Serving the Governed: On the Truth in Political Instrumentalism

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This event is catered, free of charge & open to the general public

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BIOGRAPHY

Daniel Viehoff is Assistant Professor of Philosophy at New York University. His research focuses on political, legal, and moral philosophy. He is especially interested in questions of political authority and legitimacy, and in democratic theory. Daniel is currently completing a book manuscript on the special duties we have to obey democratically made decisions. In addition he is doing work on the nature of voting rights and the justification of democratic enfranchisement.

EDITORIAL NOTE

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How can one person’s having political power over another be justified? Political instrumentalists assert that such justifications must be in an important sense derivative, and that this constraint on justification bars a number of positions widely endorsed in political and philosophical debates. This essay discusses what the instrumentalist constraint on political justification exactly amounts to (and why extant formulations of it, by proponents and opponents alike, are generally mistaken), what motivates the constraint (in a nutshell: a deeply non-instrumental concern with respect for others as independent moral agents), and what it entails for how we may justify democratic political arrangements in particular.

POLITICAL INSTRUMENTALISM is a view about how to justify one person’s having political power over another. Central to it is the thought that justifications of political power must be in an important sense derivative, and the claim that this requirement bars a number of justifications widely endorsed in political and philosophical discussions. Consider, for instance, how to justify giving an equal share of political power to all citizens (as in a democracy), as opposed to giving such power to only a few (as in an aristocracy) or a single ruler (as in a monarchy). The political instrumentalist asserts that democracy cannot be justified by appealing to each citizen’s basic moral right to a say in the making of the laws; or by invoking citizens’ fundamental interest in having such a say; or indeed by the thought that giving citizens’ such a say (and thus power over each other) is intrinsically valuable. (Nor, to state the obvious, could aristocracy or monarchy be justified in such a fashion.) If a democratic distribution of power is justified, its justification must instead rest on other reasons.

Political instrumentalism (or, from now on, ‘instrumentalism’ for short) has a significant historical pedigree reaching back at least to John Stuart Mill, who famously asserted that the democratic franchise is “a trust” rather than “a right”, because “no person can have a right (except in a purely legal sense) to power over others.”1 More recently it has been

influential defended by Richard Arneson, who, in a series of articles, has argued for what he calls a “purely instrumental account” of political legitimacy, according to which only instrumental considerations can justify particular distributions of political power.² And yet instrumentalism has been relatively neglected in discussions of political justification. (Just consider, by comparison, the amount of ink spilled on questions of liberal neutrality, perfectionism, or public reason.) I think this reflects the widely held impression that instrumentalism is ultimately a rather unattractive position that rests on an overly narrow (not to say cramped) axiology: it may seem to presuppose that only consequences matter, and nothing else; or that it never matters how we do things, only what we do; or that our relationships to others only have instrumental value. And even if instrumentalism doesn’t expressly presuppose these general claims, it may at least seem to lack imagination to conceive how democracy could have non-instrumental value. (Thus most opponents of instrumentalism respond to it by pointing to various ways in which democracy may have non-instrumental value, rather than asking what deeper commitment motivates the instrumentalist position, and how to resist that motivation.)

I think this misconstrues the moral basis of instrumentalism. The purpose of this essay is thus to develop another, more attractive account of political instrumentalism. The central claim that it defends is ultimately this: The instrumentalist restriction on how power is justified does not reflect an overly narrow view of what kinds of relationships or actions could have value. Instead it reflects a particular concern for a distinctive, and frequently overlooked, requirement of respect for another’s rational agency that governs our relationships.

