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# Economic Participation Rights and the All-Affected principle

**Abstract:** The democratic boundary problem raises the question of who has democratic participation rights in a given polity and why. One possible solution to this problem is the all-affected principle (AAP), according to which a polity ought to enfranchise all persons whose interests are affected by the polity's decisions in a morally significant way. While AAP offers a plausible principle of democratic enfranchisement, its supporters have so far not paid sufficient attention to economic participation rights. I argue that if one commits oneself to AAP, one must also commit oneself to the view that political participation rights are not necessarily the only, and not necessarily the best, way to protect morally weighty interests. I also argue that economic participation rights raise important worries about democratic accountability, which is why their exercise must be constrained by a number of moral duties.

**Keywords:** all-affected principle; democratic boundary problem; economic participation; non-citizens; transnational democratic inclusion.

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## Introduction

Who has democratic participation rights in a given polity, and why? This question is known as the democratic boundary problem.<sup>1</sup> One possible solution to this problem is the all-affected principle (AAP), according to which a polity ought to enfranchise all persons whose interests are affected by the polity's decisions in a morally significant way. Since AAP implies that existing polities<sup>2</sup> ought to enfranchise *non-citizens* if their interests are affected, the justification of democratic participation rights conferred under AAP is thus citizenship-independent: whether a person possesses a particular legal status is simply not decisive for the question whether she ought to have a voice in a democratic decision.<sup>3</sup>

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1 It is impossible to do the vast extent of literature on this topic justice in a footnote, but for some of the most influential discussions of this problem, see Frederick G. Whelan, 'Prologue: Democratic Theory and the Boundary Problem,' in J. Roland Pennock and John W. Chapman (eds.) *NOMOS XXV, Vol. 25: Liberal Democracy* (NYU Press, 1983), 13-47; Robert A. Dahl, *Democracy and Its Critics* (Yale University Press, 1989); Robert E. Goodin, 'Enfranchising All Affected Interests, and Its Alternatives,' *Philosophy & Public Affairs* 35/1 (2007), 40-68; David Miller, 'Democracy's Domain,' *Philosophy & Public Affairs* 37/3 (2009), 201-228.

2 For the purposes of this paper, I use AAP to address the question who has participation rights in existing polities, and thus take them as given. However, AAP could also be used as a heuristic device in order to determine latent constituencies which ought to form new polities.

3 Here, it is important to distinguish between enfranchisement principles which justify that a person A has a right to participate in *all* decisions being taken in a specific polity, and principles which justify that A has a right to participate in a *particular* decision – or set of decisions – which affects her morally weighty interests as specified in the subsequent section. AAP plausibly supports only the latter, and thus differs from 'blanket enfranchisement' principles which justify participation rights on the grounds that A is a citizen or a co-national. This is why AAP is best construed as citizenship-independent and nationality-independent.

My core claim in this paper is that while AAP offers a plausible principle of democratic enfranchisement if it specifies clearly which affected interests are morally weighty enough to justify participation rights, its supporters have so far not paid sufficient attention to participatory practices that depart from the standard picture of political participation (voting, running for office, peaceful demonstrations). In particular, they have paid barely any attention to economic participation rights. This is particularly troubling in light of the fact that many of the ways in which a citizen or non-citizen can be affected occur within economic relationships. Having developed this position in the first two sections of this paper, I subsequently go on to argue that, if one commits oneself to AAP, one must also commit oneself to the view that political participation rights ( $X_p$ ) are not necessarily the *only*, and not necessarily the *best* way, to protect morally weighty interests. Whenever this is the case, AAP necessarily demands the conferral of economic participation rights ( $X_e$ ), which I define as the set of rights which enable their holder A to participate in democratic decisions either by using economic resources to voice political preferences of any kind (e.g. boycotts, campaign funding); or by voicing political preferences specifically about the use of economic resources, either within an economic relationship (e.g. strikes in a corporation) or within a political forum (e.g. participatory budgeting in a public assembly). While one might not always find empirical examples for the *transnational* conferral of all of these rights – that is, the conferral of  $X_e$  to non-citizens who are also non-residents – my view is that if one is committed to AAP, one must also think that the transnational conferral of  $X_e$  is morally required ideally speaking, as long as other central conditions of AAP obtain. The lack of empirical examples for some of these modes of transnational democratic inclusion is thus not in itself a reason to reject AAP; in fact, they highlight AAP's usefulness as a heuristic device for identifying urgent priorities for policy change.<sup>4</sup>

I conclude my argument in the fourth section of this paper by pointing out how  $X_e$  raise unique worries about the potentially unforeseeable and unaccountable political impact of democratic participation. This undermines AAP's goal of protecting the morally weighty interests of rights-holders. Hence, I argue that AAP supporters must endorse not only the view that AAP demands the conferral of  $X_e$ , but also the view that AAP entails duties which constrain the scope of  $X_e$  in a way that prevents internal inconsistency within AAP: a duty of accountable public justification, and a duty not to intentionally and foreseeably misuse  $X_e$  in an unjust or exploitative way.

4 Whether an ideal transnational distribution of  $X_e$  would be *feasible* given currently existing state institutions is a separate question, and one which I will bracket here.

## Which Affected Interests Are Relevant for AAP?

### *Morally Significant Interests in Autonomy and Wellbeing*

AAP is deeply controversial: why would anyone think that a person A has participation rights *because* her interests are affected? Clearly, not just anything that is in A's interest qualifies as morally weighty enough to justify the conferral of rights to have a say in decisions that significantly shape the lives of others. Trivial, unreasonable, or morally wrong subjective preferences cannot count as relevant for any plausible reading of AAP.

So which interests *are* morally weighty enough to count for AAP? As other contributors to the debate on AAP have proposed,<sup>5</sup> it is plausible to think that the class of morally weighty interests encompasses both the interest in wellbeing and the interest in autonomy.

