection between a controversial principle of justice – such as Rawls's difference principle – and the set of practices, institutions, ideas, and moral commitments that any liberal democrat would find appealing, on due reflection.

1.B: Neutrality

This method achieves a kind of neutrality between certain religious and philosophical doctrines. The doctrines in question are the reasonable, more or less comprehensive views that

¹⁵⁷ John Rawls, *Political Liberalism*, p. 338.

¹⁵⁸ Of course, these commitments are themselves in need of interpretation (e.g., what exactly does religious liberty amount to?) But they have a relatively uncontroversial range of application.

¹⁵⁹ John Rawls, *Political Liberalism*, p. 339.

find adherents among the citizens of a liberal democracy. The neutrality consists in the fact that principles of justice – and the exercise of power those principles authorize – are derived solely from values and ideas that occupy an important place within all of these doctrines. According to Joshua Cohen, for instance:

...the values and principles used to authorize the exercise of power by the state must be restricted to those that are compelling to the different reasonable moral views adhered to in the society.¹⁶⁰

Notice that this neutrality has two features. First, the case for a political conception of justice does not require the claim that any of the reasonable doctrines is true or false. It is stated in terms of considerations that each of the doctrines takes to be sound. However, even if a conception of justice does not imply that a doctrine is false, it may derive from considerations that occupy a trivial place within that doctrine; or considerations on which the doctrine is agnostic. The second aspect of political liberalism's neutrality, then, is that the conception of justice is based on values – the political or public values – with a great deal of importance for the reasonable doctrines.¹⁶¹ A conception of justice is neutral, then, if it can be derived solely from considerations that the various religious and philosophical doctrines take to be true and important.

1.C: Reasons for Neutrality

The reasons for seeking this kind of neutrality are complex. Very roughly, the idea is that a conception of justice should answer to considerations of legitimacy and stability, bearing in

¹⁶⁰ Joshua Cohen, "Moral Pluralism and Political Consensus", pp. 282-283.

¹⁶¹ See Joshua Cohen, "A More Democratic Liberalism", pp. 1526-1527.

mind the plurality of reasonable doctrines about religious and philosophical questions.

Suppose we evaluate principles of justice with respect to four criteria: usefulness, correctness, legitimacy, and stability.¹⁶² The better theory will settle, or at least clarify, contemporary debates about how social institutions ought to be arranged. By “settle” I mean that it helps an individual make up her mind and, perhaps, brings closure to or informs a specific controversy. The best theory will do this through the correct principles of justice, that is, principles reflecting an adequate interpretation and accommodation of the appropriate values and considerations. In addition, the theory should be legitimate, in the sense that its correctness is accessible to everyone through the use of reason, and not solely by way of intuition, faith, or belief. Finally, the principles of justice should have some chance of being realized in a stable, modern society.

We need a theory of justice that engages these four tasks in light of the circumstances facing liberal societies. Key among these circumstances is the fact of reasonable pluralism. Liberal societies feature a variety of religious and philosophical doctrines, such as utilitarianism and Catholicism. These doctrines have conflicting implications for the design of social institutions. And there is no guarantee that they support a liberal society. Still, some of the adherents to each doctrine are reasonable. They seem to be thoughtful and sincere. Their arguments do not suffer from obvious errors in logic and observation.

The neutrality described in section 1.B is desirable because it answers to the criteria of stability and legitimacy, properly understood, given the fact of reasonable pluralism.¹⁶³ The

¹⁶² This is an adaptation of the three criteria that Daniel M. Weinstock attributes to Rawls' work. See Daniel M. Weinstock, "The Justification of Political Liberalism".

¹⁶³ I am putting off a fuller discussion of these connections until sections 4 and 5. The accounts that follow are simply illustrative.

concern about stability involves an ideal of normative consensus. Suppose that our economy is organized according to a principle of distributive justice. The ideal of a normative consensus says that the reasonable citizens of this society should accept its economic institutions because those institutions are just. For instance, citizens should pay their taxes because they think that social programs promoting distributive equality are just, not because the government can punish tax fraud. Now, suppose the justification for distributive justice is based on a religious doctrine. The fact of reasonable pluralism means that many (reasonable) citizens will not find much force in this justification, because they reject the underlying religious view. This suggests that a normative consensus on the principle of distributive justice is impossible. We can make such a consensus possible by offering a neutral justification: that is, one based on values and ideas that the adherents of every reasonable doctrine take to be important.

A neutral justification is desirable, too, because it conforms to an ideal of legitimacy. Respect for other persons calls upon us to justify the exercise of power with considerations that we expect them to endorse. We should be prepared to offer reasons whose force they would deny only by being unreasonable – that is, by acting in a self-interested fashion, failing to exercise good judgment, and so on. The ‘fact of reasonable pluralism’ means that people can deny the truth of certain religious and philosophical doctrines – even if one of these doctrines is in fact true – without being unreasonable. In that case, we cannot achieve the sort of respect just described if we justify the exercise of power on the basis of one such doctrine. Hence the search for a ‘neutral’ justification, that is, one derived from values and ideas that the adherents of every reasonable doctrine within a liberal democratic society take to be compelling.

Section 2: Workplace Democracy and Political Constructivism

With this sketch of political liberalism in mind, let us consider the objections to workplace democracy. Rawls's concern takes the following form. He believes that the method of political constructivism is the appropriate way to define principles of justice. He seems to agree, for the sake of argument, that there is a convincing constructivist case for the right to workplace democracy. But suppose that having such an argument is only a necessary condition for a principle of justice, not a sufficient one. (For instance, Figure 4 above has a neutrality constraint on principles that emerge from the method of construction.) In this case there may be reasons to exclude workplace democracy from the requirements of justice.

I will explore three reasons. First is that the right to workplace democracy requires a socialist economy. Second, this right is too divisive. The other reason, which cannot be attributed to Rawls, is that workplace democracy satisfies some tastes better than others. Each of these concerns is unwarranted. Hence the case for workplace democracy, if it is persuasive, should be appealing to a political liberal of the Rawlsian variety.

2.A: Social Ownership

The simplest explanation of Rawls's concern is that the right to workplace democracy requires, as a matter of principle, a specific institutional arrangement. It entails some sort of "social ownership".¹⁶⁴ If this should be the case it is a serious problem indeed. By and large, principles of justice do not require specific institutional arrangements. Such questions can be

¹⁶⁴ Rawls objects to Rodney Peffer's principle of economic and social democracy because it "appears to require a socialist form of economic organization." (p. 8) He uses the phrase "social ownership" on p. 338. See also p. 298.

settled only with a lot of contingent information about a society's political traditions, culture, present circumstances, and so on. This is not to say that some arrangements aren't better than others. It is just that these judgments must be reached by applying abstract principles of justice - - which do not require those arrangements as a matter of course -- in light of our knowledge about what the world is like.

