

Secondary Associations and Democratic Governance

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Prominent among the problems of democratic theory and practice are the ‘mischiefs of faction’¹ produced in mass democracies by ‘secondary associations’ – the wide range of nonfamilial organizations intermediate between individuals or firms and the institutions of the state and formal electoral system.² Such associations play a central role in the politics of modern democratic societies. They help to set the political agenda, to determine choices from that agenda, to implement (or to thwart the implementation of) those choices and to shape the beliefs, preferences, self-understandings and habits of thought and action that individuals bring to more encompassing political arenas. Stated abstractly, the problem of faction consists in the potential of secondary associations to deploy their powers in ways that undermine the conditions of well-ordered democracy.

This potential has always been a special preoccupation in US politics. Curbing the ‘mischiefs of faction’ was announced by James Madison as the core problem of US constitutional design. Ever since modern political science rediscovered the ‘group basis’ of politics, secondary associations and attendant problems of faction have dominated the discipline’s most serious efforts at democratic theory.

Recent discussion of American solutions to the problem of faction has featured more skepticism than celebration. Concerns about the bias of the ‘interest group system’ in favor of wealthier citizens³ and about the ‘feudalization’ of the administrative state through the capture of its agencies by organized interests⁴ have been restated and supplemented by three major strands of contemporary constitutional-political argument, each addressed, *inter alia*, to the sources of faction and prospects for its cure: (1) a *neoliberal constitutionalism* which traces the proliferation of organized groups and their destructive ‘rent-seeking behavior’ to the powers of the state to confer such rents, and so proposes to address tendencies to faction by setting clear

constitutional limits on those powers: (2) a latter-day *civic republicanism* which seeks to preserve an autonomous realm of deliberative politics devoted to discerning and pursuing the common good, and argues that that preservation requires the insulation of an activist state from the maneuvering of particularistic groups; and (3) an *egalitarian pluralism* which seeks to accommodate the inevitable importance of group activity to modern democratic politics while limiting the distortions that organized groups produce in democratic politics by securing greater equality in the conditions of group organization and facilitating group access to legislative and administrative arenas.

These diverse proposals for addressing contemporary problems of faction resonate with more general doubts about the structure of the US political system and its capacity to address issues of broad national importance. These are fueled by two decades of weak economic performance and failed adjustment, sharp dissensus on the appropriate form and powers of the US welfare state, and the growth of a 'single-issue' politics, which defies conventional political management. In all these areas, the power of secondary associations to thwart fair and constructive policy is commonly alleged to be a major part of the problem, if not its principal source.

But whereas observers of the US system have rediscovered the pervasiveness of faction, students of comparative politics have pointed to an approximately opposite result: that certain forms of group organization play a central role in resolving problems of successful governance, not in causing them. In the 1970s, another 'rediscovery' of groups, this time of 'societal corporatist' (or 'liberal corporatist') systems of interest representation in Northern European democracies, argued that gains in economic performance and state efficiency were consequent on the incorporation of diverse, organized interests into policy formation within densely organized systems of peak bargaining and sectoral governance.⁵ More recent discussions, even as they have dissented from claims made about corporatism, or paused to note its devolution or collapse, have also stressed the importance of associative activity to economic performance. Students of the successful alternatives to mass production that are marked, simultaneously, by high wages, skills, productivity and competitiveness have argued that this success requires a dense social infrastructure of secondary association and coordination. This organizational infrastructure provides the basis for cooperation between management and labor, among firms, and between firms and the government on issues of work organization, training, technology diffusion, research and development, and new product ventures. And that cooperation, it is argued,

is essential to ensuring economic adjustment that is both rapid and fair.⁶

Apart from simply noting the positive contributions of associations, this comparative work suggests as well that certain 'qualitative' features of groups and systems of group representation – for example, differences in the encompassingness of groups or in the scope of their powers – and not simply the sheer 'quantity of associability', provide a key to explaining that contribution.⁷ This work is not without its own concern about faction – specifically, about the compatibility of the forms of group organization and representation that contribute to favorable economic performance and state efficiency with democratic ideals of popular sovereignty and political equality. Still, the contention that certain qualitative features of groups account for their favorable contribution to certain specific areas of governance implicitly suggests a *general strategy* for curbing the mischiefs of faction, namely, explicit efforts to encourage forms of group representation that stand less sharply in tension with the norms of democratic governance.

In this essay, we pursue this suggestion. Emphasizing both qualitative variations among groups and the 'artifactual' aspect of associations, we suggest that the range of cures for the mischiefs of faction is commonly understood too narrowly. The potential cures are not limited to the options of imposing stringent constitutional limits on the affirmative state, accommodating groups while seeking to ensure equality in the 'pluralist bazaar', or constructing cloistered deliberative arenas alongside that bazaar. In addition to these strategies, and in many respects preferable to them, is the cure of using public powers to encourage less factionalizing forms of secondary association – engaging in an artful democratic politics of secondary association. More positively stated, the same deliberate politics of association can harness group contributions to democratic order. By altering the terms, conditions and public status of groups, we believe, it can improve economic performance and government efficiency and advance egalitarian-democratic norms of popular sovereignty, political equality, distributive equity and civic consciousness (discussed later in this essay). This deliberate politics of associations and the view of contemporary democratic governance that embraces it as essential to such governance we call 'associative democracy'.⁸

We would recommend an associative democratic strategy in a wide range of administrative and property regimes. Here, however, we assume the context of modern capitalism, where markets are the primary mechanism of resource allocation and private individual

decisions are the central determinant of investment. Admitting the limits which this context places on the satisfaction of egalitarian-democratic norms, our argument is that associative democracy can improve the practical approximation to those norms.

Before presenting that argument, we conclude our introductory remarks by noting two broader aims of the effort.

First, we wish to advance discussion of the more institutional aspects of egalitarian-democratic political philosophy. Since the publication of John Rawls's *A Theory of Justice*, normative democratic theory has focused principally on three tasks: refining principles of justice, clarifying the nature of political justification, and exploring the public policies required to ensure a just distribution of education, health care and other basic resources. Much less attention has been devoted to examining the political institutions and social arrangements that might plausibly implement reasonable political principles.⁹ Moreover, the amount of attention paid to issues of organizational and institutional implementation has varied sharply across the different species of normative theory. Neoliberal theorists concerned chiefly with protecting liberty by taming power, and essentially hostile to the affirmative state, have been far more sensitive to such issues than egalitarian-democratic theorists, who simultaneously embrace classically liberal concerns with choice, egalitarian concerns with the distribution of resources and a republican emphasis on the values of citizen participation and public debate. Neglect of how such values might be implemented has deepened the vulnerability of egalitarian-democratic views to the charge of being unrealistic: 'good in theory but not so good in practice'. This essay is motivated in part by an interest in addressing this vulnerability by examining the constructive role that secondary associations can play in a democracy.

Second, and more practically, we wish to join and advance, from the point of view of democratic ideals, current discussion about the shape of a reasonable alternative to the political-economic arrangements that have characterized the United States and other, more developed welfare states since the end of World War II. Over the past generation, owing principally to shifts in the underlying conditions of economic ordering – intensified international competition and integration, rapid technological change, and a growing dispersion of labor market positions defined increasingly by endowments of human capital – the central governing institutions and practices characteristic of the post-war 'Keynesian welfare state' have been subjected to sharp challenge. Together, these changes have served to weaken the force of national regulatory institutions. Whatever the ultimate assessment of their past

achievement, those institutions seem clearly less suited than they once were to ensuring a reasonable and fair society.