Regarding the former, it is tempting to define the interest in wellbeing as narrowly as possible in order to highlight its moral weight. This could be done, for instance, by restricting the interest in wellbeing to a basic needs account. But while basic needs constitute an important part of a person A's morally weighty interest in wellbeing, there are many cases in which A is affected in a morally significant way while her basic needs remain satisfied, such as when B exploits A by taking unfair advantage of A's skills, but does not prevent her from accessing food and shelter. It is obvious that A's interest in wellbeing is still (adversely) affected here because A has a diminished ability to pursue her conception of wellbeing on her own terms.<sup>6</sup> In section II, I will elaborate further on different types of cases in which persons count as relevantly affected under AAP *without* the satisfaction of their basic needs being at stake. For now, I define the interest in wellbeing as an interest that encompasses both the satisfaction of A's basic needs, and A's ability to pursue her own conception of wellbeing.<sup>7</sup>

Similarly, the morally weighty interest in autonomy ought not to be construed too narrowly either: meaningful autonomy requires more than simply choosing

5 Both Carol Gould and Mark Warren (independently) define fundamental interests in the context of AAP as our interest in 'self-determination [which encompasses autonomy] and self-development [which plausibly includes at least basic wellbeing].' See Mark E. Warren, 'The All Affected Interests Principle in Democratic Theory and Practice,' *IHS Political Science Series Working Paper 145* (June 2017), p. 3; Carol Gould, *Globalizing Democracy and Human Rights* (Cambridge: CUP, 2004), p. 178; 197. As Gould helpfully clarifies, 'a person is [...] importantly affected [...] not [...] only if the decision deprives people of civil rights or threatens their person but also applies if it would deprive them of the opportunity to gain means of subsistence' (*ibid.*, p. 212). The view that self-determination encompasses wellbeing has also been articulated by Iris Marion Young: 'Self-development in this sense certainly entails meeting people's needs for food, shelter, health care, and so on.' See Iris M. Young, *Inclusion and Democracy* (Oxford: OUP, 2002), p. 32.

6 In Iris Young's words, 'While the distribution of resources [...] is a central issue for the value of self-development, this value also raises questions about the institutional organization of power, status and communication in ways not reducible to distributions.' (Young, 2002, p. 32).

7 I am not claiming that a person's interest in wellbeing consists in actually *achieving* whatever wellbeing-related outcome she subjectively wants to achieve. I am merely claiming that having the *ability* to pursue her subjective conception of wellbeing is in her interest, whether she exercises this ability or not.

from a set of available options; it also requires the ability to develop and pursue one's own conception of the good. As Raz argues, an 'adequate range of options'<sup>8</sup> is only one of three conditions for having autonomy. One also must be independent from coercion and manipulation, and one must possess 'adequate mental abilities.'<sup>9</sup> If we restrict a person's autonomy, or her ability to make autonomous decisions, without an appropriate justification, we morally wrong her pro tanto (although perhaps not all things considered), even if we do not harm her physically or mentally.

By this, I do not mean that A's interests are affected *in a way that is relevant to AAP* if A does, or does not, succeed in obtaining *outcomes* or achieving goals that A herself has articulated by using her capabilities of autonomy. This claim would be too broad, it implies the – implausibly inclusive – view that A's interest in autonomy is *always* relevantly affected – by any law or policy that is in some way related to A's goals. The more precise and plausible view is the one that I have set out here: 'It is in A's interest to be autonomous' means that A's autonomy-related interests are relevantly affected only (i) if someone is interfering with A's *ability* to make autonomous decisions, e.g. by brainwashing or propaganda, or by placing A in a relationship of domination or exploitation; or (ii) if unjust or unjustified laws wrong A by forcing A to do particular things, even if such laws do not interfere with A's general ability to be autonomous.

In sum, people's objective interests – not their subjective preferences – are what justifies democratic enfranchisement under AAP. But when people get participation rights, they are obviously free to express and pursue their subjective preferences, and to hold democratic representatives accountable for making decisions contrary to their interests. This does not guarantee that their interests will in fact be protected ex post, but enfranchisement is a necessary feature of any account of *democratic* interest protection. If securing particular outcomes was all that mattered, a benevolent dictator could protect morally significant interests – but this would not be sufficient from the perspective of a democratic argument such as AAP. AAP's primary purpose as a principle of democratic enfranchisement is to realise the democratic value of procedural fairness when it comes to the consideration and protection of morally weighty interests. This claim is compatible with the view that achieving just outcomes may require much more: a democratic principle alone, such as AAP, cannot possibly – and does not have to – *guarantee* just outcomes.

8 Joseph Raz, *The Morality of Freedom* (Oxford: Clarendon Press, 1986), pp. 372 ff.

9 *Ibid.*

### ***Interests, Rights, and the Detriment Test***

Most existing accounts of AAP do not explicitly draw on the interest theory of rights in order to justify why affected interests justify participation rights. This is surprising, since that theory offers a helpful – albeit controversial<sup>10</sup> – normative framework. Raz’s influential definition of the interest theory states that “X has a right” if and only if X can have rights, and, other things being equal, an aspect of X’s wellbeing (his interest) is a sufficient reason for holding some other person(s) to be under a duty.<sup>11</sup>

While this thought is a natural starting point for AAP supporters, it is not immediately obvious why exactly a person’s relevantly affected interests are sufficient for justifying that person’s democratic enfranchisement, and thus, why a demos might be in breach of a duty by failing to confer democratic participation rights to that person. In other words, what is lost when we fail to confer democratic participation rights to people whose morally weighty interests are affected: under which conditions would doing so be to their *detriment*?<sup>12</sup> First, a failure to confer democratic participation rights to a relevantly affected person A places A in a condition of vulnerability, such that A lacks a democratic enforcement mechanism for obtaining the consideration of her interests during decision-making. This is detrimental to A even if A’s interests were not *adversely* affected in the first place.<sup>13</sup> Second, a failure to confer democratic participation rights constitutes an expressivist wrong against affected persons, who are owed a public acknowledgement of their equal status in a democratic state. Third, a failure to confer democratic participation rights is detrimental to A because A’s inclusion in democratic procedures would improve other democratic agents’ knowledge about the nature of A’s interests and preferences, thus improving the quality of democratic deliberations. For these three reasons, a relevantly affected person’s detriment is sufficient for justifying the conferral of democratic participation rights. Of course, the abstract right of democratic participation justified by AAP can instantiate itself in different forms, such as the concrete right to vote, or the concrete right to engage in peaceful protest. Which set of concrete rights specific persons who are enfranchised under AAP hold respectively depends on the particular ways in which their interests are affected.

10 Offering a full defence of the interest theory of rights is beyond the scope of this paper.

11 Raz (1986), p. 166.

12 Matthew Kramer has proposed a somewhat similar, but much more general, ‘detriment test’ in the context of legal rights: ‘If and only if at least one minimally sufficient set of facts includes the undergoing of a detriment by some person Q at the hands of some other person R who bears a duty under the contract or norm, Q holds a right – correlative to that duty – under the contract or norm’ (Matthew H. Kramer, “Refining the Interest Theory of Rights,” *The American Journal of Jurisprudence* 55, no. 1 (2010): 36–37).

13 I elaborate on cases of this kind in the next section.



### What Does It Mean to ‘Be Affected’?

What does ‘being affected’ mean in the context of AAP? As I will argue, actual and possible coercion,<sup>14</sup> exploitation, and reciprocity form a set of cases in which a person A is relevantly affected by a polity in the context of AAP, such that each one of these cases is *sufficient* for establishing that AAP is relevantly affected. Those cases pass the detriment test, because all of them are cases in which participation rights are necessary for protecting A’s relevant interests.