Consider the following example. Suppose we agree with Rawls that a just society has a distribution of material resources in which the position of the worst off is as good as possible. Some would argue that the way to achieve this ideal is to have a social democratic economy: private enterprises with a substantial degree of employee representation and state intervention. Others might argue that some degree of nationalization and central planning is necessary, others still that an economy of worker cooperatives would perform better. It seems to be a merit of Rawls's view that it does not presuppose an answer to this question. Its contribution lies in identifying the principles which frame the issue -- in this case, maximize the position of the worst off. If we incorporate precise institutions into those principles, we risk making them unnecessarily controversial. And we risk confusing normative questions -- what is a just distribution? -- with empirical ones -- what institutions will lead to the just distribution, and how do we set them up?

However, the right to workplace democracy, as it was defined in chapter I, is designed to reflect this concern. Rawls is worried that including this right among the principles of justice will require some sort of social ownership. Let us define "social ownership" as an economy in which any firm over a certain size would have to be organized as a producer cooperative. It is possible that the right to workplace democracy would require such an economy, but only if relatively demanding conditions are met.

Recall the sample alternatives described in chapter I section 2.B as compatible with the right to workplace democracy. They include the collective bargaining, mixed property, self-selecting cooperative, and full cooperative regimes. The fullest realization of the right to workplace democracy is the regime of self-selecting cooperatives. But the case for this regime, or the fully cooperative regime, has to show that it satisfies other principles of justice more or less as well as the collective bargaining and mixed property regimes. Among these principles of justice are equal opportunity, fairness across generations, justice among nations, and so forth. I doubt that this argument can be made without reference to contingent information about a society's circumstances, culture, political traditions, etc. Hence the right to workplace democracy is sensitive to Rawls's concern about separating questions of justice from questions of institutional design.

2.B: Divisiveness

One of the criteria in choosing a theory of justice is its potential to resolve controversies about the design of social institutions. Forging a consensus is not the theory's only aim. But the ability to do so is desirable.¹⁶⁵ In this light, Rawls's skepticism about workplace democracy may reflect the impression that questions about economic governance are extremely divisive. This concern is apparent in some of the passages in *Political Liberalism* from which I have been drawing. For suppose there is a "convincing philosophical argument" for the right to workplace democracy. Rawls may be concerned that this right will hinder his effort to "resolve an impasse in the democratic tradition", because the argument is convincing only "to us and a few like-

¹⁶⁵ Section 5 discusses the connection between justice and consensus in more detail.

minded others".¹⁶⁶

Why should Rawls think that the right to workplace democracy is especially divisive? One answer is that it entails a specific institutional arrangement, such as a cooperative economy. We have just seen that this is not the case. Of course, the principle of workplace democracy strengthens the case for one of the two cooperative economies. Perhaps that makes it divisive. But this fact is true of Rawls' difference principle and, indeed, of any liberal egalitarian conception of justice.

Let me illustrate this point with reference to distributive justice. Proponents of workplace democracy have not failed to notice that cooperatives tend to lower income differentials relative to traditional, capitalist firms. For instance, Robert Dahl argues that a cooperative economy would advance the value of distributive justice.¹⁶⁷ Hence many egalitarian principles of distributive justice are divisive in just the way that the right to workplace democracy is, i.e. there are circumstances under which they strengthen the case for a cooperative economy. But liberals such as Rawls do not see in this a strong objection to egalitarianism.

In addition, we should not over-estimate the degree to which political struggles about the shape of economic institutions are determined by the principles used to justify those institutions. Consider the case of collective bargaining in the United States. Although this arrangement enjoys widespread support, there are many businessmen and economic conservatives who would like to do away with it. Nevertheless, Rawls would probably endorse collective bargaining as a way of advancing the economic welfare of the least well off. Now, what could be wrong with adding that collective bargaining is desirable, too, inasmuch as it promotes workplace

¹⁶⁶ John Rawls, *Political Liberalism*, pp. 338-339.

¹⁶⁷ Robert A. Dahl, *A Preface to Economic Democracy*, chapter 3.

democracy? One is under the impression that the controversy over labor – management relations, such as it is, would not climb to higher pitch as a result of this argument.

2.C: Neutrality of Effect

The principle of workplace democracy may be objectionable, finally, because it will have different consequences for different conceptions of the good. This is incompatible with the value of state neutrality. Richard Arneson raises this point forcefully in his essay on “Democratic Rights at National and Workplace Levels”. Suppose, he says, that democratic considerations can be shown to support a mixed property regime. The right to workplace democracy might require moving to a cooperative economy. Yet there is a compelling reason not to do this. A cooperative economy would privilege some preferences over others:

Workplace democracy entails costs and benefits that will be differently evaluated by individuals who see the world through different conceptions of the good. In a market setting, whether the market is composed of private or state-owned firms, some individuals would prefer to work for a firm that is hierarchically managed rather than run by elected managers. Just to mention one possibility, one might fear that majority rule in economic enterprises in one’s line of industry will produce worse managerial decisions or constraints on managers that worsen the quality of managerial decision making compared to nondemocratic alternatives.¹⁶⁸

Suppose, for instance, that traditional firms offer higher wages while democratic enterprises offer better working conditions. A cooperative economy would impose one view about this tradeoff on most people. But Arneson believes that this imposition is non-neutral:

...the state would be helping some individuals and hurting others. We have no good reason to suppose there would be any plausible distributional reason for imposing this pattern of benefits and burdens... In such circumstances a powerful

¹⁶⁸ Richard J. Arneson, “Democratic Rights at National and Workplace Levels”, p. 142.

neutrality constraint on political arrangements forbids the enforced extension of democratic rights to economic enterprises.¹⁶⁹

This “neutrality constraint” derives, in part, from the diversity of views among citizens in a liberal society:

In a diverse democracy the state is rightly expected to be strictly neutral in its dealings with citizens committed to fundamentally different conceptions of value and the good life. Neutrality here forbids the use of state power to confer special benefits on some citizens merely because they have tastes of a sort that are favored or deemed more admirable than the tastes of others. From the perspective of state neutrality, the proposal of mandated workplace democracy appears sectarian and hence unjustifiable.¹⁷⁰

The way in which this objection applies to workplace democracy – as defined in chapter I – is not obvious. That right does not *require* an “enforced extension” of workplace democracy. But let us assume that it does favor some conceptions of the good over others. Political liberalism does not entail the sort of neutrality Arneson has in mind. The fact that a principle of justice benefits some conceptions of the good over others does not mean that it is “sectarian and hence unjustifiable”. This is a familiar and relatively uncontroversial point among political liberals. By way of example, it is enough to notice that almost any principle of justice will have diverse consequences for different conceptions of the good.

