

Who Should Decide?
An Inquiry in Democratic Theory

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Andreas Bengtson

Chapter 1: Introduction

Although democracy is usually considered by many to be the best form of government, this does not mean that democracy is immunized from problems altogether. Several of these problems have been discussed in democratic theory. One of these is the problem of persistent minorities. This problem stems from combining political equality and majority rule in a context in which the community is divided between groups of unequal size. Think, for instance, of a community with a non-religious majority and a religious minority. In such circumstances, the minority will be effectively excluded from influence insofar as majority members vote in accordance with each other (Saunders, 2010: 151). This problem is related to another central problem in democratic theory. This has to do with the justification of democracy. Two different answers are commonly given in the literature. Instrumentalists argue that democracy is justified in virtue of the outcomes it produces (Arneson, 2003; Wall, 2007); that democracy tends, not necessarily with regard to every single decision but at least in the long run, to produce better outcomes than alternative forms of government. Proceduralists, on the other hand, argue that democracy is justifiable irrespective of the outcomes it produces because of features that are distinctive of the democratic process (Christiano, 2018). For instance, they claim that the democratic procedure is constitutive of equal relations (Kolodny, 2014; Viehoff, 2014) or that it embodies in a public way the equal advancement of citizens' interests (Christiano, 2004; 2018). A potential problem for instrumentalists is that democracy may not produce the best outcomes in the long run, and a potential problem for proceduralists is the problem of persistent minorities.

The problem of persistent minorities and the problem of justifying democracy are not the object of this thesis, although they are related to the problem with which we shall be concerned, as we will see. Instead, this thesis is concerned with another central problem in democratic theory, namely, who should be included in democratic decision-making. It is thus concerned with questions of the following sort: Should children be included in democratic decision-making? Should felons be excluded from democratic decision-making? Should emigrants be included in democratic decision-making? Should future people be included in democratic decision-making? Should dead people be included in democratic decision-making?

The question of who should be included in democratic decision-making has been known as *the boundary problem* in democratic theory (Miller, 2009;

Whelan, 1983).¹ It is an important question in the sense that how the demos is constituted ultimately matters for which decisions will be taken. Presumably, if children and future people were included (in whichever way possible) in deciding on climate policy, a different policy would be chosen than if children and future people were not included. Similarly, if Danes living close to Barsebäck had been included in deciding on the use and placement of it, presumably, a different decision had been reached. It is also an important question in the sense that if we do not have an answer to the boundary problem, we cannot determine whether some people have wrongfully been excluded from democratic decision-making and whether some people have wrongfully been included. In this sense, without an answer, we may be blind to fundamental democratic injustices. Thus, the boundary problem is of both practical and theoretical interest.

As Dahl, surprisingly, observed in 1970, “how to decide who legitimately make up the people ... is a problem almost totally neglected by all the great political philosophers who write about democracy” (Dahl, 1970: 60). Given the importance of the question, it was problematic that the question had been neglected. In the last couple of decades, however, the boundary problem has been under increased scrutiny (e.g. Arrhenius, 2005; Beckman, 2009; Goodin, 2007, 2016; López-Guerra, 2005, 2014; Miller, 2009; Näsström, 2011; Saunders, 2011; Song, 2012). Although it has been under increased scrutiny, it has proved difficult to provide a convincing answer to the boundary problem. Some have defended:

The all-affected principle: Those affected by a decision should have a say in making that decision.

Others have defended its main competitor:

The all-subjected principle: Those subjected to a decision should have a say in making that decision.

Oftentimes, this battle has ended in a clash of intuitions—such as intuitions on whether future people should be included in democratic decision-making—which has left both sides of the battle wanting in some sense.² The main aim

¹ It has also been known as the problem of constituting the demos (Goodin, 2007: 40) and the problem of inclusion (Dahl, 1989: 119).

² Other solutions have been presented in the literature. For instance, Song (2012) argues that the demos must be bounded by the territorial boundaries of the state. Saunders (2011) argues instead that the demos must be bounded in accordance with agential capacities; only agents who are capable of participating in democratic decision-making should be included. However, none of these solutions has received as

of this thesis is to bring us (closer) to a convincing answer to the boundary problem; or at least to bring us to a place in which we agree on how we reach a convincing answer. This project therefore asks the following:

Who should (not) be included in democratic decision-making?

We find an answer to this question, the thesis argues, by taking a step backwards and asking why we value democracy in the first place. The value of democracy provides us with a solution to the boundary problem.³ That does not mean that we should not discuss the principles that are prominent in the literature, to wit, the all-affected principle and the all-subjected principle. After all, we may value democratic decision-making because people who are subjected, or affected, by collective decisions also have the opportunity to influence those decisions (Lippert-Rasmussen and Bengtson, m.s.: 14). However, it means that we must dig deeper than is usually done in the literature by focusing on the values underlying the principles to see what such a value commitment entails for who should be included. For this reason, my thesis also seeks to deepen our understanding of the two most prominent solutions to the boundary problem—the all-affected principle and the all-subjected principle. Although these principles have been widely discussed in the literature, they still leave many central questions unanswered, as my articles will demonstrate. In fact, I show that the all-affected principle and the all-subjected principle fail as solutions to the boundary problem and, interestingly, that they fail for the same reason: The values underlying the principles are incapable of explaining why an affected or subjected individual must be included in democratic decision-making. They fail, as it were, on their own terms.

Given this, I also explore a different solution, namely, the relational egalitarian view of the value of democracy, which says that democracy is a constituent part of relating as equals. This view is unexplored in the context of demos

much support as the all-affected principle and the all-subjected principle, so I will primarily focus on the latter principles, but the value-based solution to the boundary problem that I present matters for the other solutions as well.

³ Others have also pointed to the importance of values for demos constitution (López-Guerra, 2005; Miller, 2009; Song, 2012). I expand on their arguments in two main ways. First, I show that by focusing on the values underlying the all-affected principle and the all-subjected principle, we are able to see why both principles fail as a solution to the boundary problem; why they fail on their own terms and why they fail for the same reason. Second, I explore what the relational egalitarian view of the value of democracy implies for demos constitution. This solution is unexplored as most relational egalitarians have assumed a bounded community in their discussions.

constitution, primarily because those who have discussed this view have assumed a bounded community. Interestingly, as we will see, on a plausible understanding of what it means to be relevantly socially related, future people should not be included in present democratic decision-making—not even when it comes to the choice of climate policy. The thesis answers the research question through seven articles:

1. Bengtson, Andreas. The All-Affected Principle and the Question of Asymmetry. *Political Research Quarterly* [online first].
2. Bengtson, Andreas. Dead People and the All-Affected Principle. *Journal of Applied Philosophy* (2020) 37 (1): 89-102.
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4. Bengtson, Andreas. Where Democracy Should Be: On the Site(s) of the All-Subjected Principle. *Under Review*.
5. Bengtson, Andreas. On the Possibility (and Acceptability) of Paternalism towards Future People. *Ethical Theory and Moral Practice* (2019) 22: 13-25.
6. Lippert-Rasmussen, Kasper and Bengtson, Andreas. The Problem(s) of Constituting the Demos: A (Set of) Solution(s). *Under Review*.
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This summary presents my arguments and show how they contribute in answering the research question. After presenting the method used in answering the research question in chapter 2, I turn to three chapters that present and discuss three different answers to the boundary problem. Chapter 3 discusses the most popular solution to the boundary problem, to wit, the all-affected principle. The principle entails, I argue, that dead people should be included in democratic decision-making. Moreover, there is no asymmetry in the principle, which means that both those who are harmed and those who benefit by a decision have a claim to inclusion. The final part of the chapter argues that the reasons taken to underlie the principle that explains why an affected individual has a claim to inclusion are deficient as they cannot explain why a given affected individual should be included. Thus, we must be highly skeptical of the all-affected principle as the proper solution to the boundary problem.

Chapter 4 presents and discusses the all-subjected principle—the main alternative to the all-affected principle. If this principle is the proper solution to the boundary problem, one surprising implication is that we should also have

family and workplace democracy. Moreover, it is shown through the possibility of paternalism towards future people that future people sometimes have a claim to inclusion on the all-subjected principle. Finally, it is shown that the all-subjected principle fails and, interestingly, that it fails for the same reason as the all-affected principle: The reason taken to underlie the principle cannot explain why a given subjected individual must be included.