My arguments in this section show why, in order for A to have participation rights, A’s interests in autonomy or wellbeing must not only be affected, but they must also be affected in a certain way. My arguments also show that many relevant types of ‘being affected’ occur within *economic* relationships.

### Actual Coercion

When we say that ‘B coerces A,’ we typically have a situation in mind where B changes the range of choices that A has in order to induce A to act in particular way. More specifically, when B coerces A, B restricts A’s autonomy – while not necessarily restricting the *amount* of A’s options – in such a way that A complies with B’s directives even though A would not have freely chosen to do so. In my view, B is able to do so if B communicates a credible and non-trivial threat to A.<sup>15</sup> I say ‘while not necessarily restricting the amount of A’s options’ here because although some coercive threats may eliminate certain options altogether, other coercive threats do not. They simply make certain options costly – and sometimes prohibitively so – for the coerced. By ‘credible,’ I mean threats issued to coerceds whose compliance can be tracked and enforced by a coercer. By ‘non-trivial,’ I mean threats that impose significant costs for noncompliance on the coerced.

Coercion cases pass the detriment test because coerced A cannot be certain that the coercer will respect and promote her relevant interest in autonomy fully. Here, participation rights are necessary – although possibly not sufficient – for protecting A’s interest in autonomy. In those cases, A is entitled to participation rights because having those rights gives A the opportunity to have a say in how a demos D may restrict her interest in autonomy. If a polity fails to

14 By incorporating coercion cases, AAP is able to subsume all cases included by a rival solution to the democratic boundary problem: the all-subjected principle (ASP). In contrast to ASP, however, AAP supporters can show that there are cases in which non-coercively affected interests justify participation rights. For influential discussions of ASP, see Arash Abizadeh, ‘Democratic Theory and Border Coercion: No Right to Unilaterally Control Your Own Borders,’ *Political Theory* 36 (2008), pp. 37–65; Robert Goodin, ‘Enfranchising all subjected, worldwide,’ *International Theory* 8/ 3 (2016), 365–389; David Miller, ‘Democracy’s Domain,’ *Philosophy and Public Affairs* 37/3 (2009), 201–228; Laura Valentini, ‘No Global Demos, No Global Democracy? A Systemization and Critique,’ *Perspectives on Politics* 12/4 (2014), 789–807.

15 For discussion of why credible threats must be coercive, see Joel Feinberg, *The Moral Limits of the Criminal Law. Volume 3, Harm to Self* (New York ; Oxford: Oxford University Press, 1986), p. 198. For an account of the non-triviality criterion, see Alan Wertheimer, *Coercion* (Princeton: Princeton University Press, 1987), p. 127.

confer participation rights to coercee A, the polity wrongfully breaches its duty, which would be detrimental to A.

### ***Possible Coercion: Non-enforcement and Domination***

What if a demos B refrains from exercising coercion over A, but could choose to do so at any given time? A would make her decisions in such a way that takes the possibility of coercion by B into account, and would probably choose differently than she otherwise would. Unlike in case of actual coercion, B does not explicitly change A's range of options by communicating coercive threats to A. But in possible coercion cases, A still has to take into consideration how B might possibly change her range of options as a response to how A chooses to act. It is for that reason that A's interests are relevantly affected in a similar way when A is possibly coerced, compared to when A is actually coerced.

The first type of possible coercion is *non-enforcement*. This case occurs when states choose not to enforce certain laws, for example because potential offences of law X are too insignificant to justify the cost of enforcing X. The function of legal systems that govern our conduct is not only to coerce us; they also impose duties and exercise social power.<sup>16</sup> Often the presence of the latter two is sufficient for ensuring compliance, which is why coercion is only exercised selectively in some cases. In cases without actual coercion, we would not be inclined to say that the subjects of particular laws or policies are *not coerced* by the entity that chooses not to exercise coercion in a specific case. Therefore, we must incorporate the concept of possible coercion into our understanding of what it means to be relevantly affected.<sup>17</sup>

The second type of possible coercion is *domination*.<sup>18</sup> An entity with coercive power dominates A if it has the prerogative of *arbitrarily* deciding if, when, and how it will interfere coercively in A's affairs. This prerogative is 'arbitrary' in domination cases because the subjects have no say in how the prerogative to interfere is exercised.<sup>19</sup> Examples of domination which are particularly relevant for justifying participation rights under AAP include cases in which non-resident non-citizens who live at the border of a demos, or on a territory that the demos occupies or intends to occupy, are under non-trivial threat of

16 Leslie Green, 'The Forces of Law: Duty, Coercion and Power,' *Oxford Legal Studies Research Paper*, 12 (2015), p. 15

17 Of course, not *all* cases of non-enforcement qualify as forms of coercion which affect one's interest in autonomy and wellbeing in a morally significant, non-trivial way. Predictable, non-arbitrary forms of non-enforcement of the kinds of laws which are designed to impose minor sanctions for relatively small transgressions are excluded on this account, because such cases would not meet the detriment test.

18 For discussions of the relevance of domination for AAP, see David Owen, 'Constituting the Polity, Constituting the Demos: On the Place of the All Affected Interests Principle in Democratic Theory and in Resolving the Democratic Boundary Problem,' *Ethics and Global Politics* 5/3 (2012), 129-152, pp. 140-3; Ludvig Beckman and Jonas Hultin Rosenberg, 'Freedom as Non-domination and Democratic Inclusion,' *Res Publica* (2017), 1-18.

19 As Pettit puts it, 'A will be dominated in a certain choice by [...] B, to the extent that B has a power of interfering in the choice that is not itself controlled by A.' Philipp Pettit, *On the People's Terms: A Republican Theory and Model of Democracy* (Cambridge: Cambridge University Press, 2012), p. 50.



coercion by that demos. One may worry – in my view rightly – that giving a dominated group of persons who are at risk of annexation participation rights in the decisions of the dominating group will not make this instance of domination any less wrong. AAP can easily accommodate this worry, however, because AAP is not committed to the view that enfranchisement is *sufficient* for protecting all affected interests. AAP simply determines the correct scope of democratic enfranchisement, but it cannot help us identify which other rights – such as veto rights, a right of self-defence, or a right to reparation and redistribution – are necessary for achieving an all-things-considered just state of affairs. In the case outlined here, annexation as an instance of domination would clearly remain morally wrong even if AAP is implemented and the annexed are enfranchised. This conclusion is compatible with my modest interpretation of AAP. Not enfranchising the annexed would simply constitute an *added* wrong on top of the already existing wrong of annexation.