That is not to say that Arneson’s objection is without force. It is simply that the force comes from something other than the idea of direct, institutional neutrality. The objection rings true if one believes, as he does, that people are not entitled to workplace democracy. In that case there is arguably something sectarian about favoring the sorts of tastes that democratic firms are

¹⁶⁹ Richard J. Arneson, “Democratic Rights at National and Workplace Levels”, pp. 142-143.

¹⁷⁰ Richard J. Arneson, “Democratic Rights at National and Workplace Levels”, p. 143.

likely to advance. But if the argument in chapters III and IV is persuasive, then the objection runs out of steam.

This is apparent in the second passage cited above. Arneson thinks that the “neutrality constraint” operates only under certain circumstances. We have to believe that there are no “plausible distributional reasons” for policies that favor some preferences over others. If these reasons exist, then the constraint is swept aside. So the force behind Arneson’s objection derives mostly from the claim that there are no plausible reasons for workplace democracy. Neutrality is an after thought.

Section 3: Workplace Democracy and Convergence

Thus far I have argued that the case for workplace democracy is compatible with the constructivist method set out in Rawls’s *Political Liberalism*. This section and the following two defend that method – and hence the case for workplace democracy – against the charge that it is not ‘political’ enough. Recall that there are other methodologies available to us, such as George Klosko’s “method of convergence”. According to these approaches, we should not define principles of justice by drawing on “bases of agreement implicit in the public culture”. For the claim that something is “implicit” in the public culture is bound to be reasonably controversial. And whatever reasons we have for avoiding such controversy in the realm of religion and philosophy are reasons for avoiding it in regard to the public culture. Hence the constructivist method, and the case for workplace democracy, is not ‘political’ or ‘neutral’ to a sufficient degree.

To nail down the force of this objection, consider the contrast between constructivism and convergence with respect to workplace democracy. In chapters III and IV I argued that any plausible account of certain commitments – political equality, the right to a decent standard of living, and equal opportunity – support a right to workplace democracy. The argument is not that there is a consensus around these “plausible accounts”. For example, its strategy is not to determine what conceptions of democracy people already endorse, and provide arguments from within each of these conceptions. Instead I draw on the three basic commitments to show that some conceptions of democracy are less plausible than others.

This kind of argument is compatible with Rawls’s constructivism, but it may not be compatible with Klosko’s method of convergence. Its purpose is to find principles of justice that are as uncontroversial as possible. To this end, any premise that some people reject is out of bounds, even if it is a premise about the public culture. For instance, Klosko imagines an “original position” in which the parties are aware of the doctrines that citizens affirm, but do not know which is their own. They select principles that would be acceptable to all of these doctrines.¹⁷¹ Klosko does not say very much about what these principles might be. He believes, however, that the U.S. features a consensus on democratic procedures:

...since the method identifies consensus on support for democratic political institutions, preferred principles will center on support for democracy and on strong preconditions for effective democracy, though in normative content, these must fall well short of Rawls’s overlapping consensus...¹⁷²

In any case, it seems difficult to derive a right to workplace democracy using this method. Standing within Klosko’s original position, we would see the wide array of democratic theories.

¹⁷¹ George Klosko, “Political Constructivism in Rawls’s *Political Liberalism*”, pp. 642-643.

These conceive of democracy as protective of individual rights (variously defined); as a fair and/or deliberative procedure for making binding collective decisions; as promoting the value of self-realization; etc. The right to workplace democracy will be appealing within some of these theories, but not all. Hence it cannot be a requirement of justice.

In short, an alternative to Rawls's political constructivism that rules out controversial claims about public values, so as to make the principles of justice as uncontroversial as possible, may be incompatible with the principle of workplace democracy. The question is whether the neutrality characteristic of political liberalism calls for such a method. Recall that said neutrality is derived from two concerns: legitimacy and stability. One way to arrive at an answer, then, is to ask whether Klosko's method fares better than political constructivism in light of these concerns. Sections 4 and 5 explore this issue.

Section 4: Legitimacy

First I will argue that Rawls's constructivist method meets the condition of legitimacy. Section 4.A describes that condition in some detail. Section 4.B formulates an argument, derived largely from Michael Sandel's review of *Political Liberalism*, as to why Rawls's method is incompatible with the condition. It draws on the idea that *if* we ought steer clear of reasonable philosophical and theological controversies, then we should do the same with respect to reasonable controversies about the interpretation of political values. Section 4.C expresses some skepticism about this idea. Arguments derived from the political culture express a kind of

¹⁷² George Klosko, "Political Constructivism in Rawls's *Political Liberalism*", note 15 p. 640.

respect for other persons, even if they are reasonably controversial.

4.A: Legitimacy

Recall that modern societies exhibit the fact of reasonable pluralism. There are a variety of religious and philosophical doctrines. Some of the adherents to these doctrines are reasonable. They seem to be thoughtful and sincere. Their arguments do not suffer from obvious errors in logic and observation. What does this fact imply about the search for legitimate principles of justice -- that is, principles whose justification is accessible to everyone through reason?

"Comprehensive liberals" believe that justice should be derived from the correct moral doctrine, even if this doctrine is controversial. There are two ways to reach this conclusion. One is to say that the fact of moral controversy -- even among reasonable persons -- has no direct bearing on the content of justice. We should define justice with reference to the whole truth. The fact that reasonable people disagree may be an important consideration when we try to determine what the truth is. Beyond this evidentiary role, however, whether others agree with our conception of justice has no bearing on its merit relative to other conceptions. According to Joseph Raz, for instance:

Respecting people as rational self-directing agents does not require desisting from following true beliefs which those people dispute. The suggestion that it does have this implication confuses respect for people, because they have rational powers, with respecting their currently held views. That people have rational powers means that they are not stuck with the views they have at any given time, that they can examine and revise them... Given that they are rational we expect them to examine and revise [false] beliefs... Remember that people have a duty to respect their own rationality. That includes the duty not to take the fact that they hold a belief as a reason for anything.¹⁷³

¹⁷³ Joseph Raz, "Disagreement in Politics", p. 43.