Since the all-affected principle and the all-subjected principle fail, we must look elsewhere for a solution to the boundary problem. Chapter 5 argues that we must bound the demos in accordance with the value of democracy. It explores a particular answer to why democracy is valuable, namely, that democracy is valuable because it is a constituent part of relating as equals in a community. If this is why we value democracy, we should not include future people in democratic decision-making, and we may deviate from a “one person, one vote” scheme. Chapter 6 concludes and points to avenues for future research. One such avenue is to explore what the relational egalitarian view entails for people at the outskirts of society, such as prisoners: Are they relevantly socially related to others in a community such that they should be included in the demos?

Chapter 2: Methodology

This thesis is written within political theory. In describing how he has learned to do political theory, and analytical philosophy broadly speaking, Cohen says, “although I’ve learned how to do philosophy, nobody ever told me how to do it ... The only way to teach people how to do it is by letting them watch, and listen, and imitate” (Cohen, 2011: 225). Similarly, I have written this thesis by watching, listening and imitating. However, this may not wholly suffice as a description of my methodology, so in this chapter, I will present the methodology I have employed in more formal terms.

The first thing to note is that political theory is a normative exercise. Being a normative discipline, political theory is not, at least not in the first instance, a study of how the world *is* but, rather, a study of how the world *ought to be*. To exemplify, I study democratic inclusion, but my focus is not on who is actually included in actual democracies but, rather, on who ought to be included in democratic decision-making. It may be that all those who ought to be included are included in an actual democracy, but we will not be able to know whether this is the case merely by looking at the empirical facts—we also need to know who ought to be included, and this is the purpose of the normative analysis. This is not to say that we cannot use empirical premises when making normative arguments. It is often the case that a normative argument contains at least one empirical premise, but it is to say that normative arguments cannot merely contain empirical premises. For instance, if all the premises in an argument are concerned with who *is* actually included in an actual democracy, we cannot conclude that those who ought to be included are included. The mere fact that someone is included does not tell us whether this person should be included.

2.1 Reflective Equilibrium

Reflective equilibrium is the most commonly used method in political theory. The aim when using this method is to end up with a coherent ethical system—a system in reflective equilibrium—in which abstract moral principles and considered moral judgments are in accordance with each other. By a considered moral judgment is understood a judgment that is formed under favourable conditions, that is, without the influence of distorting factors such as fear or anger (Rawls, 1999: 21). To try to reach reflective equilibrium, we may begin

with our considered moral judgments as an initially fixed point. We then attempt to find a moral principle that is able to account for these considered judgments. In this process, we may revise both our considered judgments and moral principles as we work back and forth between them to find a coherent system in which the moral principles and the considered judgments are in accordance with each other (Hansen, 2016: 23-24). It is this coherence between moral principles and considered moral judgments that, in the end, justifies the normative claims. It is, as it were, a system of mutual support in which the different parts obtain their justification by being part of the whole being in equilibrium (Rawls, 1999: 21).

To give an example, suppose, for the sake of argument, that it is a considered moral judgment that slavery is wrong and that the moral principle we want to investigate says that the right act is the one that maximizes utility. Let us assume that empirical studies show that taking a person as your slave to make him work on your farm leads to less utility than employing the same person on fair terms to work on the farm, for instance, because the person is willing to work harder if he is on an employment contract compared to when he is a slave. If this is true, the moral principle implies that it would be wrong for the farmer to engage in slavery since this is not the act that maximizes utility. In this situation, we have thus reached a system (temporarily) in reflective equilibrium in which our considered moral judgment is in equilibrium with the moral principle. This does not mean that we have succeeded. There may be other cases in which the considered moral judgment conflicts with the moral principle—cases in which slavery would be the act that maximized utility—in which case we would no longer be in reflective equilibrium; we would then have to find another principle for which act is right. This shows how the search for reflective equilibrium would go on.

2.2 Hypothetical Cases

Oftentimes in political theory, we employ hypothetical cases to make an argument. This is also the case in my dissertation, so let me say a bit about the use of hypothetical cases. Some may worry that the use of hypothetical cases in political theory makes the discipline starry-eyed and useless for real-world problems; that political theory is nothing but speculative fiction, to put it bluntly. We use hypothetical cases in political theory as a way of isolating the factor that we want to examine—it is, as it were, a method of isolation. This is similar to how experiments are used in empirical science. For instance, if we want to test the effects of a given drug, we provide the drug to the test persons but not to the control group to isolate the effects of the drug (Holtug, 2011: 286-287).

Since reality is messy, it is often impossible to isolate one factor, and then we turn to hypothetical cases to make sure that we are actually seeing the effects of the moral factor that we want to examine. Indeed, as Elster (2011: 242) explains, “real life cases will be so rich in detail, and differ between each other in so many details that they cannot be used in this way [to isolate morally relevant factors]”. It is this richness in detail that, almost per definition, accompanies real life cases. This richness in detail may manifest itself in the sense that a morally salient factor may always co-exist with another feature (which may also be morally salient) in the actual world (Elster, 2011: 244; Lippert-Rasmussen, 2013: 4). In a hypothetical case, we can isolate the morally salient factor from the feature with which it co-exists in the actual world. In that way, we will be certain that we are actually evaluating the morally salient factor that we are interested in (and not the feature with which it co-exists in the actual world).

Goodin (1982: 11) objects that we cannot trust our judgments in situations that deviate significantly from the situations under which the judgments are formed. That is to say, we cannot trust our judgments in highly hypothetical cases. Even if we assume Goodin is right,⁴ what should we do instead? If we merely choose examples that are similar to the actual circumstances in which we find ourselves, we are likely unable to find a case in which we are able to isolate the moral factor that we want to examine; that is, we are unlikely to be able to find “clean cases”.⁵ This problem is as—if not more—worrisome as it entails that we cannot be sure about our moral judgment of a given normative factor (it may be that our judgment is clouded by a different factor present in the case). This means that if Goodin is right, it does not follow that we should avoid hypothetical cases that deviate significantly from the actual circumstances in which we find ourselves. It will often be impossible to isolate the normative factor we are interested in without the use of hypothetical examples.

With this being said, given this skepticism about arguing through the use of highly hypothetical cases, it is important for me to stress that none of the arguments in my articles actually use highly hypothetical cases. Some of my

⁴ As I point out in the next paragraph, I do not use highly hypothetical cases—such as one in which half of the population is born with two pairs of eyes and the other half with no eyes at all (Lippert-Rasmussen, 2008: 98)—in my thesis. For this reason, I do not want to settle here whether Goodin is right in his criticism. For a fruitful discussion of the use of highly hypothetical cases, see Elster (2011).

⁵ This is not to deny, nor to affirm, that when possible, it may be a good idea, when choosing between two cases, to choose the one that is most similar to our actual circumstances.

arguments use hypothetical cases, but these do not deviate significantly from the circumstances in which we find ourselves, and otherwise, I argue through consistency—as I will explain in the next section—by investigating what given principles logically entail. This implies that my thesis should be valuable even to those who are skeptical of the use of highly hypothetical cases as arguments.

Before exemplifying what it means to argue through consistency, let me also briefly note that hypothetical cases are also used in conventional social science, as when studies use rational agent assumptions (Christiano, 2018). We know from studies, such as Thaler and Sunstein (2008) and Kahneman (2013),⁶ that people are not rational agents in this sense. This shows that if the use of hypothetical cases in political theory is a real worry, it is not a worry that is distinctive of political theory but of social science research in general (although, admittedly, it is more often discussed in relation to political theory).

2.3 Consistency

As in many other disciplines, consistency is a methodical requirement in political theory (Holtug, 2011: 282). If you accept principle P, and P entails I, then you must also be willing to accept I. You cannot consistently accept P and deny I. Thus, arguing through consistency is valuable in political theory as it makes us aware of what is at stake in accepting a particular principle. Arguing through consistency is actually able to take us surprisingly far because people are often not aware of the implications of their convictions.