After some brief remarks about what an account of instrumentalism should aspire to (Section 1), this essay discusses in detail different ways in which recent discussions have articulated what instrumentalism is committed to. It is widely assumed that instrumentalism (as the label suggests) is centrally concerned with the kind of value that can justify political power relations. But, I show (in Sections 2 and 3), none of the most plausible ways of filling in this idea (by distinguishing derivative and non-derivative value, or instrumental and non-instrumental value) is successful: the axiological distinctions seem either over- or under-inclusive relative to our assessments of actual political justifications; and the rationale for imposing an axiological restriction of this sort is difficult to discern. I thus propose (in Section 4) a different account of instrumentalism’s cen-

tral commitment: goods whose characterization necessarily makes reference to one person’s having power over another cannot justify that very power relation. This particular constraint on political justification is, in turn, grounded in a deeper moral claim: Allowing such goods to enter into the justification of political power will normally be disrespectful of the subject’s agency, and thus of her. So she can reasonably object to being under another’s power if justifying the power relation requires appealing to such goods (Sections 5 and 6). So understood, instrumentalism is much more morally attractive than has often been recognized. And interestingly, it is not altogether incompatible with procedural concerns often thought excluded by it. Most importantly, certain non-instrumental arguments for political equality – and so for democracy – may be compatible with respect for agency, as long as they value, not that citizens have power over each other, but that citizens are not subject to unequal power relations (Section 7). I conclude by briefly highlighting the implications instrumentalism so conceived has for concrete questions in political ethics, like penal disenfranchisement (Section 8).

1.

Let me begin by briefly clarifying what an account of political instrumentalism is concerned with, and aims to achieve. Instrumentalism’s core concern – how to justify one person’s having political power over another – in principle covers both why anyone should have such power over citizen C (why C has an obligation to follow anyone’s decision, or is subject to anyone’s coercion)\(^3\), and the separate question why, if (for some reason or another) it is practically necessary that someone have such power over C, it should be A (or B, or A and B, or A, B, and C…) in particular. Or, to consider the matter from the opposite direction: to justify A’s (or B’s, or…) having power over C requires justifying both that someone should have power over C and that it should be A. The following discussion will subsume both of these under the more concrete question how a particular distribution of political power is to be justified. In modern societies, political power is commonly (though not exclusively) exercised through the law. So, in line with most discussions of instrumentalism, this essay focuses on who gets to make decisions about legal norms governing the community.

We may usefully think of the distribution of decision-making power, and more generally the question of how decisions are made (by whom, on what basis), as a matter of political procedure. Political instrumental-

\(^3\) The most influential view on this often thought to be ‘instrumentalist’ in orientation is Raz’s ‘service conception’ of authority: (Raz 1986, Raz 2006). I have discussed the underappreciated moral motivation for adopting a service account of authority in (Viehoff 2016).
ism is thus centrally a position about how to justify political procedures (broadly understood): a view, not about what political decisions should be made, but how they should be made, and how we justify that they should be made in this way rather than that. (This, to be clear, is perfectly compatible with saying that how political decisions should be made is fully determined by what outcomes — including what decisions — different procedures lead to.)

Instrumentalism denies that certain arguments that have seemed to many philosophers to provide a plausible basis for justifying political procedures can in fact do the job. One way of understanding instrumentalism is thus as simply summarizing an independently reached conclusion about justified political procedures: When we consider, one by one, different justifications of political procedures, we discover that those justifications that rest on certain (non-instrumental) considerations each fail, and only those that rest on others (instrumental) considerations succeed. But, on this summary view, the fact that the justification rests on this particular kind of value does not play a central role in explaining its failure. I mention the summary view only to set it aside, and to focus instead on another way of understanding instrumentalism according to which it offers an explanation why certain justifications fail: because they appeal to the wrong kinds of considerations, viz. those that are non-instrumental.

Why set aside the summary view of instrumentalism? First, it is doubtful that considering, one by one, different non-instrumental justifications and finding them wanting would be particularly effective for establishing the instrumentalist conclusion. After all, it leaves it open to the opponent of instrumentalism to insist that giving certain people a political say — for instance, giving an equal vote to everyone bound by the laws, as in a democracy — is simply a “bedrock normative ideal” that requires no further justification. Faced with this claim, one would want a positive argument for denying that there could be such an ideal, or that the ideal could play the justificatory role that it is meant to play here. Second, the summary approach does not take sufficiently seriously what I believe motivates many of those inclined towards instrumentalism: the sense that the failure of non-instrumental justifications is not just coincidental, but instead due to their non-instrumental features. The aim of this essay is thus (i) to articu-