### ***Exploitation***

Exploitation is not a straightforwardly coercive situation. Unlike coercers, exploiters typically make an offer to the exploitee rather than threatening her. In doing so, exploiters may change the payoffs of certain options,<sup>20</sup> or actually add new options – albeit not necessarily good ones. Exploitation is neither exclusively nor primarily wrong because it restricts exploitees' autonomy; exploitation cases pass the detriment test because exploiters take *unfair advantage* of exploitees, so that exploitees are wronged even if being exploited benefits them.<sup>21</sup> Therefore, exploitees need a democratic enforcement mechanism in order to protect their interests. The irrelevance of coercion for justifying participation rights in exploitation cases implies that even some non-resident non-citizens who are not subject to actual or possible coercion by a particular polity ought to be enfranchised in that polity. Of course, exploitees may be owed more than just participation rights. They may also, for example, have a right to benefitting from a redistribution of goods and services in accordance with principles of fairness. Analogous to my earlier points about the wrongness of domination, however, fully *rectifying* the wrongs of exploitation all-things-considered is beyond the scope of AAP.

### ***Reciprocity***

Participants of reciprocal projects are often heavily invested in them, and they are not less invested just because they enter such projects voluntarily and not

<sup>20</sup> Ruth J. Sample, *Exploitation: What It Is and Why It's Wrong* (Lanham, Md.: Rowman & Littlefield, 2003), p. 11.

<sup>21</sup> Joel Feinberg, *The Moral Limits of the Criminal Law. Volume 4, Harmless Wrongdoing* (Oxford: Oxford University Press, 1988), p. 176; see also Robert E. Goodin, 'Exploiting a Situation and Exploiting a Person' *Essex Papers in Politics and Government*, no. 22 (1985).

coercively. Their autonomy and wellbeing often depend on the continuous, reliable success of reciprocal relationships for a foreseeable time frame.

Let us consider a few examples of affected non-citizens engaging in a reciprocal project with a demos and its members. The most obvious case encompasses both resident citizens and resident non-citizens, such as migrant workers, who ordinarily work, pay taxes and derive benefits such as free basic health care. But consider also *non-resident* non-citizens, who may be in a reciprocal relationship with a demos B if they are members of another demos which has entered into a trade agreement with B. Furthermore, *resident* non-citizens who are not permitted to work in B and thus do not pay taxes in B, such as asylum-seekers, may still partake in the reciprocal sharing of benefits and burdens with the members of B. At first sight, it seems impossible for asylum-seekers to do so even though they may want to, given that many countries impose strict employment restrictions. In the UK, for example, asylum-seekers are normally prohibited from working until they are officially granted asylum.<sup>22</sup> Yet there is more to reciprocity than taking on paid work and paying taxes. Engaging in activities such as care work and volunteer work for charities, churches, or NGOs also means that one partakes in the sharing of burdens by devoting personal resources to an activity that benefits the larger public.<sup>23</sup>

Why do reciprocity cases pass the detriment test? Is it not compensation enough for contributing to the sharing of burdens if A receives the benefits of a reciprocal relationship – why would A be entitled to *additional* participation rights, purely in virtue of her reciprocal activities? While I agree that A is indeed fairly *compensated* in cases of fair reciprocity, the function of participation rights is not compensation – rather, it is the democratic enforcement of a continuous consideration of all relevant interests. In order for reciprocity to be entirely fair, the terms on which reciprocal relationships operate must not only be fair in the present (t<sub>1</sub>), but there must be mutual assurances that they will remain fair in the foreseeable future at t<sub>2</sub>, t<sub>3</sub> and so on. Our interest in autonomy and wellbeing is not *adversely* affected by reciprocal relationships, but it is still affected. Reciprocal partners have a stake in deliberating and deciding together on the terms of an on-going cooperation, and especially in deciding how this cooperation may affect their fundamental interests in autonomy and wellbeing – even if the terms of the trade agreement were *initially* negotiated fairly and by

22 Immigration Rules 2014 (United Kingdom), §344B and §360 (2014), <<https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-11-asylum>> (Accessed: 30 January 2018).

23 Of course, resident non-citizens are not only relevantly affected via reciprocity in this case, but also more straightforwardly via coercion. Either type of affectedness is sufficient for justifying enfranchisement, and if several types of affectedness are present, this is not a problem for my account. In fact, it is important to identify exactly in what way a person is relevantly affected, because those affected *both* by coercion *and* reciprocity may well need a different set of concrete participation rights in order to democratically enforce the consideration of their interests than those affected *exclusively* by coercion.

legitimate institutions. Fair reciprocity thus also entails a reciprocity of public justification, and this is only possible if all reciprocal partners have participation rights. In light of this, it would be to the detriment of reciprocal partners not to have participation rights which protect their relevant interests.

### **Economic Participation Rights: Substitutes, Supplements, Constraints**

In the previous two sections, I have developed one version of AAP, which justifies why affected persons have an abstract right to participation. If we accept that version, what does this view commit us to regarding the question of how this abstract right instantiates itself in various concrete forms?

Existing versions of AAP focus primarily on the distribution of the concrete right to vote. To some extent, an emphasis on voting may be justified. After all, voting is a particularly tangible marker of enfranchisement: its use is confined to discrete and foreseeable moments in time, its scope is normally equal for each rights-holder, and its content is relatively uncontroversial. But focussing exclusively on voting obscures the fact that democratic enfranchisement also includes a variety of other types of political participation, such as running for political office, participating in a legal peaceful protest, or engaging in civil disobedience. If AAP is supposed to provide a full account of democratic enfranchisement, it needs to explicitly incorporate a range of qualitatively different concrete instantiations of the right to participate in democratic decisions. But if we accept the general idea that AAP is compatible with different concrete instantiations of participatory rights, we also need to question whether all of these instantiations must be *political* participation rights – particularly if many kinds of relevant affectedness, such as exploitation and reciprocity, occur partially or primarily within economic relationships. What if there are circumstances in which other forms of democratic participation, such as *economic* participation, protect the interests of all those enfranchised under AAP in a better way? In such circumstances, AAP would demand the conferral of economic participation rights alongside, or instead of, political participation rights, depending on the specific context.<sup>24</sup>

The kind of economic participation that I have in mind here is a set of practices that involve the use of public and private economic resources to influence political decisions, as well as a set of practices that contribute to political decision-making

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24 Carol Gould makes a similar claim when developing her own account of AAP: 'I [...] propose that we take one meaning of being affected as given by human rights, where these rights include not only the mostly negative civil and political rights but also the more full-bodied social and economic rights.' Carol Gould, *Globalizing Democracy and Human Rights*, p. 212.

regarding the distribution and use of public and private economic resources.<sup>25</sup> This is a deliberately broad definition of democratic economic participation. It is broader than the kinds of economic participation typically discussed in the literature on economic democracy, which focuses – for instance – on workplace democracy, unionisation, or the self-management of workers in co-operatives. These kinds of participatory practices aim at democratising existing economic institutions, such as the workplace. The question in that debate is: who has the right to participate in decisions within an economic enterprise? But settling this question is not sufficient for supporters of AAP: we also need to ask how we ought to distribute economic participation rights in a given democratic polity.