Some of the papers in my dissertation make use of this requirement from consistency. For instance, in article 4 (*Where Democracy Should Be*), I show that if one accepts the all-subjected principle as the proper solution to the boundary problem, then one must also accept that we should have family and workplace democracy. This is the case, I argue, since the reason that explains why a subjected individual should be included, to wit, self-government, may also be violated through rule subjection in the family and at the workplace. Where this leaves the all-subjected principle depends on our judgment with regard to family and workplace democracy. If one believes that there ought to be family and workplace democracy, then it strengthens the case for the all-subjected principle that this is what it implies. On the other hand, if one believes that we should not have family and workplace democracy, it tells against

⁶ I am not implying that these authors believe that we should not use hypothetical examples. It may be that they just think that we must be aware of the fact that hypothetical cases are only useful for some purposes.

the all-subjected principle that it has these implications.⁷ The argument thus shows us what is at stake with regard to the all-subjected principle—you cannot accept the all-subjected principle and deny that there should be family and workplace democracy.⁸ Having focused on reflective equilibrium, hypothetical cases and the consistency requirement, and thus having explained the methodology used in this thesis, the next chapter turns to discuss (one of) the most prominent solution(s) to the boundary problem, the all-affected principle.

⁷ Actually, there is also a third option, namely, that one has inconsistent beliefs, and the argument helps to show that it is the case and, thus, that one has to reject at least one of one's beliefs.

⁸ Another example is article 1 (the Question of Asymmetry), in which I show that if you accept the all-affected principle, then you must also accept that both those who are harmed and benefited by a decision have a claim to inclusion.

Chapter 3: The All-Affected Principle

One, if not the most, popular solution to the boundary problem is the all-affected principle. In its generic version, it specifies that those who are affected by a given decision ought to be included in the making of that decision in the first place (Dahl, 1970; Goodin, 2007).⁹ It is common in the literature to understand being affected in terms of having one's interests influenced by a given decision (e.g. Arrhenius, 2005; Goodin, 2007). The fact that being affected is (necessary and) sufficient for a claim to inclusion has expansionary implications for demos constitution inasmuch as people outside a state may be affected by a decision by that state. For instance, if a state were to decide to provide aid to another country, the members of the receiving country, qua being affected, ought to be given a say in that decision. Affectedness cuts across state boundaries. Note, also, that people inside a state may not be affected by a given decision to the same extent, so we probably should not give them the same weight in the decision-making (cp. Brighthouse and Fleurbaey, 2010).

This chapter has three aims. Its first aim is to show that there is no asymmetry in the all-affected principle given its underlying values, which means that both those who are harmed and benefited by a decision have a claim to inclusion. Its second aim is to show that the all-affected principle entails inclusion of dead people and to provide institutional solutions to how dead people may be enfranchised. Its final aim is to show that the values taken to underlie the all-affected principle are unable to explain why a given affected individual should be included because she is affected. This means that we must ultimately be highly sceptical of the all-affected principle as the proper solution to the boundary problem.

3.1 The Question of Asymmetry

It has been argued in discussions of the all-affected principle that there is an asymmetry in the principle in the sense that only being negatively affected,

⁹ It is common to distinguish between an actualist and a possibilist version of the all-affected principle. Whereas the all-actually-affected principle specifies that being actually affected is sufficient for having a claim to inclusion, the all-possibly-affected principle specifies that being possibly affected is sufficient for having a claim to inclusion. The latter differs from the former in the sense that it may turn out, in the end, that the person was not actually affected, but that would still be sufficient for having a claim to inclusion. For discussion, see Goodin (2007) and Owen (2012).

and not being positively affected, by a decision generates a claim to inclusion (Cavallero, 2009: 58; Miklosi, 2012: 489; Saunders, 2011: 290; Whelan, 1983: 17; cp. Schaffer, 2012: 325). That amounts to the following formulation of the all-affected principle:

AAP_{NEG}: A person should be entitled to participate in making a decision if and only if the person is negatively affected by that decision (Bengtson, 2020: 2).

If that is the proper specification of the all-affected principle, it means that those who benefit from welfare services, such as the elderly, should not have a democratic say in whether they should receive these welfare services. This is clearly contrary to current democratic practices. Moreover, immigrants who would benefit from being admitted to a country should not be given a say in this decision, nor should future people who will not have a life negative in value be included to decide on climate policy.^{10,11}

In article 1 (the Question of Asymmetry), I consider whether there is an asymmetry in the all-affected principle.¹² I argue that we must answer this question by looking at the values underlying the all-affected principle that explains why a person has a claim to inclusion *because* she is affected (cp. Cohen, 1997; Lippert-Rasmussen and Bengtson, m.s.). Two values have frequently been proposed in the literature.¹³ The first specifies that an affected individual must be included to be granted the opportunity to protect her interests (Goodin, 2007: 50; Miller, 2009: 216; Whelan, 1983: 17). Democratic inclusion is, so to speak, necessary and sufficient for having an opportunity to protect one's interests. The second specifies that an affected individual must be included in order to remain (or become) self-governing (Brighthouse and Fleurbaey, 2010: 142; Lampert, 2015: 54-55; Näsström, 2011: 122).

Beginning with the former—the interest protection rationale—it is clearly the case that it applies to both being negatively affected and positively affected. Suppose a democracy were to decide to implement a large tax deduction for

¹⁰ This is due to the non-identity problem, which points to the fact that personal identity is extremely sensitive to time of conception. Consequently, contemporary people can affect who will live in the future (Parfit, 1984: 351-379).

¹¹ The all-affected principle has been criticized for entailing inclusion of future people in democratic decision-making (Beckman, 2008; Saunders, 2011; Tännsjö, 2007). If AAP_{NEG} is the proper specification of the all-affected principle, these criticisms do not apply (to the same extent).

¹² I refer to this as the question of asymmetry.

¹³ There is a third value, maximizing utility, which I shortly discuss in the paper (see also chapter 3.3 of this summary).

well-off persons. A wealthy person would be affected positively by this decision in the sense of being better off than he would otherwise have been—in case the deduction had not been implemented—in which case he does not have a claim to inclusion on AAP_{NEG}. However, he has an interest in receiving this tax deduction, so if he is not included, he will not be granted an opportunity for interest protection.¹⁴ This is true irrespective of whether the decision would ultimately be in line with his preferences. Some may believe that this well-off person should not be included in democratic decision-making on this matter. If so, that is not a problem for my argument but a problem for the interest protection rationale. The interest protection rationale does not discriminate between wealthy and badly off people insofar as they are affected. The upshot is that the interest protection rationale does not justify an asymmetry.

Neither does the self-government rationale justify an asymmetry. To see that this is the case, consider the fact that a person who is positively affected may be treated paternalistically and the fact that paternalism is the antithesis to self-government. Suppose that “A acts paternalistically toward B when A acts for the sake of B’s good but does not treat B’s will as structurally decisive in determining what she, A, should do” (Groll, 2012: 707).¹⁵ Groll contrasts treating a will as structurally decisive from treating a will as substantially decisive. To see the difference, Groll considers the case of Bob, who is in need of surgery but does not want it. The doctor treats Bob’s will as substantially decisive insofar as she considers what Bob wants as merely one consideration part of a larger set of considerations about what is good for Bob. She thus treats Bob paternalistically. The doctor treats Bob’s will as substantially decisive if she treats it as silencing every other consideration, including whether it is beneficial to Bob to receive the operation. By treating Bob’s will as substantially decisive, she does not treat him paternalistically. Interestingly, this shows that “we can disrespect another person’s will, in acting for his good, even when we act in accord with his will because it is his will” (Groll, 2012: 707). This also shows that a person may be benefited by a decision and still be treated paternalistically. Suppose that a group of better off people were to decide to implement a smoking ban to reduce the smoking of the worst off. In so

¹⁴ One may object that I focus too narrowly on prudential interests in this case. What if the wealthy person has stronger other-regarding interests in this case for the tax deduction to be granted to the badly off? In that case, he may be negatively affected on balance. This does not save AAP_{NEG} since the question of which interests to include under the interest protection rationale is orthogonal to the question of asymmetry (the same can be said about the extent to which interests must be affected to generate an inclusion claim).