4 That isn’t to say that many proponents of instrumentalism haven’t been tempted by it. See, e.g., (Wall 2007) and (Arneson 2009).
6 See, e.g., (Arneson 2003), p.126: “The conviction that drives my account is that one has legitimate authority to direct the course of other people’s lives … only if one’s exercise of [this authority] works out well for all concerned parties. Rights to power over others are rights to serve as steward of the interests of the affected parties.”
late an account of the *principled objection* instrumentalists have to certain ways of justifying political power and (ii) to show the principle underpinning the objection to be morally plausible in its own right.

II.

Discussions of instrumentalism frequently contrast it to proceduralism. This may invite confusion: Instrumentalism is, its name suggests, concerned with the *kind* of value that political power and its distribution has: instrumental v. non-instrumental value. Proceduralism, by contrast, appears to be concerned with the *locus* of value that justifies political power: it is the value of procedures rather than outcomes.

What lies behind this somewhat odd contrast is the thought that (i) procedures have qualities that are independent of the outcomes they reach – a procedure may, for instance, be fair insofar as it gives everyone an equal say, and yet be unreliable in identifying the substantively best policy – and (ii) that these qualities may be thought to have non-instrumental value. So, on a common understanding, what the instrumentalist denies (and the proceduralist asserts) is that the non-instrumental value of the outcome-independent quality of a procedure (or the ‘non-instrumental value of the procedure’, for short) can justify that procedure. Most obviously perhaps, it may be unable to justify the procedure because no such value exists. Thus Arneson frequently frames his instrumentalism in opposition to the claim that “democracy [or any other distribution of political power] is intrinsically and not merely instrumentally just.”

I believe that this focus on the kind of value that outcome-independent qualities of procedures have is mistaken. Instrumentalism so understood is both hard to motivate and difficult to align with judgments about particular cases. To show this I consider, in this section and the next, the two most plausible strategies for drawing the axiological distinction at which talk of a political procedure’s instrumental or non-instrumental value gestures. The first strategy treats instrumental value as equivalent to non-intrinsic value, and insists that political procedures can only be justified by the derivative contribution they make to some other good. The second strategy further narrows the domain of the instrumental to exclude both intrinsic and constitutive value, and asserts that only a procedure’s causal contribution to some good can bear on its justification. Neither makes for

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8 They may also have instrumental value; perhaps giving people an opportunity to exercise power over others will motivate them to be better citizens.
a plausible account of instrumentalism’s central commitments.

Let me begin with the former view. Arneson’s opposition to the thought that democracy, or any other distribution of political power, could be “intrinsically and not merely instrumentally” valuable suggests that instrumentalism denies that political procedures could have intrinsic value. To say that something has intrinsic value is normally to say that its value is not derived from the contribution that it makes to the realization of some other good.10 So what the instrumentalist appears to be denying is that political procedures can be justified by their non-derivative value, or by their being good as such. (I will call this the ‘narrow’ interpretation of instrumentalism, because it excludes relatively little compared to the alternative understanding I discuss next.) What instrumentalism rejects, on this interpretation, is that we could justify, e.g., each citizen’s right to vote in a democratic election by saying: ‘It’s a good thing as such that we each have a say in deciding how everyone around here is to act with regard to certain matters.’

The attraction of this narrow interpretation is that it captures at least part of what plainly motivates the instrumentalist position: that, when it comes to justifying one person’s power over another, it cannot be enough to simply say that it is good as such that there be such power. (Why saying this can’t be enough is a further question.) But this comes at a significant (I think indeed overwhelming) cost: the narrow interpretation leaves plenty of room for paradigmatically proceduralist arguments of the sort instrumentalists would generally wish to reject.11 Many proceduralists do not, for instance, claim that a fair or egalitarian procedure is good as such, or has non-derivative value. Instead they claim that a fair procedure has value that derives from the contribution that the outcome-independent qualities of the procedure makes to certain other things that are of value: for instance, treating our fellow citizens with respect, as equals, etc. Consider an influential account of democracy’s value suggested by Thomas Christiano: People have a fundamental, non-derivative interest in public equal respect. Under conditions of disagreement, the best (and perhaps only) way to show such respect is to establish and obey egalitarian de-