The second aim of our argument, then, is to respond to these circumstances with some suggestions for institutional reform. Using the problem of faction to focus our discussion, we outline certain elements of a scheme of association which we believe to be more democratic and better suited to promoting the general welfare than present institutional arrangements. According to secondary groups an extensive and explicitly public role, the proposed scheme represents an elaboration of the implications of the idea of associative democracy in light of present circumstances. In general terms, it would preserve a social-democratic emphasis on generic social regulation defined and enforced through national institutions, while linking it with classical liberal and republican emphases on decentralized coordination and administration through local jurisdictions or secondary organizations. This elaboration of associative democracy is intended not only to clarify that conception further, however, but to show how it may be used to address a range of pressing problems of contemporary states.

We make the argument for associative democracy in four steps. Section 1 provides a critical assessment of neoliberal constitutionalist, civic republican and egalitarian pluralist approaches to the problem of faction, to which associative democracy stands in contrast. Section 2 gives a positive characterization of the associative view. We describe basic egalitarian-democratic norms, indicate some of the ways that secondary associations can help to satisfy them, and begin exploring the possibility of netting this contribution, while reducing faction, through a more deliberate politics of groups. Section 3 illustrates this strategy by showing how it might be applied to a wide range of practical problems of democratic governance and what effect such application would have on the various norms of democratic association identified earlier. Section 4 rounds out the discussion with some suggestions for associative reform in the United States, offered in light of the previous analysis.

1. Three Cures for the Mischief of Faction

Three views dominate current debate about the relation between democracy and groups. We refer to them, respectively, as neoliberal constitutionalism, civic republicanism and egalitarian pluralism. In this section, we provide a critical assessment of these views, examining their normative underpinnings, their analyses of group contribution

and faction, and their proposals for reconciling associations and democracy. While our discussion focuses on these views themselves, our principal aims are to clarify and to motivate the idea of associative democracy by indicating how it emerges naturally from reflection on the strengths and deficiencies of the main alternatives.

Strategies of Limitation: Neoliberal Constitutionalism¹⁰

Neoliberal constitutionalism is perhaps the most influential contemporary approach to reconciling democracy and group practice, and the one most ascendant in recent discussions of the problem. For these reasons, we consider it at some length.

Background View

Neoliberal constitutionalism is a contemporary descendant of the liberalism of John Locke and Adam Smith.¹¹ Drawing on those strands of classical liberal political theory, neoliberal constitutionalism advances the normative ideal of an efficient ‘constitution of liberty’, a set of social and political arrangements that simultaneously protects a fundamental *right to liberty* and advances the *general welfare*. The fundamental right to liberty is understood to imply that, as a general rule (excepting, for example, children and adults with severe mental handicaps), it is permissible for the state to restrain individual choice only where the restraints are necessary to protect choice itself, that ‘liberty should only be restrained for the sake of liberty’. So, for example, restrictions on the liberty of contracting parties are legitimate only in so far as those restrictions are themselves necessary to preserve the institution of free contracting, as is the case, for example, with prohibitions on unilateral amendment of contract terms. The idea of the general welfare is typically interpreted in terms of the requirement of Pareto efficiency. Thus social arrangements (set within a framework of liberty) promote the general welfare if and only if any rearrangement of them would decrease the satisfaction of at least one person’s preferences.

Given their emphasis on the values of choice and efficiency, neoliberal constitutionalists are strong proponents of competitive markets. These provide a mechanism of social coordination based in individual choice that also, under certain conditions, generates Pareto-efficient allocations of resources. Commitments to choice and efficiency also lead neoliberals to be deeply wary of concentrations of power, which can be used to restrict choice or hinder allocative efficiency. Here, too,

there are advantages to competitive markets, as the possibility of exit from unsatisfactory commercial relations that markets provide limits the abuse of power. Indeed, if power is defined as the ability to impose uncompensated costs on others, then perfectly competitive markets abolish power.¹²

Neoliberal views on the appropriate functions of the state follow from these perceptions and commitments. As a general matter, a sharply ‘limited’ state is desired. Because markets honor choice and can produce efficient resource allocations, the central role of the state is typically defined as one of defending the legal framework of formal liberty itself and securing the prerequisites of competitive market operation. To play this role, the state does need to regulate and restrict choice, but these activities are justified by reference to the contention that they protect choice itself. So, for example, the state can legitimately regulate and restrict choice in order to protect property, enforce contracts, secure a stable money supply, curb anti-competitive behavior, mandate that property be relinquished when market power is unduly concentrated, and raise the taxes required to pay for each of these functions – because all these are necessary to securing a competitive market order that respects choice.

Of course, economic coordination through existing markets does not always result in allocatively efficient outcomes. Even under perfectly competitive conditions, ‘market failures’ may occur, generated in particular by the effects of economic transactions on third parties. Because the state cannot always promote the general welfare simply by protecting choice in markets, it will sometimes need to supplement the market by, for example, providing public goods undersupplied on it, raising the revenue for such goods through taxation. Because of difficulties in determining the extent and sources of market failure and in assessing the likelihood that state action will remedy it,¹³ particular proposals for such supplementary state action will often be controversial. And because choice remains a fundamental value and the taxation to support state action is mandatory and thus abridges choice, neoliberalism endorses a strong presumption against any affirmative state action. But that presumption is rebuttable if the regulatory means are minimally restrictive of choice, and if they can reasonably be expected to work a substantial improvement in the general welfare.

Finally, although neoliberal constitutionalism endorses the legitimacy of state action that regulates individual choice in order to protect liberty and to secure the general welfare, it denies the legitimacy of restrictions and regulations of conduct designed to assure equality.

In competitive markets, inequalities in the lifetime expectations of different citizens arise from differences in their inherited resources, their native endowments, their individual tastes and values (reflected for example in their preferences about work and leisure) and their good and bad fortune. Because neoliberalism supposes that the protection of competitive markets is required to assure the right to liberty, it holds that inequalities of each of these kinds are the more or less inevitable price to be paid for securing that right. Regulating inequalities resulting from differences in inherited resource endowments, for example, would require significant restrictions on parental choice about the transmission of wealth to children. For neoliberal constitutionalists, such a restriction on individual liberty is unacceptable. Rights to liberty remain 'core' and cannot be abridged by egalitarian concerns.

As a matter of the design of public institutions, neoliberalism proposes to meet these commitments to choice and the general welfare through a variety of checks on the concentration of public power. Markets themselves are seen as one such check. A system of vigorous electoral competition is another. And within the state itself, constitutional limits on the state's plenary powers, an independent judiciary with powers to review and invalidate legislation, and a separation and federalism of powers to assure competition in the authorship of policy are others. In combination, market-ordered civil society, party competition and limited and divided government help to secure the blessings of a 'constitution of liberty', while disabling its opponents.