¹⁵ I introduce two alternative definitions of paternalism when discussing article 5 (Paternalism towards Future People).

doing, they consider the wills of the worst off as one consideration among others (the worst off agree that the ban would be beneficial to them), and thus, they treat the worst-off paternalistically. As the worst off would be affected positively by this ban, they would not have a claim to inclusion according to AAP_{NEG} .¹⁶ Since paternalism is the antithesis to self-government, and since being affected positively may be to be treated paternalistically—as is the case with the smokers—it follows that it is unfounded to support AAP_{NEG} on behalf of the self-government rationale.¹⁷

The upshot is that proponents of the all-affected principle are committed to the following specification of the all-affected principle:

$AAP_{NEG+POS}$: A person should be entitled to participate in making a decision if and only if the person is negatively or positively affected by that decision (Bengtson, 2020: 8).

That is to say, if the all-affected principle is the proper solution to the boundary problem, both those who are negatively affected and positively affected by a decision have a claim to inclusion.

3.2 Dead People

There is an interesting temporal aspect when it comes to inclusion according to the all-affected principle. Consider the issue of deciding on which climate policy to pursue. Future people will be affected by this choice—after all, they are to live in the future climate—which means that future people should be included in deciding on this issue according to the all-affected principle (Beckman, 2008; Goodin, 2007; Saunders, 2011; Tännsjö, 2007). It may be a sur-

¹⁶ Consider, similarly, a case of development aid in which members of a rich country decide to provide development aid to members of a poor country after having considered these members' wills as one consideration among others. This would be a case of paternalism and would thus be a violation of self-government (cp. Groll, 2014: 189).

¹⁷ Note that a similar conclusion follows on the all-subjected principle—the primary alternative to the all-affected principle (see chapter 4 in this summary)—insofar as self-government is its underlying value, as many have argued (Abizadeh, 2008: 39-40; Goodin, 2016: 369; López-Guerra, 2005: 221; Miller, 2009: 214; Näsström, 2011: 120-122; Song, 2012: 51). A person who is forced to receive a welfare benefit (being positively subjected) is not self-governing, nor is a person who is forced to waive her right to a welfare benefit (being negatively subjected).

prising result in itself that future people must be included in democratic decision-making. They do not yet exist, so how should we include them?¹⁸ Irrespective of how we solve the problem of inclusion of future people, it is also the case that the all-affected principle leads to the inclusion of dead people, as I show in article 2 (Dead People and the All-Affected Principle), in which I make the following argument:

1. If the all-affected interests principle is the proper boundary principle, and if people are harmed or legally affected posthumously, then dead people should be included in democratic decision-making.
2. The all-affected interests principle is the proper boundary principle.
3. People are harmed or legally affected posthumously.
4. Thus, dead people should be included in democratic decision-making (Bengtson, 2020: 89).

My aim in this paper is to show that if we accept a popular solution to the boundary problem, the all-affected principle, and if we accept that dead people can be harmed, as most philosophers do, or be legally affected, the surprising upshot is that dead people have a claim to inclusion in democratic decision-making. As an example, consider the case of Steve Jobs, who was granted 141 patents posthumously (Cook, 2014). By being granted these patents, he was granted the power to establish a legal relationship. Since to be granted the power to establish a legal relationship is a way of being affected, Steve Jobs was affected when he was granted the power, posthumously, to establish legal relationships concerning the 141 patents. This implies that if the community were to make a decision with regard to patent regulation, or if they were to decide on which issues should be put on the democratic agenda, Steve Jobs, being already dead, would have a claim to inclusion qua being (legally) affected.

Thus, it is clear that if the all-affected principle were the proper solution to the boundary problem, our current democratic practices would have to be heavily reformed. In the paper, I present different institutional solutions to how we may enfranchise dead people. Note, first, that there is an interesting difference between future people and dead people in relation to democratic decision-making. Whereas future people do not yet exist, and thus have not had an opportunity to express their preferences, dead people have actually had

¹⁸ Different suggestions have been proposed in the literature, including an ombudsman for future generations (Beckman and Ugglå, 2016). For a collection of essays on this question, see González-Rico and Gosseries (2016).

the opportunity, while alive, to express their preferences. Distinguishing moral agents, “actors [who are] capable of deliberate, reasoned choice, and bound by moral requirements”, from moral patients, those who are merely deserving of moral consideration (Saunders, 2011: 286), we may say that dead people are (at least in some situations) moral agents.¹⁹ The fact that dead people have had the opportunity to express their preferences while alive—and, in this sense, are moral agents—surprisingly suggests that dead people are capable of participating in democratic decision-making. We actually already have institutions in place in which the preferences of the dead are attended to. Think of institutions handling wills. We are representing the interests of dead persons in present decision-making when we abide by their wills. Imagine that a person has written in his will how he would vote in the coming elections and which policy issues he cared about the most. If we granted a trustee permission to act on behalf of the wishes in the will—voting on behalf of the dead person—writing a will could be like casting a vote. This would be an instance of what I call a *representational past-focused institution* since dead people are represented “directly” by people casting votes on their behalf following their instructions.

Alternatively, we could implement *non-representational past-focused institutions*, whose purpose it is to increase the extent to which the dead are taken into account in the decision-making in ways different from directly voting on their behalf (Bengtson, 2020: 96). One such suggestion would be to grant one-third of the legislators two procedural rights to protect the interests of the dead, namely, the right to delay legislation and the right to demand a referendum.²⁰ The former grants the opportunity to delay a law proposal if some legislators believe it conflicts to a significant extent with the interests of dead people, whereas the latter is a right to demand a referendum on a bill insofar as it seriously conflicts with the expressed wishes of dead people. Thus, there are ways to enfranchise—at least in some sense—dead people, and if we believe that the all-affected principle is the proper solution to the boundary problem, they ought to be included in democratic decision-making.

¹⁹ Saunders criticizes the all-affected principle and proposes an alternative solution, namely, that democracy is about agency in the sense of “giving people equal (and positive) *inputs* into what the decisions are” (Saunders, 2011: 287). Interestingly, Saunders’ solution entails that at least some dead people must be included. Dead people are capable of providing input—think of a person who casts a postal vote and dies a week before the election. I can exercise agency with regard to what happens to my belongings after I am dead by writing a will.

²⁰ This solution is an adaption of Ekeli’s (2016) proposal of a sub-majority rule model to future people.

3.3 Why the All-Affected Principle Is Groundless

Articles 1 (the Question of Asymmetry) and 2 (Dead People and the All-Affected Principle), which I have discussed in the two previous subsections, are papers “internal” to the all-affected principle in the sense that they contribute to our understanding of what this principle implies for democratic inclusion. We have seen that the principle entails that there is no asymmetry and that dead people (sometimes) have a claim to inclusion. That is also to say that it was not my aim in these articles to argue whether the all-affected principle is the proper solution to the boundary problem.²¹ In article 3 (Why the All-Affected Principle Is Groundless), on the other hand, Lippert-Rasmussen and I argue that we must be highly sceptical of the all-affected principle. Our aim with the paper is to ask a more basic question—which, surprisingly, has not received much attention in the literature—in relation to the all-affected principle, namely, why an individual should be included in democratic decision-making *because* she is affected. We identify three rationales that have been taken to underlie the principle: (i) the interest protection rationale; (ii) the self-government rationale and (iii) the utilitarian rationale. As explained in chapter 3, the interest protection rationale specifies that democratic inclusion is necessary and sufficient for an individual to be granted an opportunity to protect her interests,²² and the self-government rationale maintains that democratic inclusion is necessary and sufficient for the individual to be (or remain) self-governing.²³ The utilitarian rationale specifies that utility is maximized if and only if individuals affected by a democratic decision are included in making that decision (Bauböck, 2018: 48; Whelan, 1983: 17-18; cp. Andric,

²¹ With this being said, I briefly discuss, in article 2 (Dead People and the All-Affected Principle), why, given a plausible understanding of what it means to be relevantly socially related, dead people should not be included in democratic decision-making.