On the other hand, one might say that those who reject a comprehensive doctrine have no reasonable grounds for doing so. The position of a utilitarian, crudely sketched, illustrates the point. She believes not simply that utilitarianism is the sole determinant of right and wrong, but also that this fact is beyond reasonable doubt. Once a person understands utilitarianism and its rival theories, she will accept this conclusion. People who deny it are just confused.

Political liberals find that they cannot take either of these strategies. They place considerable stock on a certain interpretation of the idea of legitimacy. Principles of justice are legitimate, in this sense, if and only if no person would be able, reasonably, to reject them. It is not enough to say that the arguments for a conception of justice are correct: they must be beyond reasonable doubt (in some sense). Yet political liberals believe that there is a plurality of reasonable religious, moral, and philosophical doctrines. Utilitarianism may be the only appropriate way to determine what is right and wrong, all things considered. But it can be reasonable to deny this.

Hence the value of legitimacy and the fact of reasonable pluralism lead us to seek a conception of justice that is not based on certain religious and philosophical views. For an illustration of this move, consider one of the arguments in Joshua Cohen's "Moral Pluralism and Political Consensus". In avoiding reasonably controversial doctrines, we are:

...taking cognizance of a peculiarity in insisting on the whole (sectarian) truth in the face of our acknowledgement of the idea of reasonable pluralism. For suppose we acknowledge it, and affirm the divergence of moralities under reflection. Then we must see that if we were to appeal to the whole truth, that appeal would be, from the standpoint of others who we take to be reasonable, indistinguishable from simply appealing to what we believe. But we already acknowledge that the mere appeal to what we believe carries no force in justification.¹⁷⁴

¹⁷⁴ Joshua Cohen, "Moral Pluralism and Political Consensus", p. 283. Note that the word "sectarian" is used in a technical, not pejorative sense.

Suppose that two persons, Smith and Jones, agree that Catholicism is reasonably controversial. Smith is Catholic, so for him an appeal to Catholic doctrine is an appeal to the truth. Jones rejects Catholicism. This means that he sees it, not as the truth, but as that which Smith believes. Now Smith thinks that a conception of justice should derive from reasons that Jones could accept from his (Jones's) point of view. Belief is not such a reason. Hence Smith should not appeal to his religious doctrine. Cohen illustrates this argument as follows:

In the course of political argument, we affirm: "It is true that welfare is the sole ultimate good." Now others ought not to suppose that what we *mean* is equally well captured by "We believe that welfare is the sole ultimate good." The indistinguishability at issue is not semantical. The point, rather, is that if others accept the idea of reasonable pluralism, then they notice what we also notice, namely, that what lies between our taking our views to be reasonable (about which there may be no disagreement) and our taking them to be true (about which there is disagreement) is not a further reason, but simply our (rationally permissible) belief in those views. Because there is nothing else that lies in between, an appeal to the whole truth will seem indistinguishable from an appeal to what we believe.¹⁷⁵

4.B: Reasonably Controversial Political Values

Given this fact of reasonable pluralism, and the value of legitimacy, political liberalism adopts the strategy described earlier, based on the public values of a liberal democratic society. The argument for workplace democracy is compatible with this strategy. Yet even if the argument is correct, it may be reasonably controversial. Political liberals attach enough importance to the idea of legitimacy to conclude that we should define justice without reference to comprehensive doctrines. Presumably they must reject also an argument for workplace

¹⁷⁵ Joshua Cohen, "Moral Pluralism and Political Consensus", pp. 283-284; emphasis in original.

democracy based on the correct -- but reasonably controversial -- interpretation of the relevant public values.

This objection emerges from various critical responses to Rawls's *Political Liberalism*. These responses differ greatly from one another. But they share the assumption that political liberalism has something to do with avoiding reasonable controversies, no matter what these controversies are about. Daniel M. Weinstock, for instance, objects to Rawls's search for points of agreement "implicit in the public culture", because an interpretation of these points is bound to be reasonably controversial:

Political cultures are hardly univocal, a fact that Rawls...sees as calling for the extraction of the abstract and general principles that lie at the basis of the apparent welter of contradictory views that make up the "surface" of a political culture. But it is highly unlikely that the "text" which our political culture represents will tell decisively in favor of one interpretation rather than another, nor does it seem plausible to assume that an interpreter having arrived at a coherent and univocal doctrine as a result of her examination of the institutions and documents that make up her political culture will have done so without bringing to her study of this "text" a set of pre-established moral assumptions allowing her to screen out less "significant" aspects of the culture. A debate between two rival interpretations of a political culture would on this view be less about the "correct" interpretation of the culture, and more one about which of two opposed moral views is correct, carried out by other means.¹⁷⁶

Michael Sandel's review of *Political Liberalism* offers another illustration. Sandel is skeptical of the idea that we ought to design social institutions with reference to "justice" or "the right", as opposed to philosophical and religious claims about "the good". He argues that this idea is unpersuasive unless the content of justice is not controversial:

...even if the fact of reasonable pluralism is true, the asymmetry between the right and the good depends on a further assumption. This is the assumption that,

¹⁷⁶ Daniel M. Weinstock, "The Justification of Political Liberalism", p. 176.

despite our disagreements about morality and religion, we do not have, or on due reflection would not have, similar disagreements about justice. Political liberalism must assume not only that the exercise of human reason under conditions of freedom will produce disagreements about the good life, but also that the exercise of human reason under conditions of freedom will *not* produce disagreements about justice. The “fact of reasonable pluralism” about morality and religion only creates an asymmetry between the right and the good when coupled with the further assumption that there is no comparable “fact of reasonable pluralism” about justice.¹⁷⁷

Sandel is saying that there is no ‘value added’ in picking “the right” over “the good”, because both are reasonably controversial. Political liberals must avoid reasonable controversy wherever it may arise.

To see how these objections bear on the idea of legitimacy, consider once again the argument from Cohen’s “Moral Pluralism and Political Consensus”. Respect for others demands a justification they can accept from their point of view; reasonable controversy turns religious and philosophical doctrines into beliefs for some people; beliefs are not the sort of reason that people should be expected to accept. Weinstock and Sandel would replace the words “religious and philosophical doctrines” with “interpretations of public values”. If there is reasonable controversy in this area, then the truth of an interpretation for one person is but a belief for another. Belief is not the sort of reason we can expect others to endorse.