The Neoliberal Approach to Groups

Neoliberals respect the right of association and recognize the value that can come from exercising it. If associations are wholly voluntary and do not impede market efficiency or burden the fundamental liberties of non-members, they are tolerated, or more, in the neoliberal scheme.¹⁴ Neoliberals recognize that some sorts of associative activity can even produce efficiency gains and an expansion of choice by their role in ordering markets, as in privately ordered product standard-setting secured through a trade association. In so far as they perform educative and coordinating functions without drawing down the public purse, all manner of groups can promote the meaningful exercise of liberty, in ways consistent with a commitment to a minimal state, while contributing to the common advantage. Although they do not contribute to efficiency, charitable organizations and private welfare efforts find particular favor, as these 'thousand points of light' relieve pressures for expansion of the welfare state. Thus neoliberals are

enthusiastic about the proliferation of brotherhoods and sisterhoods, community organizations and gun clubs, chambers of commerce and parent-teacher associations, and menageries of Elks, Moose, Odd-fellows and Zor Shriners exercising their associational rights.

What neoliberals object to are organizations that are not wholly voluntary or that in some way impede market operation or otherwise infringe economic efficiency and choice. Trade unions are a favorite target, as these are seen to combine restrictions on the liberty of members and of employers with economic inefficiency. Business associations engaging in restrictive market practices are another. With Adam Smith, the neoliberals deplore the fact that 'people of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices.'¹⁵

What gives neoliberal constitutionalism a distinctive contemporary identity is its particular concern that such obnoxious group practices are tolerated, encouraged and lent sanction by the affirmative state. Indeed, the core of the neoliberal view of faction is that the problem arises not so much from groups themselves as from the way in which that state has corrupted the environment of voluntary association by providing countless opportunities for returns to political bargaining.

In modern administrative states, government action ranges far more widely than the protection of choice and the promotion of allocative efficiency. The burden that must be met to justify state action in the name of the general welfare has been substantially reduced.¹⁶ Administrative agencies, with powers to act in particular markets and arenas of social policy, are principal instruments of state action. And agency action is not, as a general matter, limited by precise rules or standards of either a procedural or substantive kind. In brief, liberty is threatened by a substantially 'untamed' power.

The way that faction arises from such affirmative state capacities was suggested in Smith's critique of mercantilism. Smith argued for limited government in part because he thought the more extensive state associated with mercantilist regulations of trade would inevitably be captured by merchants and manufacturers. Inspired by the 'spirit of monopoly' and facing relatively few obstacles to common action, they would use the powers of the state to protect their positions in particular markets. By thus securing special advantages for themselves, they would limit the choices of others and in so doing would reduce the wealth of the nation.¹⁷

Neoliberals essentially transpose Smith's quarrel with the mercantilists to the context of mass democracy. There, they argue, undue

restrictions on choice and departures from efficiency are introduced by the combination of associational rights, an affirmative state with the power to confer benefits on discrete groups, and the need by those with power to secure electoral support in order to retain that power. Rights of association enable groups to form. Incentives to group formation are then provided by the state's ability to provide benefits to select populations that are paid for by all – as in, for example, a tariff or subsidy for a particular industry that benefits members of that industry while imposing the costs of higher prices on everyone else. Such situations are ripe for political exploitation, because the clear incentives for groups to demand such benefits are typically not matched by public concerns to limit them. While the benefits are concentrated, the costs – even if they are in the aggregate greater than the benefits – are dispersed across an accordingly demobilized citizenry. Moreover, political officials need to bid for political support. So, they rationally seek to supply benefits to groups that demand them in exchange for such support, with little fear of sanction from an exploited but inactive public. Group exploitation of these opportunities, finally, is exacerbated by the access of groups to private information, difficulties in legislative monitoring of agency performance and the increased chances for group 'capture' of agencies that result, and the capture of relevant legislative committees by organized interests. Gradually, state policies come to be defined by the agendas of different groups.

The result, as Hayek puts it, is the 'domination of government by coalitions of organized interests' – by 'an enormous and exceedingly wasteful apparatus of para-government . . . [that] has arisen *only in response to (or partly as defense against being disadvantaged in) the increasing necessity of an all-mighty majority government maintaining its majority by buying the support of particular small groups*'. While such factional domination may appear to be the product of corruption and vice, its roots go deeper and are in fact 'the inescapable result of a system in which government has unlimited powers to take whatever measures are required to satisfy the wishes of those on whose support it relies'.¹⁸

Both the reduction of politics to group bargaining and the policies that result from that bargaining are sources of inefficiency and restrictions on choice. The processes of group organization and political bargaining themselves produce inefficiencies because they divert the energy of citizens away from economically productive contributions into political activity. The legislative and administrative results of the process (e.g. licensing arrangements, entry restrictions, price supports and redistributive tax-and-transfer schemes) restrict choice itself while

producing further inefficiencies – for example, artificial scarcities that produce a divergence of market prices from true opportunity costs, incentives to substitute leisure for labor that follow from rewards paid to nonproductive action, and incentives to engage unproductive acts of appropriation through the state.

The neoliberal constitutionalist institutional program follows fairly straightforwardly from this analysis. Since advantage-seeking groups will inevitably form in response to the opportunities for private benefit at general expense created by an affirmative state, and since their actions will result in efficiency losses and unjustified restrictions on choice, there are only two possible cures for faction: either limit associational liberties or limit the affirmative state. Since the curtailment of associational liberties is ruled out as a matter of principle and would restrict desirable as well as undesirable associative activity, the second strategy is mandated. Specifically, then, the program is to eliminate, at the level of basic constitutional principle and design, the 'affirmative' aspects of the modern state. By stranching the flow of discrete benefits from the state, such constitutional reform limits the key incentive to advantage-seeking, namely, the availability of returns to political action. It thus discourages the formation of destructive groups and the pathologies of 'bargaining democracy' associated with them.¹⁹

Analysis and Criticism

Parts of the neoliberal constitutionalist view are correct and important, and we will wish to take them over in elaborating our own view of associative democracy.

As a normative matter, individual choice and allocative efficiency are important social values, as is government competence and efficiency. These concerns must be ingredients in any working conception of democratic order. Furthermore, constitutional limits on state power seem essential to securing the conditions of a democratic order worthy of support. Even if constitutional design were not the only way to limit the state, the express statement of limitations at law would remain desirable because it makes manifest the terms and conditions of citizenship, a requirement for citizens being motivated directly by those terms.

As an empirical matter, some parts of the neoliberal analysis of 'bargaining democracy' are also clearly right. Political officials often do exchange bounty for support. Groups often do exploit asymmetries in the distribution of the costs and benefits of policies. State policies

themselves often do encourage the formation of advantage-seeking, choice-restricting and welfare-limiting groups. And state capacities are, in some measure, pushed beyond their limits in affirmative regulation.

Considered as a general framework for studying democracy and associations, however, the neoliberal conception exhibits four principal shortcomings.

First, we have a disagreement on fundamental norms. While we endorse neoliberal concerns with efficiency and liberty as such, we take exception to their single-minded preoccupation with these concerns. As noted earlier, in a system of 'natural liberty', in which the legitimate functions of the state are confined to protecting choice and ensuring efficiency, inequalities rooted in differences of inherited wealth, natural talent or brute good fortune will proliferate. But we see no justice in permitting differences of these kinds to determine life chances. More immediately, such inequalities are in tension with a fundamental ideal of democracy, itself essential to justifying aspects of democratic order that neoliberals value. In a democracy, citizens are treated as equals – with equal standing under the law and full political rights – irrespective of differences in their inherited resources, natural endowments and good fortune. It is difficult to see any rationale for insisting on that equal treatment which is not also a rationale for seeking to reduce the effects of these differences on lifetime expectations.²⁰

Of course, acknowledging the legitimacy of state action to ensure distributive equity carries with it a willingness to accept restrictions on choice in the name of equality. But we do not find this particularly troubling. While liberty as such is a good thing and ought not to be arbitrarily abridged, there are important distinctions within the class of liberties and correspondingly within the class of reasons for abridgement. Some liberties are more important or fundamental than others, and reasons that suffice for justifying restrictions on the less important are not always sufficient for justifying restrictions on the more important. The fundamental liberties in a democratic order, with a place of pre-eminence in political argument, are liberties of conscience and thought, expression and association, participation and personal privacy. But stringent protection of these liberties is consistent with regulations of and restrictions on market choice in order to ensure political equality and distributive equity.