*Economic participation rights:* the set of rights  $X_E$  which enable their holder A to participate in democratic decisions either by using economic resources to voice political preferences of any kind (e.g. boycotts, campaign funding); or by voicing political preferences specifically about the use of economic resources,<sup>26</sup> either within an economic relationship (e.g. strikes in a corporation) or within a political forum (e.g. participatory budgeting in a public assembly).

If we understand concrete  $X_E$  in this way, under which circumstances does the abstract right to participation justified by AAP instantiate itself in this form? My claim is that they do so whenever the morally significant interests in autonomy and wellbeing cannot be adequately protected *without* concrete  $X_E$ , or whenever relevant interests can be protected *better* via  $X_E$  than via political participation rights  $X_p$  alone.

### **Substitutes**

Having clarified what  $X_E$  are, let us now consider *how*  $X_E$  can possibly work in conjunction with political participation rights to protect morally significant interests. There are at least three cases which seem *prima facie* plausible. It seems that  $X_E$  may, first, serve to achieve the same ends as political participation rights do, so that they act as a substitute. Even though political and economic participation rights are qualitatively different, and may thus be incommensurable in certain cases, there *are* cases in which they may serve the same purpose for the prospective rights-holder.

<sup>25</sup>  $X_E$  thus differ from standard *economic liberties* exercised in the private realm for a *private* (non-political) purpose, such as ‘working, transacting, holding, and using’ (see James Nickel, ‘Economic Liberties’ in *The Idea of a Political Liberalism: Essays on Rawls*, ed. Victoria Davion (Lanham, MD: Rowman and Littlefield, 2000), 155–76, pp. 156 f). However, political decisions about the *scope* of such economic liberties may well fall into the domain of  $X_E$ .

<sup>26</sup> One may wonder why these kinds of rights are not simply political participation rights  $X_p$ . The point is that the *scope* of these rights is restricted to a specific domain, which alters the substantive content of these rights, and thus makes them conceptually different from standard  $X_p$ . But note that even if one rejects my claim that there is a clear conceptual boundary between  $X_E$  and  $X_p$ , one can accept the more *general* claim (which is compatible with my view) that, since our interests are significantly affected by decisions over economic resources, a commitment to AAP entails a commitment to the view that we ought to grant affected persons a whole *range* of rights over those decisions, *both* by expanding the scope of  $X_p$ , *and* by expanding the scope of  $X_E$ . I thank Cécile Fabre for this point.

*Substitute:* Either  $X_E$  or  $X_P$  protect A's morally relevant interests sufficiently and equally well.

To see how  $X_E$  could act as a substitute for  $X_P$ , consider, for example, participatory budgeting: residents meet in neighbourhood assemblies to deliberate on the community's needs, and subsequently appoint community representatives who make decisions about the allocation of those funds, as well as about future investment priorities. Thus, participatory budgeting *integrates* the exercise of *political* participation rights  $X_P$  into a decision-making process specifically concerned with the use and distribution of economic resources. Here, participatory budgeting functions as a genuine substitute only if other, more general political participation rights, such as the right to vote in federal elections, are unavailable to the holder of the right to engage in participatory budgeting. This does not necessarily imply that the holder of this right would be indifferent between having  $X_P$  or  $X_E$ ; it simply means that  $X_E$  can, in this limited decision-making domain, fulfil a sufficiently similar function as more standard  $X_P$ .

Participatory budgeting is a comparatively young democratic innovation: first developed in the late 1980s in Porto Alegre, Brazil, it was subsequently adopted in 1,500 cities across the world by 2012.<sup>27</sup> One of the reasons for this is its relative success in securing better outcomes than conventional models of political participation: in Porto Alegre, for example, participatory budgeting successfully increased participation by traditionally non-participating citizens.<sup>28</sup> Furthermore, exercising standard political rights had been ineffective in securing an accountable and fair use of public resources in light of a historical background of deeply entrenched political corruption. Participatory budgeting, by contrast, gave residents direct control over the means to provide key public services and basic infrastructure, such as widespread access to water services and to more public schools.<sup>29</sup> This track record suggests that the right to engage in participatory budgeting helps protect the kind of affected interests that are relevant for AAP more directly than standard political participation rights such as voting in local or federal elections, and may thus be a *better substitute*. Even if the same positive outcomes could have been achieved via the exercise of  $X_P$  – assuming that the background problem of corruption could have been tackled otherwise – this kind of economic participation is more direct and

27 Ernesto Ganuza and Gianpaolo Baiocchi, 'The Power of Ambiguity: How Participatory Budgeting Travels the Globe,' *Journal of Public Deliberation* 8/2 (2012).

28 Graham Smith, *Democratic Innovations: Designing Institutions for Citizen Participation* (Cambridge: CUP, 2009), p. 39.

29 Archon Fung and Erik Olin Wright, 'Thinking about Empowered Participatory Governance,' in Archon Fung and Erik Olin Wright (eds.), *Deepening Democracy: Institutional Innovations in Empowered Participatory Governance* (London: Verso, 2003), p. 5



more accountable.<sup>30</sup> In addition, participatory budgeting is a positive model for a ‘second-best’ enfranchisement of relevantly affected resident *non-citizens* via  $X_E$  if standard  $X_P$  are unavailable to them. If  $X_E$  do function as a genuine substitute in this case – and this case may be admittedly rare<sup>31</sup> – then from the perspective of AAP, non-citizens are not being wronged by not having  $X_P$ .

How does a traditionally local practice like participatory budgeting enhance *transnational* democratic inclusion? Empirically, the right to contribute to participatory budgeting is usually conferred to residents. But the fact that transnational participatory budgeting which includes non-resident non-citizens is not an empirical reality (yet) is not decisive for this argument: the point is that, from the perspective of AAP, transnational participatory budgeting *would* be desirable if it could substitute or supplement political participation rights conferred to non-resident non-citizens in accordance with AAP. Transnational participatory budgeting could be implemented, for instance, in the context of local cross-border decision-making concerning the protection of public goods, such as environmental protection policies: several municipalities ( $M_1$ ,  $M_2$ , ...  $M_n$ ) located in the same region, but divided by a national border, could implement a *joint* participatory budgeting scheme, which would thus grant persons who are neither residents nor citizens of  $M_1$  participation rights in  $M_1$ . This would be justifiable according to AAP, provided that the interests of the enfranchised groups in  $M_1$ ,  $M_2$ , ...  $M_n$  are relevantly affected.

### **Supplements**

Second, economic participation rights may *supplement* political participation rights by amplifying their scope. As supplements, economic participation rights protect relevant interests indirectly by adding an enforcement mechanism for the impact of political participation rights, thus increasing their potency.

*Supplement:* Possession of either  $X_E$  or  $X_P$  protects A’s morally relevant interests sufficiently, but possession of both  $X_E$  and  $X_P$  amplifies the scope and/or political impact of each one of those rights.