Consider an example. Some people think that the correct interpretation of fairness and equality condemns affirmative action. Other people think that any interpretation of fairness and equality that would do this is incorrect. If we believe that this controversy has the same features as the religious and philosophical controversies with which political liberalism is concerned, then we must say that the issue is reasonably controversial. Those who support affirmative action will

¹⁷⁷ Michael J. Sandel, “Book Review: *Political Liberalism*”, p. 1783. Emphasis in original.

regard the appeal to a particular conception of fairness and equality as a belief. We have said that this is not the sort of reason that people can be expected to accept. Therefore, the question of affirmative action cannot be settled by a reasonably controversial interpretation of fairness and equality, even though everyone agrees that these are important values.

4.C: Political Constructivism and Legitimacy

I want to express some skepticism about the objection just described. Reasonable disagreement in regard to public values is less troubling than in the case of religious and philosophical doctrines. Recall that such controversy is a concern given the criteria of legitimacy. There is a reason to think that arguments based on political values can meet that condition, even if they are reasonably controversial. These arguments express a kind of respect for others that is not to be found in the case of comprehensive arguments. And this sort of respect comes at a price, since it may force one to adopt modest claims.

Let us begin with the point about respect, and return to the example of affirmative action. Suppose I think these policies are acceptable. Another person believes that they are unjust. She says one of two things: that the values of equality and fairness militate against affirmative action, and that such policies are counter to God's will. Both claims are reasonably controversial. However, if the critic of affirmative action accepts the fact of reasonable pluralism, her religious argument suggests a lack of respect for others. She appears to be saying, more or less, 'what you believe is not relevant to the way in which I may or may not treat you.' Suppose instead that she offers the argument about fairness and equality. And suppose that she finds this argument convincing, not because it comports with her religious view, but on the sincere and thoughtful conviction that equality and fairness require a color-blind constitution. Here there is an effort to

engage others on terms they can appreciate – to speak in a language they can understand. What the rest of us believe does matter. And because it matters, the person ignores a part of the truth, namely, that affirmative action is counter to God's will.

Arguments based on political values, then, express a kind of respect for other persons, even when these are reasonably controversial. As a bit of evidence for this claim, notice that the respect in question has a price, at least in the case of economic democracy. For it is likely that the scope of democratic decision-making would be much broader if it were justified with reference to a comprehensive doctrine. Carol Gould's *Rethinking Democracy* is a good illustration. She holds that democracy is necessary whenever people engage in common activities that require binding decisions.¹⁷⁸ Despite this conventional terminology, Gould's view is based on the value of self-realization. Any secondary association must be democratic if it is potential source of self-development for some individuals. Undemocratic associations place a burden on the equal right to self-development, so to speak. Accordingly, the scope of democratic decision-making is more or less exhaustive. Besides economic enterprises it includes:

...educational institutions, such as schools and universities; cultural institutions, such as museums and arts organizations; health services, that is, hospitals, community health organizations, etc.; welfare and social service agencies; scientific research centers; the media; sports; religious organizations; charitable organizations; and the wide variety of voluntary associations through which people pursue their social and cultural interests. One may also include under the general heading of social and cultural life, the family and other child-raising and living arrangements.¹⁷⁹

Now, it would be hard to derive a view as broad as this from the values of liberty, equality,

¹⁷⁸ Carol C. Gould, *Rethinking Democracy: Freedom and Social Cooperation in Politics, Economy and Society*, p. 85. I assume the requirement of "binding decisions" is intended to be very weak (i.e., a priest makes binding decisions. In fact Gould does not always state this qualifier.(p. 84)

¹⁷⁹ Carol C. Gould, *Rethinking Democracy: Freedom and Social Cooperation in Politics, Economy and Society*, p.

fairness, and so forth, as these are expressed in the public culture of a liberal democracy. If Gould were to adopt this approach, she would have to advance a more modest conception of democracy. Why would anyone do that? The fact that arguments based on political values express respect for other persons is one possible reason.¹⁸⁰

Section 5: Stability and Consensus

The other reason for political liberalism's emphasis on neutrality is the criteria of stability and its ideal of normative consensus. The principles of justice should be realizable in a stable manner within a modern society. This ensures that they are not objectionably utopian. Political liberalism brings a particular view about the sort of stability that is required. A stable society should have, among other things, a normative consensus on the principles of justice that frame its social, economic, and political institutions. Any reasonable citizen should be able to look upon these institutions and regard them as just.

This strand in Rawls's work prompts an objection to his method of political constructivism and, therefore, to the case for workplace democracy. The objection goes as follows. There are alternatives to constructivism that will result in principles of justice with broader support. Klosko's method of convergence, for instance, will have this advantage inasmuch as it draws solely on ideas that people already find compelling. A society with a

255. On the other hand, Gould thinks that a degree of privacy is necessary for self-development (p. 89).

¹⁸⁰ Even if arguments derived from public values express respect for other reasonable persons, one might ask whether an alternative to Rawls's constructivism performs better in this regard. The intuition here is simple: less disagreement equals more legitimacy. I will not address this question explicitly, although a response may be inferred from section 5.A below.

normative consensus on the principles that guide its exercise of power is highly desirable. Therefore we should prefer convergence to constructivism.

It is not obvious that the method of convergence will produce more consensus than political constructivism. However, let us assume that it would, or that we could design an alternative to constructivism that is more likely to achieve a consensus. I want to raise two doubts about whether this should lead us to favor the more restrictive approach. Section 5.A argues that the method of convergence increases the level of consensus in a way that deprives the consensus of its value. Sections 5.B – 5.D argue that, in any case, it is not clear whether the account of consensus underlying Klosko's method of convergence is the most appealing one.

5.A: Convergence Vitiates Consensus

The possibility of consensus is appealing, for the most part, because it advances an ideal of individual autonomy.¹⁸¹ Suppose that citizens regard the principles authorizing the exercise of state power as just. Then in complying with their society's laws and policies these individuals are acting autonomously. That is, they are following a set of rules – the principles of justice – that they take to be correct and worth following. Of course, people may disagree with the particular policies chosen to advance these goals. But they share the goals. For instance, people may disagree about what scheme of taxation and government expenditures is most beneficial to the worst off. But they place considerable value on picking the scheme that will, in fact, have this result. To that extent they pay their taxes autonomously.