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10 It is sometimes suggested that something has intrinsic value only if it has value in virtue of its intrinsic properties. But I doubt that this is what political instrumentalists are interested in. (Indeed, (Arneson 2004), p.42, expressly denies that this is his concern.) And I doubt too that it is what most others thinking about intrinsic value care about. (This point is powerfully made in (Kagan 1998).) In any event, it is pretty clear that this move would do nothing to save the broad interpretation given the objection I raise to it in this section. (See also fn. 20 below.)

11 (Beerbohm 2012), ch. 1, makes a related observation regarding the debate between instrumentalists and proceduralists in democratic theory.
cision-making procedures. So the egalitarian procedure has value only derivatively, because it contributes to the realization of the good of public equal respect. Still, the value the procedure has depends on its outcome-independent quality, the fact that everyone is given an equal say. If instrumentalism is meant to bar an argument with this structure, then simply foreclosing appeals to a procedure’s non-derivative value is inadequate.

III.

An alternative way of specifying the instrumentalist commitment is suggested by the observation that, on at least some ways of carving up the domain of value, it contains more than intrinsic and instrumental value. On such views, while intrinsic value is non-derivative and instrumental value is derivative, the latter is not the only derivative form of value. There is also what is sometimes referred to as ‘constitutive value’. Both instrumental and constitutive values depend on contributions made to something else that is of value. But the contributions they make differ in kind. Something has instrumental value in virtue of its causal contribution to the realization of some other good. Thus my hammer has instrumental value because it makes a causal contribution to my hanging up a picture in the living room (where hanging this picture on the wall is itself valuable). Something has constitutive value, by contrast, in virtue of its non-causal contribution to the realization of some other good. So my being concerned for my friend who had an accident may have value, not because it causes anything good, but because it constitutes (without causing) my being a good friend to her.

According to a second, ‘broad’ interpretation of instrumentalism inspired by this distinction, insisting that political procedures must be justified instrumentally amounts to asserting that procedures can be justified by neither their intrinsic nor their constitutive value. This broad inter-

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12 This is a very rough summary of the complex view developed in (Christiano 2008).
13 This is true even if the value of the procedure is contingent (because equal public respect could in principle be realized without such a procedure if there were no disagreement about the first-order requirements of justice). That the procedure is only necessary under conditions of disagreement is compatible with its making a contribution (under those conditions) that is not instrumental.
14 Arneson clarifies that his opponents “do not hold that a democratic system of government is unconditionally morally valuable in virtue of its non-relational properties.” (Arneson 2004), p.42. I take this to mean that he is in effect committed to the narrow interpretation of instrumentalism I discuss next.
15 See, e.g., (Schroeder 2016).
16 That he adopts such a view is suggested by Arneson’s occasional formulation of instrumentalism in the language of consequences: “the form of government that ought to be instituted and sustained in a political society is the one the consequences of whose
pretation resolves the problem the previous, narrow interpretation confronted. For while the argument from public equal respect we previously discussed can avoid the charge of treating democratic procedures as non-derivatively valuable, it does treat them as constitutively valuable: Having and obeying democratic procedures does not cause us to show public equal respect. Rather, having and obeying democratic procedures is itself a way of showing such respect (at least where certain background conditions are met). So on the broad interpretation, an argument like Christia-no’s is objectionably non-instrumental – which is what one would expect the instrumentalist to say.

But the broad interpretation’s gain comes at a significant cost. First, it is rather more difficult to see how one would establish that no procedure could have constitutive value that could figure in its justification. After all, there are many ways in which a procedure may contribute non-causally to some other good, and each of these many instances of constitutive value would have to be excluded by the instrumentalist argument. (I will return to this point below.) Second, the broad interpretation bars not only arguments that are distinctly proceduralist. Its focus on constitutive value effectively also precludes appeals to certain clearly outcome-oriented considerations (the value of certain outcome-dependent qualities a procedure may have) that one would expect an instrumentalist account to leave room for.