For instance, simply voting for a political party that wants to improve fair working conditions in transnational corporations may well suffice in some cases for protecting vulnerable interests of workers – depending on whether the party succeeds, of course. But if members of the same constituency that

30 Another added benefit is informing and mobilising the wider public: as Goodin argues, ‘[b]eyond informing policymakers, deliberative mini-publics can play an important role in informing fellow citizens about what they might themselves think about the matter, had they the same opportunity to study and discuss the matter intensively with one another.’ Robert E. Goodin, *Innovating Democracy: Democratic Theory and Practice After the Deliberative Turn*, Oxford: Oxford University Press (2008), p. 268.

31 Whenever participatory budgeting does *not* function as a genuine substitute, it is best construed as a special case of a *supplement* which integrates both  $X_E$  and  $X_P$  and is designed in a way that maximise the ability of rights-holders to access, and to actually exercise, such rights. I am indebted to an anonymous reviewer for highlighting this point.



would vote for the political party also engage in a transnational solidarity strike, this will amplify the impact of their vote, because the party can then demonstrate that the issue of fair working conditions is a widely shared concern and thus subject to public scrutiny. There are many *transnational* examples of solidarity strikes which aim to increase political pressure. For instance, when the Latvian building company Laval un Partneri Ltd won a school renovation contract from the Swedish government, it employed Latvian workers, but paid them significantly less than local Swedish workers would ordinarily earn.<sup>32</sup> In solidarity with the Latvian workers, the Swedish Building Workers' Union asked Laval Ltd to sign their collective agreement, and when the company refused, the union joined forces with the Swedish Electricians Union to engage in strike action, thus effectively blocking the company from doing business in Sweden. In cases like these, the exercise of economic participation rights clearly increases the likelihood of adequate interest protection for relevantly affected citizens and non-citizens, even if political participation alone could be sufficient.

In both the first case (substitutes) and the second one (supplements), AAP may not *demand* the conferral of  $X_E$ , if morally relevant interests are protected sufficiently via  $X_P$ . However, in non-ideal conditions, this may not often be the case: it is often costly, impractical, and sometimes just impossible to create the kinds of institutions that would be needed in order for all affected persons to be able to exercise  $X_P$ .  $X_E$  would be a feasible, and thus better, alternative to standard  $X_P$  under those circumstances. And if  $X_E$  are the only or best way to protect morally relevant interests under non-ideal conditions, then their conferral is morally required by AAP. Similarly, even if feasibility constraints are not a concern, AAP may demand the conferral of  $X_E$ . In non-ideal conditions where a group's exercise of  $X_P$  gets systematically ignored, so that the group finds itself in a persistent minority, the group may need an added enforcement mechanism in order to ensure equal concern for the interests of its members.  $X_E$  may provide such an enforcement mechanism. So, in sum, AAP demands the conferral of  $X_E$  – when  $X_E$  are either substitutes or supplements for  $X_P$  – if  $X_P$  either cannot be exercised for feasibility reasons, or if  $X_P$  are ineffective for interest protection.<sup>33</sup>

### Constraints

Consider now a third, and last, possibility:  $X_E$  may act as a constraint on  $X_P$  – both on the  $X_P$  of others, and on one's own  $X_P$ .

<sup>32</sup> For the details of this case, see the European Court of Justice ruling in *Laval un Partneri Ltd v Svenska Byggnadsarbetareförbundet* (2007) C-341/05, <<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62005CJ0341>> (Accessed: 1 January 2018). The ruling was widely criticised for overemphasising business interests, which again successfully increased political pressure to adequately consider the fundamental interests of workers.

<sup>33</sup> If those conditions do not apply, the conferral of  $X_E$  is still morally permissible, but not required.

*Constraint:* A's  $X_E$  constrains the exercise of a right  $X_p$  in a way that enhances the protection of A's interests.

Regarding the former,  $X_E$  may act as a countervailing power to  $X_p$ , as 'a variety of mechanisms that reduce, and perhaps even neutralize, the power-advantages of ordinarily powerful actors.'<sup>34</sup> Consider a strike by persons – citizens or non-citizens – who are relevantly affected for the purposes of AAP because they are being *exploited*. Given that a relationship of exploitation is present, this suggests a clear power advantage of the exploiter, in which case expressions of the political preference not to be exploited may well remain inconsequential. A strike, however, may give exploiters a tangible incentive to enter into a negotiation with exploitees; and the exploitees' power to strike allows them to place credible demands on the exploiter during that negotiation process. For a transnational example of this, consider a well-known EU labour law case, *The International Transport Workers' Federation (ITWF) and The Finnish Seamen's Union v Viking Line ABP and OÜ Viking Line Eesti* (2007).<sup>35</sup> Finnish company Viking Line ABP operated a ship between Finland and Estonia, which it attempted to 'reflag' as Estonian in order to avoid having to pay its workers Finnish wages instead of lower Estonian wages. Here, the company's aim clearly seems to have been to take unfair advantage of their workers' labour, which is why the workers' interests count as relevantly affected by exploitation according to the version of AAP developed above. When ITWF and its local partners jointly planned strike action, the company sought an injunction against them in UK courts, and even though England and Wales's High Court granted the injunction, the Court of Appeal of England and Wales ultimately overturned it. However, when this case was referred to the European Court of Justice, the ECJ ruled in favour of the company. But since this ruling was widely condemned for prioritising business interests over the basic interests of workers, it still had a significant political impact by triggering public debate about the transnational right to strike as a strategy for opposing exploitative working conditions in transnationally operating companies.

Regarding the latter, consider the recent history of US campaign finance law about Political Action Committees (PACs) run by unions and corporations. The Bipartisan Campaign Reform Act of 2002 (better known as the McCain-Feingold Act) prohibited solicitation of contributions from non-union-members.<sup>36</sup> What does this mean for the relationship between  $X_E$  and  $X_p$ ? Members of these kinds

34 Archon Fung and Erik Olin Wright, 'Countervailing Power in Empowered Participatory Governance,' in Archon Fung and Erik Olin Wright (eds.), *Deepening Democracy* (London: Verso, 2003), p. 260.

35 The details of this European Court of Justice case are available at <<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62005CJ0438>> (Accessed: 1 January 2018).