Now, if one accepts that political equality and a fair distribution of resources are reasonable norms, then one may well have to live as well with some of the inefficiencies that neoliberalism notices. For example, so long as effort is tied to expectations of material compensation,

assuming a fair distribution of resources will result in a less than full utilization of resources. But that may simply be the inevitable price to be paid for the important value of a distribution of advantage not hostage to the vicissitudes of inheritance, talent and luck. Furthermore, so long as a fair distribution depends on pressures on the state to correct for unfairness in markets, it will be necessary to devote resources to ensuring that pressure. Neoliberals view such political engagement as a wasteful diversion of resources from productive contribution. It seems more plausible to view it as a way to assure the justice of the society.

Second, the same reasons that lead us to think that distributive equity is a reasonable concern within democratic orders lead us to think that the neoliberal account of group formation is misleading. That account emphasizes the degree to which the formation of groups pressuring the state for benefits is endogenous to the growth of the welfare state itself. The bounty provided by an expansive state creates the incentives to the formation and political actions of advantage-seeking groups.

But this emphasis seems misplaced. It is true that group formation is responsive to the level and kind of benefits provided by the state. But it is also true that at least one important source of group formation is exogenous to the affirmative state, namely ethical concerns about the injustice of purely market-based resource distributions.²¹ The history of the welfare state – whether told as the partial triumph of the working class or as a growing series of subsidies to capital, or (more plausibly) as both – is a history of social pressures for the expansion of state functions. Before programs of the modern welfare state encouraged groups to seek resources through the state, social groups fought for the establishment of programs in social insurance, income support and labor market regulation. They aimed to make citizens' life chances less dependent on the contingencies of market success.

There is every reason to believe this history would repeat itself if the neoliberal remedy for faction were implemented. If a more minimal state were achieved, those suffering from material disadvantages of the kind described earlier (that is, inequalities that are at odds with the underlying ideal that citizens are equals) would likely set about pressuring the state to address them. Constitutional bars on redistribution, of the sort neoliberals propose, would clearly increase the political costs and the political stakes of their doing so. But the perception of injustice will lead at least some groups to be willing to bear those costs and to change, as they have done before, the constitutional structure

itself.²² In a word, even a complete enactment of the neoliberal solution appears unstable.

Third, it is unlikely that a complete realization of the neoliberal constitutionalist program can be achieved. One reason for this is simple political power. The welfare state benefits many, business and non-business alike, who can be expected to resist its dismantling. However, even if political power were not an issue, difficulties in definition would intrude. In practice, there is no sharp distinction between programs that provide discrete benefits and those that provide dispersed benefits, between legitimate actions to promote the common advantage and illegitimate interventions in support of particular constituencies. Programs whose benefits are targeted to particular groups – whether the poor or educationally disadvantaged, or farmers, or producers of natural gas – can always be defended by reference to reasons of the general welfare – economic strength, a stable food supply or energy independence and national security. Combining the two points, it is easy to imagine a protracted struggle over the definition of state functions waged via existing programs. In any case, a second-best approximation to the desired neoliberal state seems the ‘best’ that can be hoped for.

But this second-best approximation would very likely exacerbate certain aspects of the problem of faction. Consider, for example, a scaled-back welfare state, featuring privatization of essential services, more restrictive laws defining the power of secondary associations, the withdrawal of state subsidies to groups performing broad public functions and the exclusion of groups of this kind from policy-making and implementation. Under these conditions, barriers to group formation would be relatively easily negotiated by wealthier constituencies with clearly defined private agendas and the information and other resources needed for collective action. But they would be virtually impassable for would-be organizations of the poor, members of diffuse majorities and other traditionally under-represented classes. The political inequalities that neoliberals associate with groups would thus become worse, not better, on reasonable assumptions about the success of their reform. Even if the total benefits provided by the state were reduced, the share of benefits going to limited populations, and paid for by others, would be greater.²³

Fourth and finally, we have attributed to the neoliberal constitutionalists the view that when the legitimate functions of the state extend beyond protecting choice and assuring allocative efficiency, factional groups and their mischief inevitably follow. Even crediting the alleged relation between affirmative state functions and group

formation, however, the claim that groups formed in the environment of affirmative state action will inevitably be factionalizing does not follow from the existence of that state. Whether a group or group system produces faction is a function of its *qualitative features*. Neoliberal accounts are generally inattentive to such qualitative variation in groups; their analysis of group effects is highly general, and while the impulse to generality is understandable, it can be quite misleading here.

As an illustration, consider the neoliberal claim that group politics produces efficiency losses. To be sure, some groups will engage in redistributive rent-seeking. But more encompassing groups, claiming as members a large share of the population affected by such strategies, will, precisely because they are encompassing, have little incentive to pursue strategies that limit efficiency.²⁴ They are more likely to pursue productivity growth, forsaking zero-sum conflict for general gain. Similarly, the relations between organized interests and administrative agencies can take different forms. Some groups, certainly, will seek to capture administrative agencies for private purposes. But others are commonly brought into service to act as ‘fire alarms’, sending signals to legislatures about whether agencies are in fact acting on their legislative mandate. By sending them, they promote the accountability of bureaux to those mandates and reduce the costs of monitoring agency performance.²⁵

In response, then, to a general question about the consequences of group formation in a political order characterized by an affirmative state, the right general answer is: ‘It all depends.’ What it importantly depends on is the range of factors producing qualitative variation in group structure and behavior. But these are exactly the sorts of factors typically neglected in neoliberal accounts.

Strategies of Insulation: Civic Republicanism

A second general approach to democracy and groups endorses a broader scope of legitimate state action than is accepted by neoliberal constitutionalists. At the same time, it recognizes with the neoliberals that the powers of an affirmative state represent a considerable prize and that groups will likely be tempted by the benefits it makes available. To remedy the problems of faction resulting from such temptation, this second strategy proposes institutional reforms that aim to insulate arenas of collective choice from the pressures of particular interests. The recent revival of civic republicanism provides us with a prominent contemporary illustration of this program of insulation.²⁶

Background View

Civic republicanism belongs to the species of antipruralist conceptions of politics. Antipruralist conceptions all aim to ensure that the substance of state policy is not fixed by bargaining among interest groups, each seeking its own advantage. Within this broad species – which includes the neoliberal constitutionalism just considered – civic republicanism belongs to the subset of antipruralist conceptions that accept the affirmative state and with it a conception of the state as legitimately advancing a common good that extends beyond the ideal of an efficient allocation of resources.