²² We standardize it as follows: P1: If X’s interests are affected by a certain democratic decision, then X has the opportunity to protect them if and only if X is included in making that decision. P2: X is entitled to the opportunity to protect her interests. C1: Thus, if X’s interests are affected by a certain democratic decision, X is entitled to be included in making that decision (Bengtson and Lippert-Rasmussen, m.s.: 4-5).

²³ We standardize it as follows: P3: If X’s interests are affected by a certain democratic decision, then X is self-governing if and only if X is included in making that decision. P4: X is entitled to be self-governing. C2: Thus, if X’s interests are affected by a certain democratic decision, then X is entitled to be included in making that decision (Bengtson and Lippert-Rasmussen, m.s.: 9).

2017).²⁴ Are these rationales able to explain why an affected individual must be included?

In the paper, we argue that the different rationales fail to explain why an affected individual must be included. Here, I will focus solely on our arguments for why the self-government rationale fails since these arguments are relevant for the all-subjected principle as well (I turn to the all-subjected principle in chapter 4).

The self-government rationale, which specifies that democratic inclusion is necessary and sufficient for being self-governing, fails to explain why an affected individual must be included. An individual may be included without changes in self-government. Consider what Lau (2014) calls “voting in bad faith”, that is, “the practice of casting a vote without intending to be bound by the outcome of the decision” (Lau 2014, 282). If self-government requires at least some degree of control (Abizadeh, 2008: 39), the fact that this person is self-governing, if he is, does not have to do with his inclusion in democratic decision-making. Moreover, an individual may become less self-governing by being included, as Viehoff (2014: 350) shows: “[W]hen the authority of democratic decisions is extended, I gain a very small share of control over the lives of very many other people, and specifically over that aspect of their lives that our collective decision now regulates. Yet I also lose a large share of control over the corresponding aspect of my own life”. Since the individual gains control over others, which hardly makes a difference for self-government, and since he loses control over himself, this leads to the individual being less self-governing (Viehoff, 2014: 351; cp. Brennan, 2011: 99; Kolodny, 2014: 208-209; Saunders, 2011: 281).

A defender of the all-affected principle may, instead, turn to a collective understanding of self-government. However, this will not do, since it makes us incapable of explaining why a given affected individual must be included because the collective, presumably, remains self-governing without this individual participating inasmuch as the collective would still have counterfactual control. Thus, we conclude that the self-government rationale fails to explain why a given affected individual must be included in the sense of being granted the right to vote.

The upshot of our arguments in this paper is that we are highly sceptical of the all-affected principle as the proper solution to the boundary problem

²⁴ We standardize it as follows: P5: For all individuals, X, if X’s interests are affected by a certain democratic decision, then utility is maximized if and only if X is included in making that decision. P6: Utility should be maximized. C3: Thus, for all individuals, X, if X’s interests are affected by a certain democratic decision, X should be included in making that decision (Bengtson and Lippert-Rasmussen, m.s.: 13).

despite its intuitive appeal. I thus turn to discuss, in chapter 4, the all-subjected principle, which is the most popular alternative to the all-affected principle.

Chapter 4: The All-Subjected Principle

The most prominent alternative to the all-affected principle as the proper solution to the boundary problem is the all-subjected principle (Abizadeh, 2012: 878; Beckman, 2008: 351; Dahl, 1989: 122; Erman, 2014: 539; López-Guerra, 2005: 222). In a generic version, it says the following:

The all-subjected principle: Everyone subjected to a decision should have a say in making the decision (cp. Bengtson, m.s.: 6; Goodin, 2007: 49).

It differs from the all-affected principle by focusing on being subjected to a decision instead of being affected by a decision. A person may be affected without being subjected, as is the case with a person living in a state in which there is pollution emanating from a neighbouring state (cp. Goodin, 2007; Miller, 2009). A person may also be subjected without being affected (in a way that is relevant for the principle), as is the case with a person subject to parking codes even though he does not own a car (Frazer, 2014: 387). It has been argued that the all-subjected principle is more in line with the conventional demarcation of the demos in accordance with the nation state. For instance, it has been argued that the all-subjected principle does not entail inclusion of expatriates (López-Guerra, 2005).²⁵ The present chapter has three aims: (i) to show that the all-subjected principle implies that we should have family and workplace democracy; (ii) to provide a novel argument—focusing on the possibility of acting paternalistically towards future people—for why future people should sometimes be included according to the all-subjected principle; and (iii) to show that the all-subjected principle fails as a solution to the boundary problem for the same reason as the all-affected principle.

4.1. Where Democracy Should Be

In article 4 (Where Democracy Should Be), I show what follows for where democracy should be insofar as we demarcate according to the all-subjected principle. I begin by arguing that we must determine the site(s) of the all-subjected principle by looking at the value(s) underlying the principle that ex-

²⁵ Note, however, that Goodin (2016) has argued that the all-subjected principle would not lead to a demarcation of the demos that is conventional in any sense of the term.

plains why an individual must be included *because* she is subjected (cp. Cohen, 1997). The value underlying the all-subjected principle is self-government (Abizadeh, 2008: 39-40; Goodin, 2016: 369; López-Guerra, 2005: 221; Miller, 2009: 214; Näsström, 2011: 120-122). This means that if a person's self-government is violated by subjection by non-state units, then the all-subjected principle applies to these sites as well.²⁶ I argue that a person may be subject to rules at her workplace and in her family in a way that violates her self-government; or at least, insofar as a person's self-government may be infringed by being subject to state rules, that a person's self-government may also be infringed by being subject to family and workplace rules.

In relation to the workplace, suppose Susan is a low-skilled worker in a context of mass unemployment. Susan's boss takes advantage of this by implementing new rules, one of which is that she is forced to take a drug test every Thursday. Her self-government is clearly infringed by being subject to this rule (cp. González-Ricoy, 2014: 238, 241; Miller, 2009: 220), so she should have a say. In relation to the family, suppose that because of a sexist family structure, it is expected that the woman must carry a greater burden of domestic tasks than the man (cp. Cohen, 1997: 22). The woman is subject to a coercive rule inasmuch as she would not have carried a greater burden of domestic tasks absent this sexist family structure. Even if these expectations exist at a societal level, they become manifest in specific families with their specific rules. Thus, she should be given a say on these rules given that self-government is the value underlying the all-subjected principle. Apart from including those subjected by the state in democratic decision-making, we must include subjected people at the workplace and in the family in democratic decision-making on these sites inasmuch as self-government is the value underlying the all-subjected principle. That is to say, subjection to state rules is merely one instance of rule subjection that threatens self-government. Surprisingly, the all-subjected principle thus implies family and workplace democracy. This also entails that insofar as we believe that we should not have family and workplace democracy, the all-subjected principle does not seem to be the proper solution to the boundary problem.²⁷ Conversely, if we believe that we should have family and workplace democracy, it tells in favour of the all-subjected

²⁶ I structure the discussion in the paper by distinguishing between two site theses: The strong site thesis: The *only* site of the all-subjected principle is the state; The weak site thesis: One site of the all-subjected principle is the state (Bengtson, m.s.: 2).

²⁷ Note, however, that the all-affected principle runs into similar implications in relation to site(s) as the all-subjected principle (Bengtson, m.s.: 18-19).

principle that it entails that there should be democratic decision-making in these sites.

4.2 Paternalism towards Future People

Whereas the previous section was concerned with the site(s) of the all-subjected principle, this section is concerned with the scope of the all-subjected principle. The former has to do with *where* democratic decision-making should be; the latter has to do with *who* should be included in democratic decision-making. To explore this question, I begin by arguing that it is possible to act paternalistically towards future people by using the following case:

Military Conscription: Lola is a 30-year-old patriot who believes that a necessary part of a good life is to do military service. Immediately after having found out that she is pregnant, she signs her future child (let us call this person Kim) up for military conscription such that when Kim turns 19, she has to enrol in the military for 12 months (without the possibility of opting out). Lola believes that Kim will learn a lot from the discipline taught in the military and is afraid that if Kim gets to decide for herself, she will decide to do something else, for instance, travel for 12 months.

This case satisfies Dworkin's paradigmatic definition of paternalism.²⁸ According to his definition, "X acts paternalistically towards Y by doing (omitting) Z if and only if:

1. Z (or its omission) interferes with the liberty or autonomy of Y.
2. X does so without the consent of Y.
3. X does so only because X believes Z will improve the welfare of Y (where this includes preventing his welfare from diminishing), or in some way promote the interests, values, or good of Y" (Dworkin, 2017).