36 Note that this particular provision was struck down by *Citizens United v. Federal Election Commission* 558 U.S. 310 (2010).

of PACs have exercised their  $X_p$  by forming and joining associations (in this case, a union or corporation, and a PAC), and they express their political preferences through those associations, but their use of campaign finance-related  $X_E$  is restricted to soliciting financial contributions from *union members* only. So the exercise of  $X_E$  constrains the scope in which one's own  $X_p$  may be exercised.<sup>37</sup> From the perspective of AAP, these kinds of  $X_E$  could justifiably also be accorded to relevantly affected non-citizens – for instance, resident non-citizens who are union members. However, when it comes to according this right to non-resident non-citizens, the case is likely to become more complex: while campaign contributions by foreigners are not impermissible *as a matter of principle* from the perspective of AAP, they do need to be balanced against principles of justice: even if AAP would justify the conferral of a right to engage in transnational campaign funding to a non-resident non-citizen, this right might be overridden by potentially weightier justice-based concerns about *disproportionate* foreign interference in a polity's political decision-making landscape, especially if they undermine the integrity of that polity's existing democratic institutions.

Having outlined these three relationships, it is useful to reflect on what I am not claiming. First, I am not committing myself to the view that  $X_E$  always, and only, interact with  $X_p$  in these three ways: I have neither tried to claim that  $X_E$  necessarily fulfil these functions, nor have I attempted to offer an exhaustive list of possible relationships between  $X_p$  and  $X_E$ . Second, my account is not incompatible with the view that one and the same right of economic participation may fulfil more than one of the three functions: boycotts and strikes, for instance, may be both supplements and constraints. Third, I am not denying that persons who do not count as relevantly affected from the perspective of the AAP can have  $X_E$  as well. It may well be possible to justify  $X_E$  for the unaffected – but such a justification could obviously not be based on affected interests, which is why I will not discuss this possibility in detail here.

In sum, my modest aim in this section has simply been to point out that  $X_E$  *can* act as substitutes, supplements, or constraints on  $X_p$ , and that this important type of transnational enfranchisement is currently heavily underexplored in the literature on AAP. Whenever this is the case,  $X_p$  are not necessarily the only way, and not necessarily the best way, to protect the kinds of morally relevant interests that count as relevant for the AAP. So it is exactly in these cases that AAP justifies the conferral of  $X_E$  to persons – citizens as well as non-citizens, residents as well as non-residents – whose interests are relevantly affected.

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<sup>37</sup> Of course, in this case, in addition to acting as a constraint on one's other rights  $X_p$ , the economic participation right  $X_E$  is also constrained *itself*, most importantly by relevant legislation concerning PACs.

### **Constraining Duties: Accountability and No International Misuse**

There is one important worry about including economic participation rights  $X_E$  in the set of rights conferred to affected persons in accordance with AAP. Even if AAP plausibly justifies an ex ante distribution of concrete  $X_E$  in a similar way to which it justifies the distribution of concrete political participation rights  $X_P$ , the full extent of  $X_E$ 's ex post impact may be much less tangible than the impact of exercising  $X_P$ .  $X_E$  which involve voluntary (non-)exchanges of private economic resources, particularly campaign funding and boycotting, are likely have a political impact that is hard to track, simply because voluntary private economic relationships and transactions are subject to public scrutiny to a much lesser extent than those within the public domain. Furthermore, in a globalised economy, those private economic relationships are often subject to overlapping and potentially conflicting laws governing the exercise of  $X_E$ . In light of these factors, it is therefore difficult to determine which holders of  $X_E$  ought to be held accountable for any detrimental impact of  $X_E$  being exercised, and to which constituency they ought to be accountable to.

If  $X_E$  are particularly hard to track in this way, it is plausible to think that their exercise is constrained by a number of duties.<sup>38</sup> First, rights-holders need to be accountable for how they use or do not use their  $X_E$  by publicly justifying their actions to other holders of affected interests. Second, rights-holders have a duty not to intentionally and foreseeably *misuse* their  $X_E$  in a way that adversely affects the interests of others. My claim here is that any plausible version of AAP must be compatible with the imposition of at least these two minimal duties, because without them, the participation rights conferred in accordance with AAP cannot be used as an adequately strong democratic enforcement mechanism for the consideration of the affected interests that they are supposed to help protect.

### ***Deliberative Accountability via Public Justification***

How can private individuals be held accountable for the ways in which they use their participation rights? Standard, 'narrow' models of democratic accountability focus on holding elected representatives accountable for their decisions. Holders of participation rights can hold such representatives accountable via electoral sanctions, for example by choosing other candidates in the next election. 'Wide' conceptions of accountability, by contrast, emphasise the accountability of a broader set of democratic actors, including unelected

<sup>38</sup> These duties are not necessarily specific to  $X_E$ , for they may plausibly apply to the exercise of other rights as well. For instance, consider countries where voting (and thus the exercise of a particular  $X_P$ ) is compulsory, such as Luxembourg or Peru: here, the exercise of  $X_P$  correlates with a duty incurred by the holder of  $X_P$  to exercise this right in a particular way. Nevertheless, it is important to examine how exactly these duties play out in the context of  $X_E$ .

individual rights-holders who participate via  $X_E$  and  $X_P$ .<sup>39</sup> Holding such actors accountable via sanctions is hardly possible, unless they intentionally misuse their participation rights. But they can be asked to justify deliberatively how they make use of their opportunities of impact on a polity's decisions, and their respective effect on the morally relevant interests of others.<sup>40</sup> This allows us to think about duties of democratic accountability held by non-elected political actors, and particularly those exercising their  $X_E$  outside of state institutions. Thus, the 'wide' model of accountability is particularly useful for understanding the specific duties that plausibly constrain  $X_E$ , although similar duties may of course also plausibly constrain standard  $X_P$ .

To illustrate how this duty works in practice, consider participatory budgeting, where resident citizens and resident non-citizens use  $X_E$  to self-select into a deliberative process regarding the use of public resources in a way that protects the interests of residents. The participants of participatory budgeting processes have to justify their decisions to each other and to the wider public. They also have to publicly justify why they are the right person to participate in this kind of decision-making, for example by demonstrating a basic competency regarding the issues being discussed.<sup>41</sup>

Of course, the scope of the justificatory group may increase dramatically, and to an unforeseeable extent, with the conferral of  $X_E$ . This raises the question of whether we can always know who our duties of accountability are directed at. The brief answer is: we cannot, and this is not necessarily a reason to be sceptical of AAP. AAP offers us conceptual tools for an ex post evaluation of democratic participation: AAP does not only determine who has duties of accountability, but it also shows when and why democratic actors have breached a duty of accountability. Hence, the issue of the unforeseeable political impact of  $X_E$  simply highlights a feature of AAP, not a bug.

One final question remains: do the holders of  $X_E$  incur these duties only if they actually exercise their rights? This would be plausible if failing to exercise one's participation rights never affected the interests of others. However, this is just not how economic participation rights work. Consider strike-breakers: a worker of company A choosing not to exercise their right to strike actively

39 For an influential alternative to the sanctions model, see Jane Mansbridge, 'A "Selection Model" of Political Representation,' *The Journal of Political Philosophy* 17/4 (2009), 369-398.