Although the method of convergence will produce principles of justice more likely to be

¹⁸¹ Discussions of normative consensus often point to the idea of legitimacy as well. I have assumed that this is an independent criteria for evaluating principles of justice. So it seems redundant to include it here.

the focus of consensus -- because they are less controversial -- it will not advance the ideal of autonomy that makes consensus desirable. Indeed it may detract from that ideal. The reason is that in order to make obedience compatible with individual autonomy, the principles of justice to which people agree must have substantial implications for the design and conduct of a just society. The method of convergence undermines these implications, since it restricts the number and specificity of the principles of justice.

Consider an illustration, based on the passage from Carol Gould's *Rethinking Democracy* cited earlier. Suppose that Gould's conception of democracy cannot be derived from ideas implicit in the public culture. In that case her view is unacceptable, according to Rawls, because political constructivism requires that we confine ourselves to the realm of political values. Klosko's method will undermine this result. Why? Because, now, drawing solely on political values is not enough. We have to rely on an account of those values that is beyond reasonable controversy. Gould's proposal suggests that liberalism's distinction between 'public' and 'private' associations is reasonably controversial. After all, the moral and philosophical foundations of radical democracy are not unreasonable. So it would be hard to say, on Klosko's method, that Gould's proposal is unjust. It is neither here nor there.

This appears to be a step away from the ideal of autonomy that consensus is supposed to advance. Recall that, according to this ideal, a person acts autonomously when obeying a rule that she takes to be worth following. The citizen who lives within a radical democracy is not acting autonomously, in this sense, inasmuch as she disagrees (reasonably) with the comprehensive doctrine underlying Gould's proposal. In contrast, the proponent of radical democracy can be said to act autonomously even if we accept Rawls's political constructivism and, accordingly, refuse to establish a radical democracy. The reason is that in refusing to

pursue her views through the exercise of state power, the radical democrat is acting in accordance with the political values, which she takes to have a great deal of importance. Hence a consensus on principles of justice derived through Klosko's method may not answer to the value of individual autonomy that makes consensus desirable.

To summarize: The 'autonomy value' attaching to principles of justice is a function of two variables, the level of consensus on the principles and their ability to guide political choices. The method of convergence buys consensus at the expense of guidance. Hence it is not clear whether this method is more desirable -- once we understand why consensus is valuable -- than political constructivism.¹⁸²

5.B: Convergence and Consensus

The discussion in section 5.A assumes that we should strive for as much consensus as possible (assuming that the principles in question provide guidance for state policy). The reason is that a normative consensus answers to the value of individual autonomy. But this is a strong assumption. It is not clear how we should understand the role of consensus within a theory of justice. Klosko recommends the method of convergence because he believes that political liberals, such as Rawls, are seeking to maximize the likelihood of an actual consensus on the principles of justice. There are other interpretations of Rawls's view, however. These interpretations do not lead to the method of convergence. And they are more appealing.

The connection between justice and consensus is not simple. We find, in particular, two sets of issues. First are questions about the kind of consensus that is required. Is it real or

¹⁸² It may be asked whether this objection to Klosko's method is plausible where there is a consensus on political democracy. Citizens endorse the political process, and it guides state policy. But Rawls's constructivism would have this degree of consensus as well. The question is whether convergence has anything more to offer.

hypothetical? If real, how likely does it have to be? Who must be a part of the consensus (e.g., just 'reasonable' persons)? Once we know what sort of consensus is required – what the 'consensus test' is – there are questions about its relative importance. Recall that we have three other criteria to consider in choosing a theory of justice: usefulness, correctness, and legitimacy (see section 1.C). And it is not clear how the consensus test fits in with them. We might say that it is a necessary condition for justice; that it bears on the merits of a principle, but is not a necessary condition; or that it bears only on our judgment about the feasibility of justice, all things considered.¹⁸³

The method of convergence assumes a strong answer to these questions. It is appealing inasmuch as we give the criteria of consensus a central place and interpret it in a demanding way. Klosko appears to think that *Political Liberalism* recommends a view such as this. For instance, he calls for principles that *will* serve as the basis of consensus, as opposed to principles that *could* serve this role:

I do not contend that a fit between Rawls's principles and liberal culture is impossible. But Rawls's particular method of construction, pursuing as it does the best possible principles that can be drawn from selected intuitive ideas, is defensible only if his principles will fit. Because of the strong possibility they will not, a more advisable procedure would focus on the need to generate principles that will fit and then select from these the ones which are normatively preferable.¹⁸⁴

Klosko argues, in the same vein, that Rawls:

...has not shown that the difference principle will be the focus of agreement throughout society, or that his method is the one best suited to develop principles

¹⁸³ Joshua Cohen, "Moral Pluralism and Political Consensus", p. 273.

¹⁸⁴ George Klosko, "Political Constructivism in Rawls's *Political Liberalism*", p. 638.

that will be able to secure agreement.¹⁸⁵

The extent of Klosko's emphasis on consensus is evident in a particularly revealing passage.

Objecting to Rawls's reliance on a short list of intuitive ideas, Klosko says:

People should be more likely to accept ideas drawn directly from views they hold, as opposed to constructed implications, some attenuated implications, drawn from only some of their intuitive ideas. If these are truly *intuitive* ideas, people may not be aware of holding them and are unlikely to recognize that they are committed to their implications.¹⁸⁶

Even if an interpretation of the political values is true, indeed, even if it is beyond reasonable doubt, we should not define principles of justice with reference to it. The reason is that some people – who may be reasonable persons in other respects – are bound to reject the interpretation in question.

There are different ways of understanding the role of consensus in Rawls's theory. Before I describe them, let me point to several reasons for thinking that his view may differ from Klosko's. First is Rawls's description of political liberalism as "the defense of reasonable faith in the possibility of a just constitutional regime."¹⁸⁷ This phrase suggests that we are not after a strong likelihood of consensus. Next consider the fact that there are at least three other criteria for evaluating theories of justice: usefulness, correctness, and legitimacy. Although I do not intend to press the point here, it may be that emphasizing the need for consensus makes a theory remarkably less plausible in terms of the other criteria. Finally, notice that Rawls does not see consensus as a distinct criteria: it is subsumed under the requirement of stability. Although

¹⁸⁵ George Klosko, "Political Constructivism in Rawls's *Political Liberalism*", p. 644.

¹⁸⁶ George Klosko, "Political Constructivism in Rawls's *Political Liberalism*", p. 640: emphasis in original.

¹⁸⁷ John Rawls, *Political Liberalism*, p. 172. See also Joshua Cohen, "A More Democratic Liberalism", p. 1533 &

stability plays an important role in the evaluation of theories of justice, it is typically not understood as a demanding requirement.