Lola interferes with Kim's autonomy by signing her up for military service (re 1) without her consent (re 2) and only because she believes that it will improve

²⁸ As I argue in the paper, it also satisfies Shiffrin's definition of paternalism, according to which "paternalism by A toward B is characterized as behavior (whether through action or through omission): (a) aimed to have (or to avoid an effect on B or her sphere of legitimate agency; (b) that involves the substitution of A's judgment or agency for B's; (c) directed at B's own interests or matters that legitimately lie within B's control; (d) undertaken on the grounds that compared to B's judgment or agency with respect to those interests or other matters, A regards her judgment or agency to be, in some respect, superior to B's" (Shiffrin, 2000: 218).

Kim's welfare (re 3). Thus, Lola acts paternalistically towards Kim, and since Kim is a future person, Lola acts paternalistically towards a future person.

The fact that it is possible to act paternalistically towards future people matters from the point of view of democratic inclusion.²⁹ Suppose the current members in a democracy, G₁, were to decide to implement a constitutional policy limiting the options from which future generations can choose—taking some decisions off the future table, as it were, because they do not trust them to choose wisely. This decision would be paternalistic (Bengtson, 2019: 22), but it would also, presumably, subject future people (they are to live under this constitutional rule in the future). Since it subjects future people, they have a claim to inclusion on this decision if the all-subjected principle is the proper solution to the boundary problem.³⁰

This argument does not only apply to constitutional decisions. The same is true in the following case:

Collective Military Conscription: Suppose that a contemporary polity decide to implement a policy in which any person born after January 1st 2025 will, upon his/her 19th birthday, be enrolled in the military for 12 months. It is not that the polity need people for military conscription (they have sufficient military personnel), but they believe it will strengthen the character of each and every future member of the community to obtain one year of military discipline. They worry that future people will decide against military service if they are able to decide for themselves.³¹

This shows that countries who have a conscription policy, for instance, saying that every 18-year-old must do military service, may act paternalistically towards future people,³² and that this act subjects future people such that they should be included in democratic decision-making according to the all-subjected principle. To make this decision on military conscription without including future people would seem to be to commit two wrongs: a paternalistic wrong and a democratic wrong.

²⁹ This is not to say that only paternalistic acts towards future people entail that they have a claim to inclusion. There may also be non-paternalistic acts that subject future people, e.g., a collective military conscription policy similar to the one in the example besides the fact that it is pursued with the aim of securing the continuing survival of the country.

³⁰ I assume that this is also true on the all-affected principle since this form of subjection clearly affects their interests in a relevant way.

³¹ See Bengtson (2019: 21).

³² Interestingly, this shows that it is possible to act paternalistically towards future people without knowing their identity.

We have seen that insofar as the all-subjected principle is the proper solution to the boundary problem, we must have family and workplace democracy, and future people sometimes have a claim to inclusion qua being subjected to paternalistic decisions. The former is interesting as it shows that there are more sites to the all-subjected principle than has so far been assumed. The fact that it applies to sites such as the family and the workplace presents a novel argument for why the all-subjected principle is not conventional. The latter is interesting since most discussions of the all-subjected principle have focused on the spatial implications of the all-subjected principle, that is, whether people outside the state are subjected in a way that gives them a claim to inclusion (e.g. Goodin, 2016). The possibility of acting paternalistically towards future people illustrates that the all-subjected principle applies in a temporal sense as well in the sense of leading to inclusion of future people. Thus, whereas the former argument adds to our knowledge of the site(s) of the all-subjected principle, the latter argument adds to our knowledge of the scope of the all-subjected principle.

4.3. Why the All-Subjected Principle Is Groundless

However, the all-subjected principle is not the proper solution to the boundary problem. It is not the proper solution to the boundary problem for the same reason that the all-affected principle is not the proper solution to the boundary problem, to wit, the values underlying the principle cannot explain why a given subjected individual must be included in democratic decision-making. As we saw in section 4.1, self-government is the value that has been taken to underlie the all-subjected principle by its proponents. As we saw in section 3.3, the self-government rationale fails. If we understand self-government individually, the problem is that democratic inclusion may lead to the individual being less self-governing. If we understand self-government collectively, we cannot explain why a given subjected individual must be included, since the collective would remain self-governing qua being in control without inclusion of the individual. Thus, as the self-government rationale failed in relation to the all-affected principle, so does it fail in relation to the all-subjected principle. If the all-subjected principle is to provide a solution to the boundary problem, a different value must ground the principle.

One suggestion may be fairness (Dahl, 1989: 108; López-Guerra, 2005). The argument would be as follows:

P1: If X are subjected to a certain democratic decision, then it is the case that: X is being treated fairly if and only if X is included in making that decision (the fairness condition claim).

P2: X is entitled to fair treatment (the fairness entitlement claim).

C: Thus, if X is subjected to a certain democratic decision, then X is entitled to be included in making that decision.³³

This suggestion runs into a dilemma. Either we understand fairness comparatively, but then we do not have to include any of the subjected individuals, as their claims will be satisfied to the same extent in that case; or, we understand fairness in absolute terms, but that presupposes an answer rather than provides an answer since it must be established independently that inclusion is what the subjected individual is owed, and that is exactly what is at stake in the discussion (cp. Bengtson and Lippert-Rasmussen, m.s.: 23-25).

We are now in a position in which we can conclude that the two most popular solutions to the boundary problem fail, and that they fail for the same reason. We thus have to look for alternative solutions. This is the purpose of the next chapter.

³³ This is extracted from Bengtson and Lippert-Rasmussen (m.s.: 22) and adjusted to fit the all-subjected principle.

Chapter 5: The Value-Based Solution

We have now seen what demarcating the demos according to two prominent principles—the all-affected principle and the all-subjected principle—would entail. This chapter takes a step backwards in the sense that it does not take as its point of departure these particular principles but, instead, argues that we must actually distinguish between three different boundary problems and that the thorny issue when it comes to demos constitution lies in determining why we value democracy. After having shown why the demos must be demarcated in accordance with the value of democracy, the chapter examines the view that democracy is valuable as it is a constituent part of relating as equals in a community. That is to say, the latter part of this chapter provides a case study of the relational egalitarian view of the value of democracy.

5.1 The Problem(s) of Constituting the Demos: A (Set of) Solution(s)

We must actually distinguish between three different boundary problems—the procedural, the conceptual and the value-focused boundary problem. These different versions of the boundary problem have been conflated in the literature (Abizadeh, 2008: 45-46; Agné, 2010: 385; Cabrera, 2014: 229, 243-244; Nili, 2017: 99-100).³⁴

Beginning with the procedural version of the problem, it says that for a decision to be democratic, it must be democratic “all the way down”, but it is impossible for a decision to be democratic all the way down. This version of the boundary problem is solvable since it is false that for a decision to be democratic, it must be democratic all the way down. Suppose a monarch before resigning puts in place a rule that grants every person a vote and fair and equal opportunity to express their views. If a decision were to be made according to these rules, surely it would be a democratic decision (even though the decision

³⁴ Distinguishing these different boundary problems also bears on some of the issues discussed earlier. The all-affected principle is best seen as providing a solution to the conceptual or value-focused boundary problem. As this is the case, it is unfair to criticize the principle for failing as a solution to the procedural boundary problem, which some have done (Owen, 2012: 130, 143-148; Schaffer, 2012: 328). It is also the case for the all-subjected principle that it is best seen as providing a solution to the conceptual or value-focused boundary problem, so neither is it a fair criticism against this principle that it cannot solve the procedural boundary problem.

would not be democratic “all the way down”). Thus, the procedural boundary problem is solvable.

The conceptual boundary problem says that a decision is democratic only if it is the outcome of a decision process the rules of which are implied by the concept of democracy and relevant empirical facts (the conceptual requirement) and that the concept of democracy, in conjunction with relevant empirical facts, does not imply any bounding of the demos (the no-implication claim). We argue that the conceptual requirement is false. To see this, we have to introduce the value-based boundary problem, which says that a decision is democratic only if it is the outcome of a decision “whose delimitation is prescribed by the value underlying democracy and the relevant empirical facts” (the value requirement), but the value of democracy does not prescribe, in conjunction with relevant empirical facts, a particular delimitation (the no-implication claim).