40 This does not mean, of course, that each  $X_E$ -holder A must *actually* justify her use of  $X_E$  to each affected person every time A makes use of her  $X_E$ . This would be overly demanding. Instead, A's use of  $X_E$  must be *justifiable* – rather than actually *justified* – to the justificatory group, the latter of which can then challenge A to actually justify her use of  $X_E$  ex post.

41 Note however that from the perspective of AAP, it is not the case that *non-citizens*, purely in virtue of their legal status, incur a *special*, more demanding duty of justification for their exercise of participation rights. Since AAP is a citizenship-independent account regarding the conferral of participation rights, it also offers a citizenship-independent account of correlative duties, so that 'foreign influence' is not intrinsically objectionable.



undermines an on-going strike, and weakens the bargaining position of other holders of the right to strike. This adversely affects the interests of all strikers in A, including the strike-breaker's. It may also adversely affect the interests of workers in a different organisation B, who do not have the right to strike in A but nevertheless have a stake in how successful the strikes in A turn out to be. Strikebreaking in A may set a bad precedent for future strikes in B. Hence, overall, it is more plausible to say that *both* acts (exercising one's right to strike) *and* omissions (not exercising this right) trigger a duty of justification.

### ***No Intentional Misuse of Economic Participation Rights***

Secondly, holders of  $X_E$  incur a duty not to intentionally and foreseeably misuse their rights in a way that affects the interests of others in an unjust or exploitative way. The relevant interests here are the ones that count as morally relevant for the AAP, as outlined in section I of this paper: the interest in autonomy and wellbeing. The justification for this duty, again, is that AAP would be inconsistent if it demanded the conferral of rights, but allowed for these rights to be used in such a way that they undermine the very purpose for which they were conferred in the first place: the equal consideration and protection of fundamental interests. As Christiano rightly points out, 'the ordinary exercise of liberal property rights can in some contexts constitute an exercise of political power that abridges political equality.'<sup>42</sup>

To illustrate more concretely how  $X_E$  can be intentionally misused in a way that breaches the duty outlined above, consider two kinds of boycotts, which both involve the use of *private* financial means in the context of *private* economic relations in a way that is intended to have a *political* impact: the transnational boycott of South African products in an effort to end Apartheid, and a boycott of the products of a company run by members of a particular social group (e.g. LGBTQ persons). The first kind of boycott is non-discriminatory, because its political aim is to combat injustice – specifically, racial injustice in South Africa – and because it is not targeted against persons or groups based on morally arbitrary criteria.<sup>43</sup> The second boycott, in turn, is discriminatory, because it targets LGBTQ individuals simply in virtue of their sexual orientation, which is a morally arbitrary feature. As such, the aim of this boycott would be to further

<sup>42</sup> Thomas Christiano, 'Political equality and the independent power of private property,' in *Problems for Democracy*, ed. John H. Kultgen, Mary Lenzi (Amsterdam: Editions Rodopi, 2006), 119-138, p. 120.

<sup>43</sup> My use of the term 'morally arbitrary' reflects standard terminology in the philosophical literature on discrimination. As David Miller puts it, 'a morally arbitrary feature of persons is a feature that should not be allowed to affect the way they are treated,' see David Miller, *National Responsibility and Global Justice* (Oxford: OUP, 2007), p. 32. For an extensive discussion of which features might qualify as arbitrary, see – amongst many others – Richard Arneson, 'Discrimination, Disparate Impact, and Theories of Justice,' in Sophia Moreau and Deborah Hellman (eds.), *Philosophical Foundations of Discrimination Law* (Oxford: OUP, 2014), 87-111. For critical discussion, see Kasper Lippert-Rasmussen, *Born Free and Equal? A Philosophical Inquiry Into the Nature of Discrimination* (Oxford: OUP, 2014), pp. 105 f.



the social exclusion and disadvantage of LGBTQ persons, and thus to uphold an unjust state of affairs. Holders of the right to boycott have a duty not to intentionally use their right in this second way.<sup>44</sup>

Note that the duty specified here is not a duty of redistribution or compensation. If A's exercise of  $X_E$  or  $X_p$  does turn out to be detrimental to B's interests *ex post*, A may well be liable to compensatory measures – but those measures have to be justified by additional principles of justice and fairness. They cannot be justified internally by AAP because AAP determines the correct *ex ante* distribution of rights and correlative duties.

One may object that my account so far seems to imply a dramatically overdemanding duty, according to which we may never infringe on the interests of others by exercising  $X_E$ . But recall that the AAP excludes trivial interests from consideration, so this duty is limited to infringements of fundamental interests in autonomy and wellbeing. Furthermore, given that we sometimes have to infringe even on such fundamental interests in order to pursue an even more important goal, this duty is best understood as a *pro tanto* duty, so that it may be permissibly overridden if that ensures an overall better protection of relevant affected interests.

## Conclusion

This paper has made three contributions to the philosophical debate about the democratic enfranchisement of non-citizens. Firstly, I have developed a nuanced version of the all-affected principle (AAP), which clearly states what kinds of interests are morally relevant for AAP, what it means to be affected, and why being affected justifies an abstract right to democratic participation (sections I and II). My goal here has not been to defend AAP fully against competing solutions to the democratic boundary problem. Rather, I have tried to construct a plausible version of AAP that addresses some of the undertheorised aspects of existing versions of AAP, and then to show what this implies for possible views about *concrete* participation rights that AAP supporters must commit themselves to.

Secondly, I have argued that the abstract right justified by AAP instantiates itself not only as a cluster of concrete *political* participation rights, but also as a cluster of concrete *economic* participation rights (section III). These kinds of economic participation rights have been underacknowledged in the literature so far, but they are of crucial importance for AAP: there are important cases in

<sup>44</sup> This applies not only to boycotts where persons misuse their  $X_E$  collectively in order to achieve a shared goal, but also to individual instances of non-association. If the background conditions are such that a significant number of  $X_E$ -holders choose to engage in individual non-association, this may well have a political effect similar to the effects of a boycott.

which relevant interests cannot be adequately protected without these rights, especially under non-ideal conditions. Therefore, those who commit themselves to AAP more generally must also commit themselves to the more specific view that AAP demands the conferral of concrete economic participation rights. In this context, I have identified ways in which economic participation rights substitute, supplement, and constrain political participation rights.

I have concluded the paper by arguing, thirdly, that the exercise of concrete economic participation rights raises important worries about accountability and political impact, and that their exercise must therefore be constrained by several duties (section IV).

One wider implication for future research is that, when it comes to understanding *voice* in the context of the democratic boundary problem, we ought to adopt a more multifaceted approach: rather than only analysing discrete instantiations of participation rights in isolation, and only focussing on standard political participation rights, we also ought to examine how the interplay between economic and political participation rights serves to protect valuable interests, and what kinds of duties constrain the exercise of such rights.<sup>45</sup>

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