Consider an example. When driving I have duties of care to my fellow road-users: I must adopt reasonable measures to minimize the risk of harming others while engaging in a hazardous activity, or else I act with objectionable negligence. And one way to take due care when driving is to follow the rules laid down in the traffic code, the traffic signage erected by the city council, or the directives of police officers guiding traffic. Two features of this example are relevant. First, the officer’s power to direct traffic, the council’s power to set up road signs, and the legislature’s power to create a traffic code may all be grounded in their respective capacity to reliably identify conditions affecting risky driving. Justifying A’s power over B by pointing to A’s capacity to reliably identify hazards that B may face, and thus helping B to respond to them, sounds like just the outcome-oriented argument for A’s power over B an instrumentalist should allow for. And yet the broad interpretation must reject this justification, because following these reliable directives is constitutively rather than instrumentally valuable: It contributes to our taking due care, but it does not do so by causing us to take due care. Rather, following the directives of a reliable decision-maker simply is a way of taking due care. Doing so constitutes, rather than causes, our taking due care, just as obeying egalitarian

operation would be better than those of any feasible alternative.” (Arneson 2009), p.197.
procedures constitutes, rather than causes, our treating others with public equal respect.\textsuperscript{17}

Perhaps someone might bite the bullet and insist that a procedure’s constitutive contribution to the avoidance of negligence really cannot count towards its justification.\textsuperscript{18} But this invites the worry, mentioned earlier, that instrumentalism adopts an overly narrow view of what is good or normatively relevant. Since it is not clear what ‘acting with due care’ and ‘acting fairly’ share beyond the formal feature of being a matter of how we do things, to the realization of which procedures may make a non-causal contribution, rejecting both invites the thought that instrumentalism generally denies that it could matter how we do things, rather than what we do. But denying this is deeply implausible.\textsuperscript{19} And thus instrumentalists have very good reason to try and find another way of identifying what they object to that distinguishes between arguments like the one from due care and that from public equal respect.\textsuperscript{20}

\section*{IV.}

Let me offer a diagnosis of the problem faced by the accounts of instrumentalism just discussed: They focus on the kind of contribution (derivative or non-derivative, causal or non-causal) that political procedures make to some good, and in virtue of which they have value. But by focusing on the kind of contribution political procedures make to some good, they divert attention from a related but separate, and ultimately more important, issue: the nature of the good to which the contribution is made. A focus on the latter avoids the problems identified in the previous sections, and

\textsuperscript{17} Even if obeying a reliable directive constitutes due care, could the directive itself plays a causal role in our so obeying? But by the same logic, even if obeying the fair directive constitutes relating to others fairly, the directive itself plays a causal role.

\textsuperscript{18} Could due care itself be valuable only instrumentally, because it prevents bad consequences? But this is difficult to reconcile with the intuitive thought that injuring someone negligently is worse than injuring them non-negligently.

\textsuperscript{19} Even most consequentialist views do not have this implication. This is obviously so where the consequences we realize include such complex goods as friendship. But it is also true where the good is desire-satisfaction: if A desires to be treated kindly, then B’s treating A kindly constitutively, rather than causally, realizes the relevant good.

\textsuperscript{20} Someone might suggest that there is another way of drawing the distinction that is more in line with traditional discussions of intrinsic and non-intrinsic value: the property of fairness is intrinsic to the procedure, while that of reliability is not. But quite apart from the question why we should care about this distinction (see, e.g., (Kagan 1998)), it is also doubtful that it can do the work here, because fairness itself need not be an intrinsic property of the procedure. Whether a procedure is fair may, e.g., depend on whether it distributes power in proportion to people’s stake in the decision. See, e.g., (Brighouse and Fleurbaey 2010).) So fairness need not be an intrinsic property.
makes possible a more subtle understanding of instrumentalism’s commitments and motivation.