Within this affirmative subset, civic republicanism is distinguished by two principal commitments. First, it emphasizes the importance of a deliberative politics of policy formation. By a ‘deliberative politics’ we mean a process of public reasoning that proceeds by reference to considerations of the common good and that shapes the preferences of participants by requiring them to offer reasons for their views that provide such reference. Second, it advances a distinctive institutional program to remedy problems of faction. Specifically, it seeks to secure and *insulate* public processes of orderly political deliberation and efficient achievement of publicly declared ends. In general terms, the strategy is to strengthen institutions, alternative to secondary associations, that have the capacity to consider and act on the common good and to encourage those holding power within such institutions to engage in just such consideration and action. The hope is to increase the degree to which deliberation about and action on the common good proceed autonomously from the pressures of particular interests.²⁷

Republicanism and Groups

Civic republicans are not committed to promoting deliberative politics and shielding it from group pressure and bargaining by abolishing groups or excluding them from politics. Quite apart from the impossibility of doing this within a framework of liberal commitment, they recognize that associations can and often do assist public deliberation and the formulation of workable policies to the common advantage.²⁸ They recognize, for example, that information provided to the state by groups – information on the impact of proposed policy, or the implementation of existing policy, or the intensity of member preferences about either – often aids in public deliberation. They recognize the obvious importance of group representation, particularly in so far as it advances political equality. More controversially, they recognize that

the ability of groups to ‘deliver’ their members in support of a policy once it is enacted can facilitate reasoned deliberation about that policy when it is being formulated. Finally, the fact that associations can serve as ‘schools of democracy’ promoting habits of other-regarding deliberation has long been honored in the republican tradition.

All this said, civic republicans generally accord groups a distinctly secondary role in deliberative politics. They are generally suspicious of the information they provide, alert to the profoundly unequal character of existing group organization, wary of the conditions that groups impose on policy-makers in exchange for promises of delivering support, and despairing of the selfish habits actually learned within the schools of contemporary group practice. In general, then, they wish to separate public deliberation so far as possible from group influence.

Departing from a combination of opposition to pluralism and commitment to deliberation and insulation, the civic republican embraces both a stronger state and a more sharply delineated one. Accepting the desirability of affirmative state action, civic republicans seek to facilitate ‘responsible’ performance by state and electoral institutions. Such responsible exercise of public power is understood to require an autonomous reflection on the proper tasks of state action, sufficient capacity to discharge those tasks and accountability to previously declared forms and expectations.

This program has implications for the operation of all major institutions of traditional politics, from political parties and the legislature to the executive and the courts. Parties and party competition should be strengthened with a view to promoting clear and encompassing programs of action, organizing and informing the electorate around them, and holding elected legislators accountable to their performance. To protect against the factional distortion of parties that would arise from their dependence on resources supplied by organized interests, public resources ought to be provided to the parties and their candidates in a system of generally subsidized elections.²⁹ Similarly, legislators should debate and then legislate clear standards of performance, not simply dollop out vague grants of statutory authority to agencies. In the case of the United States, for example, Congress should spend less time on toothless oversight hearings and routinized constituency service and more on the enactment, codification, and repeal of clear legislation and on genuine review of the performance of administrative agencies in light of a rebuttable presumption of agency disbursement.

The executive should also be strengthened, since, as Alexander Hamilton observed, ‘energy in the executive . . . is essential to . . . the

security of liberty against the enterprises and assaults of ambition, of faction, and of anarchy.³⁰ Again in the case of the United States, that strengthening should involve disciplining Congress at the presidential level (e.g. with increased use of the veto power to curb vague delegations), serving Congress at the agency level when it enacts sufficiently precise rules, and coordinating the operations of different agencies to ensure their responsiveness to electoral outcomes.

And finally, the judiciary, the ultimate guarantor of deliberative politics, should insist that the different branches do their job. It should curb accretions of power to the president, invalidate vague delegations of congressional power and apply the principles of statutory construction and standards of review necessary to ensure executive and legislative control over the procedures and substantive decisions of the 'fourth branch' of the agency bureaucracy.

Lowi named this system more than twenty years ago. It is 'juridical democracy', or 'the rule of law operating in institutions'.³¹

Analysis and Criticisms

Much in this conception is plausible and attractive. To begin with, we endorse the civic republicans' acceptance of the affirmative state and mass democracy. From this it follows that we applaud the general form of their question about faction. Unlike neoliberals, civic republicans ask what can be done about faction given this political background. They do not ask how we can eliminate the background itself. We also agree that there can and should be more to politics than the aggregation of preferences given in advance and agree with the republicans' rejection of the reduction of democratic politics to its 'group basis'. Democratic governance requires debate about policy, conducted against the background of explicitly articulated conceptions of the common good. Finally, we agree with the basic constitutional idea that public institutions should have clearly defined responsibilities and the strength to perform them. We are particularly interested in a vigorous electoral system and the recommended strengthening of political parties as alternatives to secondary associations in linking citizens to the state. In brief, we agree that any comprehensive and plausible solution to the problem of faction must include efforts to insulate a politics of the common good from more particularistic aspirations of associations.

But we depart from the civic republicans on three points.

First, the basic strategy of insulation seems unrealistic. The ideal of juridical democracy presumes a greater degree of state autonomy than

can be expected under conditions of capitalist democracy – particularly in an affirmative state with the capacity to pursue remedies for social and economic problems. No matter how ingenious the procedural devices of insulation, no matter how vigilant and professional public officials may be, and no matter how resistant courts are to putting their imprimatur on interest group bargains brokered through the state, the state operates within society, and institutional proposals need to be attentive to that fact.

Politics is still largely a game of resources, not a forum of principles. In capitalist democracy, some people have great advantages in the control of strategically important resources, good and clear reasons for wishing to influence the state, and the power to do so. Unless one is prepared to make the implausible assumption that the state can resist the demands and supplications of organized business interests in an environment densely populated by those interests, problems of faction will remain. In particular, as in the case of the second-best neoliberal solution, the fact that the civic republican program of insulation is not attentive to the associational foundations of deliberative democracy can be expected to translate into problems for political equality. If it is implausible to think that any strategy of insulation will be 'group-proof', it is particularly implausible to think that the insulating barriers will not first be negotiated by the best-endowed political players to the further detriment of the less well off.

Second, even as it recognizes some sorts of group contributions directly to deliberation, the civic republican program of insulation neglects the distinctive capacities of groups to facilitate cooperation for the common advantage and remains wedded to an essentially 'zero-sum' understanding of the relation between associations and the state. But that relation can just as easily be 'positive-sum', with an increase in the power of groups contributing to an increase in state capacities to achieve democratic order.

Peak wage bargaining of the kind once practiced in Northern European social democracies, for example, did not diminish the capacity of the state to promote the general welfare. To the contrary, by providing a private mechanism for stable incomes policies, it facilitated state efforts at macroeconomic planning and social support for redistribution. Similarly, the involvement of worker and business associations in organizing systems of worker training need not diminish state capacities to provide all citizens with education. To the contrary, it appears necessary to providing the training best gained through 'hands on' practice, while being equally necessary to ensuring that private training efforts not be narrow and firm-specific and that

they be broadly distributed. The enlistment of environmental groups into the development and enforcement of local or regional standards of acceptable use of toxics need not diminish state capacities to state and enforce higher standards of protection. To the contrary, by enlisting the monitoring and enforcement capacities of private associations, it can expand the capacity to achieve better protection of the environment and the public health.