The no-implication claim of the value-based boundary problem is false since some views of why democracy is valuable speaks to the issue of how the demos should be bounded (cp. Miller, 2009: 204). For instance, on Kolodny’s (2014: 287) view that democracy is valuable because it is a “particularly important constituent of a society in which people are related to one another as equals”, it is valuable that people who are relevantly related make democratic decisions together, and it is not disvaluable that unrelated people do not make democratic decisions together. Thus, this relational egalitarian view of why democracy is valuable does speak to the issue of how the demos should be bounded. As Lippert-Rasmussen and I argue, this view entails that future people should not be included in democratic decision-making. This is the case when being relevantly socially related requires that X and Y can adjust their conduct in light of each other’s conduct and can communicate with each other in a dialogic form (Lippert-Rasmussen, 2018: 71, 128).³⁵ Present people and future people do not stand in a relationship in which they can interact and communicate in a dialogic form. This means that present and future people are not relevantly socially related, and since we must include in the demos those who are relevantly socially related according to the relational egalitarian

³⁵ This understanding of what it means to be relevantly socially related is in accordance with Anderson’s account. She describes it as follows: “Positively, [relational] egalitarians seek a social order in which persons stand in relations of equality. They seek to live together in a democratic community, as opposed to a hierarchical one. Democracy is here understood as collective self-determination by means of open discussion among equals [...] To stand as an equal before others in discussion means that one is entitled to participate, that others recognize an obligation to listen respectfully and respond to one’s arguments ...” (Anderson, 1999: 313).

view, future people should not be included in the democratic decision-making of the present (cp. Bengtson, 2020: 97-98).³⁶

The fact that the no-implication claim of the value-based boundary problem is false, as we have now seen, also implies that the conceptual claim of the conceptual boundary problem is false; that is, it is false that a decision is democratic only if it is the outcome of a decision process the rules of which are implied by the concept of democracy and relevant empirical facts. Thus, the boundary problem is solvable, and different views on why democratic decision-making is valuable, presumably, lead to different delimitations of the demos. This also shows that the real thorny issue when it comes to demos constitution has to do with why we value democracy.

One interesting implication of this argument—which we do not discuss in the paper—is that the common focus on discussing competence in relation to democratic inclusion is only of derivative interest (if it is of interest).³⁷ It comes to the fore in discussions of child enfranchisement, in which opponents have pointed out that children, generally speaking, are not sufficiently competent to participate in democratic decision-making (Chan and Clayton, 2006; Christiano, 2008), and defenders have argued that at least some children are in fact competent (Peto, 2018; Schrag, 1975, 2004). Our argument shows that it does not matter, at least not in the first instance, whether children—and voters in general—are competent. This is the case since these arguments regarding child enfranchisement assume that democracy is valuable for a reason which requires, or is promoted by the fact, that voters are at a particular level of competence, e.g. that democracy is epistemically superior to other forms of government. However, we cannot take that as a given, since there are other plausible reasons for why democracy is valuable that do not focus on competence, such as Kolodny's view that democracy is valuable because it is a constituent part of relating as equals in a community. For this reason, instead of discussing which voters are competent, we should discuss why democracy is valuable in the first place.³⁸ Once we have a convincing answer to this question, we will know whether competence matters to inclusion (and exclusion) in democratic decision-making. If, for instance, we value democracy because it is epistemically superior to other forms of government, we should include

³⁶ In the next section (6.2), I show why the relational egalitarian ideal is compatible with—and may sometimes even require—granting some people greater voting power than others when including them in the demos.

³⁷ I develop this argument in a separate paper.

³⁸ Admittedly, reflective equilibrium style, exploring what competence-based views imply for inclusion (of children) may ultimately help us in settling why democracy is valuable.

people that contribute in achieving epistemically superior decisions and exclude people who are damaging to that purpose. Thus, what we need to settle is why democracy is valuable.

5.2 Differential Voting Weights and Relational Egalitarianism

Having seen that we must bound the demos in accordance with why we value democracy, and having seen that the relational egalitarian view of the value of democracy implies that future people should not be included in the democratic decision-making of the present, this section further explores this relational egalitarian view. In particular, I argue that the relational egalitarian view is compatible with including people on unequal terms, that is, by deviating from a “one person, one vote” scheme. Indeed, sometimes the relational egalitarian view may require that we give some greater voting power than others.

According to relational egalitarians, justice is for people to stand in equal relations to each other. To realize equal relations in a democratic community, prominent relational egalitarians such as Anderson (1999) and Kolodny (2014) claim it is necessary to institutionalize a “one person, one vote” scheme. In article 7 (Differential Voting Weights and Relational Egalitarianism), I argue that they are wrong. It is possible for people to relate as equals while deviating from a “one person, one vote” scheme. People in a community may relate as moral, epistemic, social and empirical equals if we grant them voting weights on behalf of a version of the all-affected principle that claims that “everyone who is affected by the decisions of a government should have the right to participate in that government in proportion to their stakes” (Bengtson, m.s.: 5; cp. Brighthouse and Fleurbaey, 2010: 150).³⁹

Indeed, sometimes it may be more just, from the perspective of relational egalitarianism, to grant people differential voting weights than to grant people the same voting weight. That is the case since people’s self-government may not be threatened to the same extent by a democratic decision. However, if those whose self-government is threatened to a larger extent for this reason have a stronger interest on the issue, and if relational equality requires that strong(er) interests must play a larger role in collective decisions than

³⁹ This would also be true on a proportional stake version of the all-subjected principle, according to which everyone who is subjected to a rule should have a say in that rule in proportion to the degree to which they are subjected (cp. Abizadeh, 2008: 55).

weak(er) interests (Scheffler, 2015: 25),⁴⁰ then we have relational egalitarian reasons to grant a person whose self-government is threatened to a greater extent a larger weight in the decision-making than the person whose self-government is threatened to a lesser extent (cp. Miller, 2009: 217).

Think, for instance, of the difference between a doctor and an uneducated person. The fact that the former has better exit options from the democratic community than the latter entails that her self-government is threatened to a lesser extent by a given democratic decision. The uneducated person may thus complain that granting them the same weight in the decision-making treats—and signals—that the doctor’s autonomy is more important for society than his autonomy and, thus, treats them as moral unequals (cp. Scheffler, 2015: 25). This argument is surprising since it means that if we are relational egalitarians—and, thus, if we value democracy because it is a constituent part of relating as equals—we have reasons to deviate from a “one person, one vote” scheme despite this principle being a central tenet in democratic theory (Christiano, 2018; Dahl, 1989: 109) and practice.⁴¹

⁴⁰ This is due to what Scheffler terms *the egalitarian deliberative constraint*. It says that “If you and I have an egalitarian relationship, then I have a standing disposition to treat your strong interests as playing just as significant a role as mine in constraining our decisions and influencing what we will do. And you have a reciprocal disposition with regard to my interests. In addition, both of us normally act on these dispositions. This means that each of our equally important interests constrains our joint decisions to the same extent” (Scheffler 2015, 25). I assume that the egalitarian deliberative constraint also entails that we do not have an egalitarian relationship if I treat my weak interest as playing just as significant a role as your strong interest in influencing what we will do.

⁴¹ However, we may have other, stronger reasons to favour a “one person, one vote” scheme. If so, we would still prefer a “one person, one vote” scheme *all things considered*.

Chapter 6: Conclusion

The boundary problem—the question of who should be included in democratic decision-making—is of great importance. One reason why is that who is included ultimately makes a difference to what decisions are taken. Another reason is that without an answer to this question, we may be blind to fundamental democratic injustices of wrongful exclusion and inclusion. A third reason is that we are yet to have a satisfactory solution to the question of who should be included. Thus, the boundary problem is of both practical and theoretical importance. This thesis has been concerned with the boundary problem. Its findings may be compressed into a negative, critical message and a positive, more constructive message.