Consider again the two cases we have been discussing. The contribution that a reliable procedure makes to the good of taking due care, like the contribution a fair egalitarian procedure makes to the good of public equal respect, is non-causal. Following a reliable procedure is a way of taking due care (rather than a way of bringing it about that due care is taken), and following a fair egalitarian procedure is a way of showing public equal respect (not just a way of bringing it about that such respect is shown). This indicates that, for a procedure to make a constitutive contribution to some good, there must be a way in which a complete specification of that good itself makes reference to a feature of the procedure: some procedural feature is itself constitutive of the good in question. Thus it is because taking good care just is (in part) a matter of acting in a way that is suitably responsive to the hazards our actions create for others that following a procedure that reasonably tracks and reduces such hazards is a way of taking due care. It is because showing public equal respect just is (in part) a matter of giving equal positive weight to the judgments of others about how we should act that following a procedure the outputs of which are publicly determined by giving equal weight to the judgment-expressing votes of citizens is a way of showing public equal respect for our co-citizens.

Yet there is an important difference between the goods to which the procedures make the relevant non-causal contribution. For the good of due care to which the reliable procedure contributes makes reference to a procedural feature (reliability) that can be specified without any reference to one person’s having power over another. By contrast, the good of public equal respect is not (one might think) fully explicable without reference to who has power over whom: public equal respect just is (in part) a matter of giving some people a say over what others should do. What matters is not, then, how the procedure contributes to the relevant good at issue, but whether the good to which the procedure contributes is one that is partly constituted by certain procedural features, such as who has power over whom.

The good at issue and the kind of contribution that the procedure makes to that good are clearly related. So the account I offer, which focuses on the former, nonetheless explains why many discussions of instru-

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21 Why focus on this point, rather than on the fact that the feature is one that is outcome-dependent? Because not all outcome-dependent features are admissible for the instrumentalist. A position according to which the most reliable judge on various matters should rule simply because he deserves to rule, and not because of the effects his rule has on various other goods, is also unacceptable.
mentalism have (misguidedly) focused on the latter: If instrumentalism bars justifications based on goods that are partly constituted by procedural feature F, then we can invoke neither the intrinsic nor the constitutive value of an F-procedure (qua F-procedure), since in either case we would appeal to F-constituted goods that are barred. Yet the inadmissibility of intrinsic and constitutive arguments is not a fundamental feature of the instrumentalist position, but an implication of its commitment to denying that certain kinds of goods — those the characterization of which make an essential reference to certain procedural features — can justify power relations.22 (So a more appropriate label for ‘instrumentalism’ would in fact be ‘reductivism’. For the sake of simplicity, and in keeping with the existing discussions, I stick here with ‘instrumentalism’.) At the same time, the focus on the good at issue, rather than the kind of contribution the procedure makes, allows for a more fine-grained approach that can distinguish between those procedural features that are deemed problematic and those that are not: even if reliable procedures, like fair procedures, can make a constitutive contribution to some good, the fact that the goods are different, and refer in their characterization to different procedural features, explains why we may treat these justifications differently.

But which procedural features in particular are deemed so problematic by instrumentalism that goods that make essential reference to them in their characterization are inadmissible? The example of due care has already shown that not all procedural features fall into this category. Features that have to do with how we make decisions (reliably) rather than who makes them (democratically, with each person given a say) should not be barred. But in fact, even certain features that have to do with who makes decisions should not be excluded. For there is a clear counterexample to the claim that goods that figure in the justification of political power should never make reference to who has power over whom: Many of us think there is value in leading an autonomous life. (It matters, we think, whether people can choose for themselves whom to marry, what career to pursue, or what religion to adopt.) And the natural way to spell out that ideal makes reference to who has decision-making power over an agent’s life: the agent herself, rather than another. If the value of autonomy