Of course, efforts to enlist associative energies do always threaten the appropriation of public powers by particular interests. But this threat need not be realized. Whether or not it is depends, as we have emphasized, on the organization of the groups, the terms of their interaction with one another, the range of powers that they can exercise and the conditions on which they are granted those powers. In short, it depends on what we have been calling the 'qualitative' characteristics of groups and group systems. Like the neoliberals, civic republicans are insufficiently attentive to such qualitative variation, and its signal relevance to understanding, even defining, the problem of faction.

Our third criticism builds on these two via the observation that the core of the civic republican strategy for addressing issues of faction is to 'design around' groups. Civic republicans take the associative environment as fixed and then seek to design procedures for making and implementing collective choices immune to group pressures. Our first criticism, essentially, was that this strategy of insulation is not feasible. It fails to recognize the centrality of groups, the fact that they are unavoidable as political facts. Our second criticism was that insulation might be undesirable. Noting the qualitative variation of groups, we indicated that groups are not all the same and that some have distinctive virtues in contributing to democratic order. Efforts to protect that order by screening them all out, even assuming the plausibility of that effort, may be self-defeating.

Now one could imagine a position, call it 'reformed civic republicanism', that combined acceptance of both these criticisms in a tragic sense of politics. This reformed view would agree that insulation is difficult and that qualitative variation is important but hold that the determination of group qualities is a matter of social fate. Reformed republicanism agrees, then, that the qualitative character of the group system in a society importantly determines its politics. Nevertheless, reformed republicanism places the group system, the possibilities of insulating politics from it, and therefore the possibilities of achieving a civic republic beyond politics. The reformed civic republican might note, sadly, that unalterable factors – of political culture, ethnic

diversity, economic or social structure, population size or some other intractable element – have condemned the United States to a fractious pluralism, even as they permit Swedes or Germans a greater measure of cohesion and so the prospect of deliberative politics.

Our third criticism is that this reformed view is itself mistaken, for it is inattentive to the artifactual character of groups: the fact that there is no natural structure of group representation that directly reflects the underlying conditions of social life. By acting on the environment of group formation (as the neoliberals recommend), or acting on groups themselves, or both, it is possible to change the character of groups and their interaction. It is, moreover, possible to do so along those dimensions of qualitative variation that lie at the source of problems of faction. Northern European incomes policies and training systems were not just inherited but built in significant measure through public policies. Whether unions are more or less encompassing of the working population is not just a matter of national position in international markets or the size of their labor markets but of laws setting the costs and benefits of union membership. And whether environmental groups are merely disruptive of administrative hearings on toxic waste or are co-administrators of its reduction and disposal depends substantially on whether public power is used to facilitate such joint administration.

Like neoliberal constitutionalism, civic republicanism slights the possibility that certain forms of secondary association may be part of the solution for democratic governance and not only a source of its problems. Once this possibility is acknowledged and combined with notice of both the artifactual aspect of groups and their unavoidable centrality, then the need for a politics of associations, and not simply a politics of the reform of political institutions, must be directly addressed.

Strategies of Accommodation: Egalitarian Pluralism³²

Egalitarian pluralists share, with a vengeance, the doubts just expressed about the possibilities of insulating collective political decisions from the pressures of group bargaining. Assuming the background of mass democracy and associative liberties, they believe that insulation is impossible and perhaps even undesirable.

Background View

Egalitarian pluralism, more positively characterized, is a species of normative pluralism.³³ All members of this genus trace the legitimacy

of state actions to their pedigree in procedures of interest representation and group bargaining. Those procedures are set within a political framework that facilitates representation and bargaining, ratifies their results in legislation and enforces the legislative outcomes through executive and judicial action. What distinguishes the different species of normative pluralism are the conceptions of the process that confers legitimacy. What makes egalitarian pluralists *egalitarian* is the central role of the idea of equal representation in their characterization of a legitimacy-conferring process. Thus an outcome is legitimate only if it emerges from a process of representation and bargaining in which all interests have substantively equal chances of being heard and influencing the outcome.

Reflecting this procedural conception of political legitimacy, the egalitarian pluralist emphasizes the importance of assuring liberties of expression, association, and political participation in order to ensure the proper framework of interest representation and group bargaining itself. Other liberties – of conscience, privacy and nonpolitical expression – have a less certain place in egalitarian pluralism. Moreover, the view rejects the generic right to liberty associated with neoliberal constitutionalism, holding that that right would impose an unreasonable constraint on the process of group bargaining.

Finally, egalitarian pluralists are skeptical about substantive conceptions of the common good.³⁴ Given the diversity of interests characteristic of a pluralistic society, they argue, conceptions of the common good are either vacuous or as controversial as the competing interests that those conceptions are supposed to reconcile. In so far as the notion of the common good has any content, it can be identified procedurally as the outcome of a fair procedure of interest representation and group bargaining. Given this procedural view of the common good, the specifically deliberative aspect of political justification associated with civic republicanism drops out of the egalitarian pluralist conception. Its ideal instead is a political process that reflects the true distribution and weight of social interests. Once opened up in this way, cured of distortion, bargaining in the 'pluralist's bazaar'³⁵ should proceed essentially unchecked.

The Egalitarian Pluralist Approach to Groups

The value that egalitarian pluralists attach to groups follows simply this characterization of their view of democracy. Groups are primarily good for representing interests effectively. They give individuals of like mind power to bargain with others. This capacity to represent interests

is of particular importance because of its contribution to greater political equality, the centerpiece of the egalitarian pluralist political ideal. Groups contribute to greater equality in interest representation in two ways. They provide a means for individuals with fewer resources, who might otherwise not be heard, to pool their resources with others and emerge as potent political factors. And they provide representation for interests not best organized through territorial politics based on majority rule. These include functional interests, associated with a person's position or activity within a society; categorical interests whose intensity is not registered in voting procedures; and, at least in systems without proportional representation, the interests of minorities. Briefly, groups can help to provide a more fine-grained system of interest representation, sensitive to interests that might go unacknowledged in a system whose only devices of representation were political parties and representatives with territorial constituencies.

The egalitarian pluralist view of faction also follows straightforwardly from its conception of legitimacy-conferring procedures of collective choice. Politics is factionally dominated when certain groups are over-represented in those procedures. So faction arises from the different capacities of different groups to organize and be heard within the process of political bargaining. Poor groups tend to be under-represented because they lack the resources required for organizing; diffuse groups (e.g. consumers) tend to be under-represented because the costs of organization are very high; and groups that are the object of discrimination (blacks, gays) tend to be under-represented because the hostility and stereotyping directed toward them leads their interests to be discounted.³⁶

To cure faction, then, the egalitarian pluralist institutional program recommends a more or less radical effort to cure problems of under-representation in the political process by redressing inequalities in the conditions of group formation and access. Beginning from the ideal conception of a procedure for making binding collective decisions that ensures fair terms of representation and group bargaining, egalitarian pluralists are customarily attracted to three avenues of reform, the joint aim of which is to eliminate the pathologies of political inequality and to ensure a fair, legitimacy-conferring political procedure.

The first strategy is to reform legislative and administrative processes. Because the problem is inequality in conditions of group formation and political access, the task of reform is to provide an encompassing account of the sources of under-representation and exclusion (race, sex, income, sexual orientation, religion, and so on) and to make the elimination of all such obstacles a central feature of

policy. Apart from eliminating formal obstacles to participation, that elimination can proceed through strategies of affirmative action for under-represented groups. These might include subsidies for representation of disenfranchised interests (e.g. intervenor programs in administrative agencies), enlarged rights of standing to seek judicial review of actions taken by administrative agencies and an extension of rights to participate in administrative processes themselves, or the establishment of specialized agencies that would be directed to represent the interests of under-represented groups and that might provide a focus for efforts to organize those groups (e.g. consumer protection agencies or environmental protection agencies).