We have reason to believe, then, that there are different ways of understanding the role of consensus within political liberalism. Sections 5.C and 5.D describe two possibilities. (It may be that neither of these interpretations is plausible without the other, but I will discuss them separately.)

5.C: The Platonic Alternative

The first, alternative interpretation is that political liberalism is not concerned with an eminently achievable, real-world consensus, but with a philosophical problem about the stability of a just liberal society. At least since Plato's *Republic* it has been common to evaluate theories of justice, in part, by asking whether they might ever be realized, and if so, whether they could survive stably in a society fully compatible with said theory. Plato's condition of stability was rather weak.¹⁸⁸ And the idea that stability should be conceived in this minimal way has not been too controversial. If anything the tendency is in the opposite direction, that is, to define justice with no reference to the condition of stability. Of course, some people come to believe that justice is too pure for the real world and settle for something less. Aristotle argued, for instance, that students of politics must devote more attention to regimes other than the ideal one. But it does not appear that he rejected Plato's weak condition of stability. He refers to the best regime as having those qualities "one would pray for above all".¹⁸⁹

section 1.B.

¹⁸⁸ See for instance: 499b-d and 502a-c in Book VI, as well as 471c-473d in Book V.

¹⁸⁹ See Book 4, chapter 1 of the *Politics* for this phrase and for Aristotle's views regarding the aims of 'political science'.

This background suggests the following interpretation of Rawls's view. The stability condition requires the possibility of consensus on the principles of justice. Imagine that the only available justification of liberal principles is a utilitarian one. It says that a society with liberal institutions is most likely to maximize the overall level of happiness in the long run. Rawls would say that it is impossible for liberal principles to be the subject of consensus if this justification is the only one available to us. For liberal institutions will give rise to reasonable disagreement about religious and philosophical matters, including the claim that utilitarianism is the best way to think about moral questions. So there is no possibility for a reasoned consensus on the liberal principles.

Political liberalism is an effort to fill this theoretical vacuum. It offers a basis of consensus that is, in theory, able to survive the fact of reasonable pluralism. The proposed solution is to construct an account of liberal institutions that is based on values with an important place in the religious and philosophical doctrines likely to emerge and persist in a liberal society. Such an account, if it is plausible, may suffice to address the problem of consensus. There is now a justification of liberal institutions that citizens could, in theory, come to accept.

This interpretation of Rawls's view about consensus may strike one as too formalistic and, at any rate, inconsistent with some of his comments on the need for consensus. But I would reiterate that it has a long pedigree in political philosophy. It accounts for the fact that consensus is subsumed under the criteria of stability. And it explains Rawls's comment about *reasonable faith* in the *possibility* of consensus.

5.D: The 'Family of Principles' Interpretation

There is another way to interpret Rawls's view. In this case the idea is that we are not

seeking consensus on a precise conception of justice, but on a family of conceptions and on the considerations that support them. This orientation is evident in Rawls's views about public reason. In "The Idea of Public Reason Revisited" he says:

I have proposed that one way to identify...['political'] principles and guidelines is to show that they would be agreed to in what in *Political Liberalism* is called the original position. Others will think that different ways to identify these principles are more reasonable. Thus, the content of public reason is given by a family of political conceptions of justice, and not by a single one. There are many liberalisms and related views, and therefore many forms of public reason specified by a family of reasonable political conceptions. Of course, justice as fairness, whatever its merits, is but one.¹⁹⁰

This view is offered explicitly in Cohen's "Moral Pluralism and Political Consensus". He argues that the aim is not a consensus on Rawls's two principles of justice, but on the terrain upon which the case for those principles operates:

While the contention that the resources for defending an egalitarian political conception are implicit in current understandings may not, then, be entirely implausible, it should *not* be *identified* with the thesis that an egalitarian liberal political conception can meet the pluralistic consensus test. That test does not require that we rummage through the political culture searching for underlying points of agreement among the views featured in it... Instead it formulates a test on the reasonableness of a political conception that is in other respects attractive. The test is this: Consider a proposed conception of justice in operation, and then consider whether the principles, ideals, and terms of argument that figure in it provide moral reasons within the views that could be expected to arise among those who live in a society governed by it.¹⁹¹

If the point of a normative consensus is that everyone should endorse the principles of justice on the basis of moral reasons, there does not have to be a consensus on the principles *per se*. A consensus on a broader family of principles, and on the values and ideas underlying these

¹⁹⁰ John Rawls, "The Idea of Public Reason Revisited", pp. 773-774.

principles, will provide the needed reasons.

It may help to elaborate on this last point, for there is a natural concern about the 'family of principles' interpretation of Rawls's view. Perhaps it is just a roundabout way of scrapping the criteria of consensus? We begin with the question whether a specific conception of justice satisfies the criteria of consensus. The answer is that its "terrain" and its "family" of principles satisfy the condition. But this seems like a change of question designed to produce the right answer. Moreover, it invites the possibility of defining the "terrain" and the "family" rather broadly, so as to weaken the consensus test even further.

But the passage cited above contains a principled account of the shift to a broader focus. Let us say that consensus is desirable because it contributes to stability in a way that answers to the value of autonomy: society is more stable because its citizens regard it as just. A consensus on the ideas used in the arguments for a family of conceptions, and on that group of conceptions as a whole, might accomplish the purpose of stability through autonomy. Suppose, for example, that there is a consensus on the use of Rawls's "original position" – or some such device – in developing claims about the content of justice. There may still be a substantial variety in the principles of justice that citizens affirm. But citizens will share, in broad outline, several commitments: political democracy, basic liberty, the right to a decent standard of living, equal opportunity, and distributive justice. They will acknowledge that any of the commonly held principles of justice is a reasonable (though incorrect) derivation from the appropriate considerations (as modeled in the original position). This consensus suffices to make society stable in a way that answers to the value of autonomy. Every citizen will have good, moral reasons for accepting the principles of justice that regulate that society – even if they do not

¹⁹¹ Joshua Cohen, "Moral Pluralism and Political Consensus", p. 280.

believe that these principles are entirely correct.

Conclusion

I have argued that contemporary, liberal theories of justice are incomplete insofar as they emphasize the distribution of goods and opportunities, having little to say about how production is governed. Liberals focus on questions of distribution because they accept what I have called the "Fabian logic". They begin from a set of fundamental values, i.e. liberty, equality, fairness, and reciprocity. These values lead to principles of distributive justice, through a process of philosophical construction designed to account for a set of basic commitments. Then those principles guide the design of economic institutions. I have argued that this logic cannot be sustained. The values central to liberalism -- interpreted so as to account for its basic commitments -- have direct implications for the organization of economic activity. They call for a principle of workplace democracy.