22 A’s having power over B thus cannot be justified by appeal to such power being what Joseph Raz has called a “constituent good”: a constituent component of an intrinsic good that cannot be explained except by reference to this component. (Raz’s example is art, and the intrinsic good of “a life with art”: (Raz 1986), pp.200-1.) Arneson is, I think, gesturing in this direction when he writes: “My position is that democracy, when it is just, is so entirely in virtue of the tendency of democratic institutions and practices to produce outcomes that are just according to standards that are conceptually independent of the standards that define the democratic ideal. Democracy, in other words, should be regarded as a tool or instrument that is to be valued not for its own sake but entirely for what results from having it.” (Arneson 2004), p.42.
figures in the justification of power relations (if only to explain why even instrumentally valuable power relations may have to be constrained for the sake of an agent's autonomy), then so does at least one good that is characterized by essential reference to who has power over whom.23

A more careful formulation of instrumentalism’s core concern thus focuses on the kinds of goods to which one may appeal in justifying political power relations, and highlights that these cannot be goods the characterization of which makes necessarily reference to one person’s having power over another.24 This helps avoid the problems that the narrow and broad interpretations faced. Yet the question remains what motivation there is for adopting an instrumentalist constraint in the first place. Why should goods constituted by one person’s having power over another be inadmissible in justifications of these power relations?

There may seem to be an obvious answer: because no such good (that is, nothing good of that sort) exists. Yet such an answer is more difficult to defend than it may seem. For there are many ways in which something can acquire value, or become a good in the relevant sense. This is obviously true with regard to instrumental value: If I threaten to harm you unless I get to rule over you, then there may now be instrumental value in letting me rule over you. But, crucially for our purposes, it is also true with regard to non-instrumental value: Things can acquire non-instrumental value by becoming important to us, figuring in our projects, etc. Some think it may take as little as someone’s desiring that A rule over B for it to become valuable for A to rule over B: that the power relation exists now ensures (non-causally) the satisfaction of the desire. But even if we adopt a more demanding view of what it takes for something to become implicated in an agent’s interests, it remains true that something can be imbued with non-instrumental value via a suitable pattern of concern or valuing, suitable projects or relationships, and so on. In our culture, it is among the norms of friendship that I call you on your birthday, and this makes

23 One could try to argue that autonomy too is only valuable instrumentally. See, e.g., (Arneson 1995), p.129, for a suggestion along these lines. But this once again threatens to commit instrumentalism to an overly narrow view of what has value. (Elsewhere Arneson adopts the more sensible position that our right to autonomous choices is justified non-instrumentally. See, e.g., (Arneson 2004), p.47, fn.12.)

24 The distinction between goods making reference to self-rule, and goods making reference to rule over others, would in turn help explain why instrumentalism is especially appropriate as a position regarding political power: Political power is centrally power over people other than oneself. To justify political power we must normally appeal to the good associated with our having such power over others. So instrumentalist constraints apply to the justification of political power in particular. Notice that matters would be different if ruling over others were a mere side-effect of the good that political power is really about, e.g., ruling oneself. See also Section 7 below.
calling you on your birthday non-instrumentally valuable. So why could the fact that a culture values norms of obedience as part of other relationships – say, relations between adult children and their elderly parents, between citizens and officials, or between citizens-as-subjects and the collective constituted by the citizens-as-voters – not also imbue the resulting relations of power with non-instrumental value?^25

I think the right response is that instrumentalism’s core concern is not, in the first instance, with denying that there could be some such value in power relations. Instead it is concerned with how we should relate to each other as moral agents, and whether power relations based on certain goods (goods that are partly constituted by certain relations of power) are compatible with due respect. And while the concern for respect has important implications for the possibility of imbuing power relations with value via our attitudes, this axiological conclusion is ultimately derived from a prior normative claim about how we ought to relate to each other. Or so I argue in the next several sections.

v.

The basic thought that underpins instrumentalism about political power is, I want to argue, that no good that is partly constituted by (i.e., the characterization of which makes necessarily reference to) A’s having power over B could justify A’s having power over B, because A’s power so justified would be incompatible with respect for B’s moral agency. (Since respecting someone is non-instrumentally valuable, the instrumentalist constraint on the justification of political power is thus ultimately grounded in non-instrumental considerations.)