Given egalitarian pluralism's correct recognition of the importance of resources in group formation and its correct skepticism about the possibility of insulating politics in a modern democracy from the effects of those inequalities, a second sort of recommendation is to promote significantly greater equality in the distribution of the resources – for example, income, power and information – that are relevant to organization. Robert Dahl, for example, has recommended a scheme of worker cooperatives in part because that scheme would plausibly contribute to background socioeconomic equality in ways that would enhance political equality.³⁷ More familiarly, the view recommends aggressive use of the taxing power to provide, through the state, compensations for privately generated inequalities of the sort that affect organization. These include compensations for inequalities in the distribution of education, health, housing, other basic goods and income itself.

Finally, in a religiously, ethnically and racially heterogeneous society, there may well be limits on the protections for the representation of minority interests that can be achieved through these two strategies. So egalitarian pluralists commonly favor supplementing the political and socioeconomic strategies with more narrowly judicial ones. Thus there might be more exacting judicial scrutiny of legislation that imposes special burdens on groups that are the familiar object of hostility or stereotyping or that in other ways operate at a disadvantage in the process of political bargaining. The justification for heightened scrutiny is the suspicion that legislative burdens on such groups themselves arise from hostility or other forms of denigration, which are themselves sources of imperfection in processes of political representation.³⁸ Equally, administrative agencies might be required to consider interests affected by their decisions, irrespective of the participation by affected interests in the process itself.

Analysis and Criticisms

Egalitarian pluralism has two principal strengths. First, it rightly emphasizes that groups defined by common interests and values and not simply by a common territorial basis will inevitably play a central role in the politics of mass democracies. It accepts the centrality of groups that we have insisted on against the other views. Given such centrality, it emphasizes that a program animated by concerns about political equality must address the sources of unfairness or inequality in the group system itself – that is, in the conditions of association formation and access. Second, egalitarian pluralism highlights the artifactual aspects of the group system.³⁹ It rejects the notion that politics ought to be limited to the transmission of *de facto* organized social interests into policy. It takes the organization of group interests to itself depend on the structures of political decision-making. And it takes the design of the group system to be an object of political choice, at least with respect to the range of organized interests and the density of group organization.

On the other hand, we disagree with the egalitarian pluralists in part for the reasons that we agreed with civic republicans. More specifically, four considerations lie at the heart of our differences with the view.

First, politics is more than process. A more universalistic concern is needed in politics than is provided by the plurality of interests and aims that define the pluralist bazaar – even an expanded and equalized bazaar. For if politics is defined entirely by the interests of particular groups that bargain with one another over the terms of public policy, then it is unlikely that the framework of pluralist bargaining would itself be stably egalitarian. In the absence of a *direct* concern to ensure the preservation of fair bargaining conditions, those conditions are unlikely to be preserved across changes in economic and social circumstance, particularly since fairness may require alterations in the institutions of bargaining. But the institutional program of the egalitarian pluralist does not address this concern about the formation of such civic sensibilities and the linkages of citizens and state that might plausibly foster them.

Second, we are not persuaded that the fact of a diversity of interests undermines the force of substantive conceptions of the common good. More precisely, we think that reasonable conceptions of the common good fall within a narrower range than the egalitarian pluralist supposes. To recur to a point raised earlier in our discussion of neo-liberal constitutionalism, we take it to be unreasonable for inherited advantage, natural talent and luck to determine differences in lifetime

expectations of equal citizens. And we do not see how this can be denied consistent with upholding an egalitarian view of political representation. Legitimate differences of circumstance must be traceable to factors other than these, for example to the choices that individuals make in light of values and preferences formed under free conditions. This constraint on acceptable inequalities does not uniquely determine an account of the common good, but it does impose a significant constraint on acceptable views.

This supposition that there is a substantive common good and that it is a proper aim of politics to advance it adds force to the first point about the need for a direct concern with the fairness of bargaining. Even if conditions of fair political bargaining were self-sustaining, it would not follow that there exists a procedure of fair bargaining among diverse interests that will as a general matter lead to that common good. So achieving it almost certainly requires that it provide a direct aim of political choices.

Third, the ideal of a fair bargaining procedure appears to be so indeterminate as to have limited force as a guide to choices among forms of interest representation.⁴⁰ Put otherwise, the ideal of 'fair bargaining', standing alone, is too thin to generate determinate judgments about the appropriate objects of solicitude, subsidy and other sorts of affirmative action. The problems may be clarified by natural questions that might be raised about such affirmative action. Are only interests to be represented? But then what about groups that have aesthetic or other more ideal concerns? Is there a threshold level of intensity of interest that must be reached before interests are represented? If not, then the potential for representational overload is overwhelming; if so, then the scheme of representation is likely to be subject to strategic manipulation. How are interests to be represented? Through representatives of organized groups? Through appointed representatives? In the absence of a more substantive conception of the common good, and relying simply on the ideal of a fair scheme of interest representation, it is difficult to see how these questions could be answered.

Finally, while egalitarian pluralists clearly recognize the centrality of groups, and in some measure recognize their artifactual character, they are as inattentive to the importance of qualitative variation as the neoliberals and civic republicans. This appears, moreover, not to be a matter of oversight, but an ingredient in the egalitarian pluralist conception.⁴¹ The pluralist ideal is to remedy the problems of underrepresentation by ensuring a fair system for the representation and aggregation of interests. Lacking a more substantive view of the common good and the proper terms of political debate, egalitarian

pluralists are concerned principally with whether interests are represented at all. They are not concerned with coordinating interest representation in the service of some substantive goal, least of all the goal of reasoned deliberation. Issues about the organization of groups, about just how they are represented in the state, and about the effects of the forms of representation on political outcomes and on civic consciousness fall outside the central range of their view.

Conclusions

Our evaluation of the dominant approaches to democracy and groups is, then, mixed. We agree with neoliberal constitutionalists on the importance of self-regulation and choice and the importance of economic performance and competent and accountable government. We agree with civic republicans that politics is more than process, that a substantive notion of the common good is possible and that that good needs to be aimed at to be achieved. We agree with the egalitarian pluralists on the importance of equality in representation and decision-making. And we agree with each of the views that groups can indeed pose a threat to the satisfaction of their central aspiration.

At the same time, we dissent from each of these views in different particulars. And, anticipating central themes in our account of associative democracy, we argue that they have a common limitation in their failure to give sufficient weight to the simultaneous facts of group importance, qualitative variation and artifactuality. The sheer importance of groups underscores the need for a more deliberate politics of secondary associations. Given the associative liberties that partly define a liberal society, groups will inevitably form, and will inevitably play an important role. Associative democracy, our deliberate politics of associations, focuses on improving that role. The artifactuality of groups, and the roots of faction in the qualitative features of groups, suggests the possibility and appeal of such a deliberate politics – directed not merely to one or another aspect of democratic order, but their reconciliation in a well-ordered egalitarian democracy. We turn now to filling in the outlines of this suggestion.