This principle has substantial implications. Any society must decide how firms will be required or encouraged to govern themselves. Some arrangements have a substantial democratic character. They include collective bargaining, works councils, employee ownership, producer cooperatives, etc. But according to contemporary, liberal theories of justice, these arrangements are not preferable because they are democratic. The case for institutions such as collective bargaining hinges, by and large, on whether they improve the distribution of goods and opportunities. And this argument is precarious. For example, it is not clear that a democratic system of collective bargaining -- i.e., one with democratic trade unions -- is required to promote distributive justice. The principle of workplace democracy strengthens the case for collective

bargaining, works councils, and similar arrangements. In addition, it suggests that the search for new systems of industrial relations should head in a democratic direction.

Of course, this argument is far from complete. For one thing, the definition of workplace democracy is designed to avoid a number of important issues. I have assumed that the right in question is alienable. Hence the ideal economic system would allow a majority of employees to move their firm into a cooperative form, much as they can move toward collective bargaining under current arrangements. I have also assumed that the principle of equal opportunity has lexical priority. Finally, I have said that employees should govern the firm according to principles of democratic equality applicable to the state, without saying what those principles are. These issues require explicit attention. And the results of this inquiry are bound to affect the practical consequences of endorsing the principle of workplace democracy.

In addition, the case for workplace democracy might be improved. In particular, it would be useful to have a more systematic account of, and argument for, the 'democratic conditions'. Consider the question whether firms are involuntary associations. The idea that an association is voluntary is commonly thought to turn on whether one is born into the association, or whether the state requires that one join the association. For example, unions are sometimes said to be involuntary because the state requires membership through the system of collective bargaining. The account I have offered is not based on these common, intuitive approaches. So it would be helpful to explain the reasons for this difference, and to ask whether it makes the resulting account less plausible.

I hope to have shown, however, that we cannot take liberalism's focus on distributive justice at face value. There are reasons to think that the values and commitments central to liberalism have direct implications for the character of the employment relationship. Moreover,

the argument I have offered may have broader implications. They have to do with contemporary questions about economic governance, proposals for egalitarian economic systems, and the case for local democracy. Let me conclude with some brief remarks on these possibilities.

The first set of questions includes issues in the field of industrial relations and regulatory policy. For instance, should labor unions use non-members' dues to fund activities unrelated to collective bargaining?¹⁹² May the state allow or require the "closed shop"?¹⁹³ In the area of regulatory policy: Can workplace health and safety regulation be designed to encourage democratic participation, and should it be?¹⁹⁴ If government requires the unemployed to accept jobs in the public sector, how should this work be governed?

The dissertation may also be extended to address current proposals for an egalitarian economy.¹⁹⁵ How should the potentially competing values of distributive justice and workplace democracy be accommodated within these models? For instance, John Roemer has offered the following argument for his scheme of 'voucher socialism', which does not feature an increased degree of workplace democracy. The history of socialism suggests that social reform must be approached conservatively. We should attempt to change only one aspect of an economic system at once. Distributive justice is more important than workplace democracy, and more

¹⁹² The question arises because an employee may be compelled by the state to pay union dues, as a condition of employment, even if she does not become a full-fledged union member. The U.S. Supreme Court has ruled, in *Communications Workers of America v. Beck* (1988), that non-members may be required to fund only those expenditures necessary to "performing the duties of an exclusive representative of the employees in dealing with the employer on labor - management issues." See *Beck*, 487 U.S. 735, pp. 762-763, quoting *Ellis v. Railway Clerks* 466 U.S. 435 (1984). Although these decisions were based on statutory construction, public employees have been granted the same protections on constitutional grounds, in *Abood v. Detroit Board of Education* 431 U.S. 209 (1977).

¹⁹³ In the United States, the "closed shop" is a workplace in which every eligible employee belongs to the union; the "union shop" allows non-members but requires them to pay dues, whereas the "open shop" does not require dues from non-members. See William B. Gould, *A Primer on American Labor Law*.

¹⁹⁴ Works pointing in this direction include: Paul Hirst, *Associative Democracy*; Joshua Cohen and Joel Rogers, eds., *Associations and Democracy*.

¹⁹⁵ See for instance: John E. Roemer, *A Future for Socialism*; David Schweickart, *Against Capitalism*; David Miller,

feasible too. Therefore we should focus on this goal as a first step.¹⁹⁶ This argument raises the question whether workplace democracy is less desirable and feasible than distributive justice. More generally, the case for workplace democracy may point toward an alternative conception of the reformer's task, in which the aim is not to make the one reform we know to be feasible, but to create a space for institutional innovation on the ground.

The arguments I have offered may also help us build a case for local democracy. Surprisingly, perhaps, contemporary theories of justice do not include a right to democracy at the local level. This theoretical gap is troubling, in part, because local self-government has considerable appeal. Liberal theories of justice seem less plausible if they cannot account for this intuition. In addition, there has been a phenomenal rise in the number of "resident community associations" (RCAs). These associations resemble local governments in various ways. Yet many have highly undemocratic features. Others are entirely undemocratic.¹⁹⁷ Should they be subject to democratic principles? To address this question we need to know whether there is a right to local self-government, and if there is, what precisely it amounts to.

The example of local democracy underscores the most important lesson of these essays. It is that liberalism has a stronger connection to democratic institutions than its proponents, and many of its critics, have recognized. I have tried to make this claim with regard to the employment relationship. But a society that aims to be a fair system of cooperation among free

Market, State, and Community : Theoretical Foundations of Market Socialism.

¹⁹⁶ See John E. Roemer, *A Future for Socialism*, p. 122 for the idea of conservatism. I infer the claim that workplace democracy is less important and feasible from p. 123. (Also, it is not among the goals in chapter 1.) Let me add that this is not Roemer's sole objection to workplace democracy. There are at least three others on pp. 122-123.

¹⁹⁷ See: Daniel A. Bell, "Residential Community Associations: Community or Disunity?". The exchange between Robert C. Ellickson, Frank Michelman, and Gerald E. Frug in the *University of Pennsylvania Law Review* illustrates the controversy about RCAs among legal scholars. Disney's development in Florida, Celebration, is the best known example of an undemocratic RCA. See: Douglas Frantz, "The Town That Disney Built"; David L. Kirp, "Pleasantville".

and equal persons may have to become more democratic in other ways as well.

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