The negative, critical message of this thesis is that we must be highly skeptical of the two most popular solutions to the boundary problem, to wit, the all-affected principle and the all-subjected principle. The values that have been taken to underlie these principles are incapable of explaining why an affected or a subjected individual must be included in democratic decision-making *because* she is affected or subjected. Interestingly, not only do the two principles fail as solutions to the boundary problem; they fail for the same reason. The upshot of this is that we still do not have a satisfactory solution to the boundary problem.

The positive, more constructive message of this thesis is that we find a satisfactory solution by settling why democracy is valuable. That is to say, the value of democracy speaks to the constitution of the demos. This means that we must settle why democracy is valuable. We have seen that one plausible solution—that democracy is valuable as it is a constituent part of relating as equals—implies, on a plausible understanding of what it means to be relevantly socially related, that future people should not be included in democratic decision-making, not even when it comes to deciding on the climate of the future, and that we may deviate from a “one person, one vote” scheme when enfranchising people.

A satisfactory solution to the boundary problem may have implications for one of the problems with which we began, namely, the problem of persistent minorities. If the value of democracy implies that we bound the demos in relation to what people have at stake in a given decision, it may be that an otherwise persistent minority may have sufficiently large stakes on an issue to be able to settle the decision if they vote together. That may be the case if it is a community with a larger majority and a smaller minority and it is a decision

in which the former has small—if any—stakes and the latter has large stakes. Thus, we can now see why a solution to the boundary problem may be able to mitigate the problem of persistent minorities, at least in relation to some issues.

Although I must admit that I am sympathetic to the relational egalitarian view of the value of democracy, this view still leaves many questions unanswered with regard to demos constitution. For instance, what does this view imply for the scope of democracy? In a globalized world, people are clearly related across nation states, but does this mean that we must have a global democracy, or are people globally not related in the relevant way (cp. Nath, 2011; 2015)? And what about those who live on the outskirts of society? Are felons related to the rest of the community in the relevant way, or should they be excluded from democratic decision-making while they are in prison? It may be that there is a connection between these issues. If felons are to be included in democratic decision-making, it is clear that the relations required to be included in the demos must be fairly thin given the relations that felons have to the rest of the community. Then, it may be that people globally have the same thin relations to members of the community. If true, including felons would also entail a global demos in some sense. Ultimately, who should be included in the demos on the relational egalitarian view depends on what it means to be relevantly socially related. This question must thus be answered in future research. As is clear from these remarks, we still have a long way to go in settling the boundary problem, but this thesis has (hopefully) brought us closer to the aim of bounding the right demos.

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Dansk resumé

Denne afhandling undersøger hvem der skal inkluderes i demokratiske beslutninger. Dette spørgsmål er kendt som afgrænsningsproblemet i demokratiteori. Der er to populære svar på dette spørgsmål i litteraturen. Det første svar siger at vi skal inkludere dem der bliver påvirket af beslutningen, hvorimod det andet svar siger at vi skal inkludere dem der er underlagt beslutningen. Det første svar er kendt som "all-affected princippet", og det andet svar er kendt som "all-subjected princippet". Denne afhandling starter med at undersøge førstnævnte princip. Den viser at der er en symmetri i princippet således at både dem der gavnnes og skades af en beslutning har ret til at træffe beslutningen. Den viser også at døde skal inkluderes ifølge "all-affected princippet" fordi de kan være påvirket af nutidige beslutninger, og den undersøger hvordan vi kan institutionalisere inklusion af døde. Afhandlingen argumenterer derefter for at "all-affected princippet", på trods af at være en populær løsning på afgrænsningsproblemet, ikke kan bruges som løsning på afgrænsningsproblemet fordi dets underliggende værdier ikke kan forklare hvorfor et individ skal inkluderes i demokratiet *fordi* det er påvirket.

Anden del af afhandlingen undersøger således "all-subjected princippet". Afhandlingen argumenterer for at princippet indebærer at fremtidige personer skal inkluderes i nutidige demokratiske beslutninger samt at der skal være arbejdsplads- og familiedemokrati fordi personer i disse sfærer kan være underlagt beslutninger som krænker deres selvbestemmelse. Dernæst viser afhandlingen hvorfor "all-subjected princippet" heller ikke er en tilfredsstillende løsning på afgræsningsproblemet. Det er ikke en tilfredsstillende løsning af samme grund som "all-affected princippet" ikke er en tilfredsstillende løsning: de værdier der underligger princippet kan ikke forklare hvorfor et individ skal inkluderes i demokratiet *fordi* det er underlagt beslutninger.

Fordi "all-affected princippet" og "all-subjected princippet" ikke er tilfredsstillende løsninger på afgræsningsproblemet må vi kigge andetsteds for at finde en løsning. Tredje del af afhandlingen argumenterer for at vi må afgrænse demos i henhold til hvorfor demokrati er værdifuldt. Forskellige svar på hvorfor demokrati er værdifuldt fører tilsyneladende til forskellige afgrænsninger af demos, og det betyder at vi må afgøre hvorfor demokrati er værdifuldt. Afhandlingen undersøger det svar som siger at demokrati er værdifuldt fordi det er konstituerende for ligeværdige relationer. Dette svar implicerer at de der er relevant socialt relaterede skal træffe beslutninger demokratisk. I modsætning til "all-affected" princippet og "all-subjected princippet" implicerer dette svar, givet en plausibel forståelse af hvad det vil sige at være socialt relaterede, at fremtidige personer ikke skal inkluderes i demos.

Der er dog stadig meget vi ikke ved om denne løsning. For eksempel: er der andre mulige, plausible svar på hvad det vil sige at være socialt relaterede? Og hvad med dem der lever på kanten af samfundet så som indsatte – er de socialt relaterede til resten af samfundet på den relevante måde, eller skal de have frataget stemmeretten imens de er i fængsel? Videre undersøgelse af dette syn på hvorfor demokrati er værdifuldt er således nødvendigt for at løse afgrænsningsproblemet i demokratiteori.

English Summary

This dissertation investigates whom we should include in democratic decision-making. This is known as the boundary problem in democratic theory. Two popular answers are given in the literature. The first says that we must include in making a decision everyone who is affected by that decision, whereas the second says that we must include in making a decision everyone who is subjected to that decision. Whereas the former is known as the all-affected principle, the latter is known as the all-subjected principle. The dissertation begins by exploring the all-affected principle. It argues that the principle implies that there is a symmetry in the principle such that both those who are negatively and positively affected by a decision must be included. It also argues that dead people must be included according to the all-affected principle because they may be affected by contemporary democratic decisions and explores how we may institutionalize the enfranchisement of dead people. The thesis then argues that despite being a popular solution, the all-affected principle fails as a solution to the boundary problem because the values taken to underlie the principle cannot explain why an affected individual must be included in democratic decision-making because she is affected.

The second part of the thesis turns to the all-subjected principle. It argues that the all-subjected principle entails inclusion of future people and that we must establish democracy in the workplace and in the family because people may be subjected to decisions in those areas that infringe on their self-government. The thesis then argues that neither is the all-subjected principle a satisfactory solution to the boundary problem. Interestingly, the all-subjected principle fails for the same reason as the all-affected principle: The values taken to underlie the principle fail to explain why a subjected individual must be included because she is subjected.

Because the all-affected principle and the all-subjected principle fail, we must look elsewhere for a proper solution to the boundary problem. The third part of the thesis argues that we must demarcate the demos in accordance with the value of democracy. Different answers to this question will, presumably, lead to different demarcations of the demos. This means that we must settle why democracy is valuable. The thesis explores a value-based solution that implies that those who are relevantly socially related should make democratic decisions together. This is the relational egalitarian view of the value of democracy. On a plausible understanding of what it means to be relevantly socially related, this view, contrary to the all-affected principle and the all-subjected principle, entails that future people should not be included in the demos. This view still leaves many questions unanswered. For instance, may

there be other plausible views on what it means to be relevantly socially related? And what about those living on the outskirts of society, such as felons—are they related to the rest of the community in the relevant way, or should they be excluded from democratic decision-making while they are in prison? Further exploration of the relational egalitarian view of the value of democracy is thus necessary for solving the boundary problem in democratic theory.