2. The Idea of Associative Democracy

Is it possible, and desirable, to promote a deliberate politics of association directed to egalitarian-democratic ends? In outlining our

affirmative answer to this question here, we begin with those ends themselves – the norms of egalitarian democracy. We then indicate some of the ways that secondary associations commonly act to undermine those norms – in effect, the problem of faction as seen from an egalitarian-democratic perspective – and the ways that groups can and frequently do advance those norms. Finally, we restate the core idea of associative democracy – to cure this factional threat while netting group contribution – and defend that idea against two natural objections: that it is impossible because associations are essentially intractable to political reform; and that it is undesirable because that which is necessary to secure a greater group contribution to democracy raises a ruinous threat of faction.

Norms of Democratic Governance

Associative democracy draws on an egalitarian ideal of social association. The core of that ideal is that the members of a society ought to be treated as equals in fixing the basic terms of social cooperation – including the ways that authoritative collective decisions are made, the ways that resources are produced and distributed, and the ways that social life more broadly is organized.⁴² The substantive commitments of the ideal include concerns about fair conditions for citizen participation in politics and robust public debate, an equitable distribution of resources and the protection of individual choice. Lying at the core of social democratic practice in Northern Europe, this conception figures centrally in the most compelling arguments for the affirmative welfare state, including arguments made within such quintessentially liberal orders as the United States. So while we aim here to provide a particular interpretation of both the egalitarian foundations and the more substantive implications, the main ideas that we draw on are familiar and have some roots in common political sensibilities.

For example, we take there to be broad acceptance of the view that opportunities for participation ought to be available to all and that the aspirations of those who do wish to participate ought not to be thwarted by discrimination or limited resources. And while it is widely agreed that some spheres of individual choice ought to remain beyond the reach of public power, government efforts to regulate economic activity with an eye to promoting the general welfare and to securing some measure of distributive fairness and equal opportunity in a scheme of ‘ordered liberty’ are widely accepted as legitimate functions, even among those who are skeptical about the effectiveness of concerted public action in achieving these aims.⁴³

More specifically, we assume that there is broad commitment to the abstract ideal of a democratic society – a society of equals that is governed both by its members and for them. In particular, citizens are understood to be equals in respect of certain basic capacities, including the capacity to evaluate the reasonableness of the rules of association and to govern their conduct in the light of those evaluations and the capacity to formulate and to pursue their aspirations against the background of those rules. Reflecting this abstract democratic ideal and giving it substance are six more specific conditions: popular sovereignty, political equality, distributive equity, civic consciousness, good economic performance and state competence.

These six conditions plainly have different relations to the abstract ideal of democracy. Popular sovereignty and political equality (the popular control or ‘by the people’ aspect of democracy) are fundamental procedural implications of that ideal. Distributive equity, by contrast, interprets the notion of the general welfare (the responsiveness, or ‘for the people’ aspect of democracy) in light of the fundamental idea of citizens as equals. Civic consciousness, by which we minimally mean an understanding of and willingness to act to uphold conditions that embody the abstract ideal, contributes to the stability of arrangements satisfying that ideal. And adequate economic performance and state competence are among the conditions required to provide for the general welfare and to sustain confidence in democratic order. For present purposes, however, the precise nature of these connections matters less than the fact that these conditions represent widely shared standards of performance for a modern, democratic society and that they enjoy natural connections to the abstract conception of democratic order. If the problem of faction, then, consists in the threat that secondary associations can present to democratic order, that problem can reasonably be specified by reference to threats to these more particular conditions of democracy.

In the remarks that follow we discuss each of these conditions in more detail, saying only enough about the content of each to give structure to our account of solutions to the problem of faction. We also indicate characteristic measures that democratic states take to satisfy them. This latter feature of our review will be important for later discussion because the attraction of associative democracy partly turns on whether, in meeting the full range of democratic norms, associative forms of governance can be combined with the non-associative measures noted here.

Popular Sovereignty

A central feature of a democratic order is that final authority in fixing the terms of association rests with citizens: that authorization through procedures in which citizens are represented as equals is necessary and, within the limits set by the fundamental liberties, sufficient for the legitimacy of state action. Formally, this requirement of popular sovereignty commands procedures for decision-making which assign citizens or their elected and accountable representatives the legal powers to determine the public agenda, to advance specific proposals for public action, to choose among alternative courses of action and to oversee and enforce the implementation of choices. Meeting these conditions in turn requires rights of expression, association, suffrage and office-holding as well as formal procedures for the oversight of executive bureaux to which enforcement is entrusted. More substantively, popular sovereignty requires that citizens and their elected representatives have at their disposal adequate sources of information and enforcement powers that enable them reliably to control the exercise of governmental power. Good information permits precision in public decisions, including the choice of means for implementing collective choices. The availability of reliable enforcement powers is necessary to ensuring that what is enacted in the name of the sovereign people is in fact done. In addition, the availability of such powers widens the scope of sovereignty. It enables legislatures to enact policies that are judged reasonable but that might not be approved if citizens or their representatives anticipated that the agencies, commissions and departments charged with enforcement would fail to implement the popular will.

Political Equality

A second fundamental element of democratic governance is political equality. We understand this requirement to mandate what Rawls has called the 'fair value of political liberty', or the extension of fair equality of opportunity to the political process.⁴⁴ Specifically, the chances to hold office and to influence political choices ought to be roughly equal across citizens. Wealth and other features that distinguish among equal citizens (e.g. race, gender, religious ideals) should not fix the general terms of that process or the weight assigned individual views within it.

As with popular sovereignty, the requirement of political equality has a more formal and a more substantive aspect. Formally understood, it mandates the elimination of legal or other official barriers

to political participation, requiring in particular that modes of political representation neither unfairly aggregate individual opinion (e.g. example, through differently sized election districts) nor officially discriminate against certain classes of citizens on grounds of their race, gender or other ascriptive features unrelated to their status as moral equals. But ensuring that citizens are treated as equals in arrangements of collective choice is not simply a matter of barring such official discrimination. So, ensuring political equality also requires measures to correct for the effects that inequalities in wealth, private discrimination or organizational capacity might otherwise exert on the political process. In part, this is a matter of insulating the political process from the effects of de facto economic and organizational inequalities – by, for example, limiting private campaign contributions and establishing public financing of party competition or encouraging the representation of traditionally under-represented groups by lowering barriers to entry into administrative proceedings that bear on their interests and circumstances. In part, it is a matter of limiting those inequalities themselves, through, for example, inheritance taxes, income redistribution and subsidies for the organization and representation of under-represented interests.

Distributive Fairness

In addition to making such adjustments in the distribution of material resources as are necessary to ensure the fair value of political liberty, contemporary states are widely expected to ensure fairness in the distribution of resources. We think that the most suitable understanding of distributive fairness for a democratic society is an egalitarian conception – a conception that condemns inequalities of advantage deriving from differences of inherited resources, of natural endowments or of simple good luck.⁴⁵ Even when the imperfections of actual markets are eliminated, differences arising from such factors can be expected to proliferate under the system of 'natural liberty' described by market exchange – for example, income differentials traceable to educational differences that are themselves due to differences of parental wealth or income differentials traceable to the possession of differences in inborn capacity (e.g. for intensive effort). Such differences in market reward may signal genuine differences in the value that others place on individual contributions. They are irrelevant, however, to the moral equality of persons. A concern to respect that equality in the distribution of advantage, therefore, requires efforts to ensure that such factors do not generate differences in lifetime expectations of advantage.