To make this thought plausible, consider how we would generally go about justifying A’s rule over B. To begin, we would want to show that there is some good in A’s having power over B, and indeed more good than bad. Among the relevant goods would usually be the instrumental benefit that such rule could realize: successful coordination in the pursuit of some valuable goals, say, or the avoidance of certain harmful acts which B may otherwise be inclined to undertake. The relevant costs may be instrumental (perhaps A’s rule prevents B from engaging in instrumentally valuable action) or non-instrumental (B’s autonomy is undermined by A’s rule, or A’s power threatens the possibility of a valuable egalitarian relationship between A and B).^26

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^25 For a sophisticated proposal along these lines, see (Scheffler 2017).

^26 For an account of how power impacts autonomy, see (Raz 1986). For a discussion of how valuable egalitarian relationships are affected by unequal power, see (Kolodny 2014, Viehoff 2014).
But this is not all. For even if the value of A’s rule is net positive, B could reasonably complain about how the costs and benefits of A’s rule are distributed.27 (Such complaints about the distribution of benefits and burdens are familiar from discussions of the ethics of harm, and it is quite natural to extend them to cases of the sort discussed here.) If B is not responsible for bearing the burden of bringing about the goods at issue, then even if the authority relation has positive value overall, B can object to it because she is made to bear an unfair share of the costs for bringing about these goods. (A natural way of putting this thought, on which I will occasionally fall back, is that A’s rule over B can be justified only by appeal to goods that B has reason to help bring about, so that A’s rule ultimately serves B by helping B bring them about.)

But even this does not, I want to suggest, exhaust the objections B may raise to A’s rule. B may not only object that there is not enough good to A’s rule, or to the distribution of the benefits and burdens that yield the net good. B can also, most of us would recognize, reasonably object to certain goods figuring in the justification of A’s rule at all. These goods, B may complain, should not figure in the justification of A’s power because they are incompatible with proper respect for B, as would any relation of power justified on their basis.

Here is an example. I mentioned earlier that we can imbue things with value via a pattern of concern, valuing, engagement, etc. For the sake of simplicity, let me say that ‘desiring x’ gives some value to x insofar as it is now part of the satisfaction of this desire. (‘Desiring x’ is here just a stand-in for whatever more complex attitude or action can in fact imbue something with value, be it that of valuing something, engaging with it, incorporating it into one’s projects, or whatever else. For the purposes of this argument nothing hangs on how exactly we spell out the details of the value-imbuing attitude or action.) Now imagine that A simply desires ruling over B for its own sake or to advance his (A’s) own ends, and not because his ruling over B would help bring about some independently specifiable good to the realization of which B could fairly be expected to contribute. (For the sake of brevity I will refer to this as a ‘desire to rule’ simpliciter, in contrast to a ‘desire to rule to serve B’, or ‘desire to serve’.) Even if, in general, satisfying someone’s desire (or advancing someone’s interest, where that interest is created by his valuing, engaging, etc.) is valuable, here A’s desire to rule could not legitimately enter into the justi-

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27 A focus on what someone can reasonably complain about is familiar from broadly contractualist views of moral justification. But, as (Tadros 2011), pp.4-5, points out, one need not adopt contractualism in any substantive form to feel the grip of the thought that, if B can reasonably complain, this will usually be indicative – even if not constitutive – of a serious problem.
fication of A’s rule over B, and justify such rule where it would otherwise not be justified. It could not do so because B could object to A’s desire so figuring in the justification, or to being under A’s rule because A so desires.

One might think that what explains that A’s desire to rule over B cannot justify his rule is that it would always be defeated by B’s countervailing desire not to be subject to A’s rule. But imagine there are already some reasons (unrelated to A’s desire) in favor of A’s ruling over B: for instance, that A’s rule would enable coordination that instrumentally contributes to some valuable endeavor. And imagine that, when we take into account all the relevant countervailing considerations, including B’s desire not to be under A’s rule, the reasons for A’s rule are just barely outweighed by those against. So if there were just a bit more value to A’s ruling over B, this would normally suffice to tip the balance and justify A’s rule. Yet even though adding just a bit more benefit would normally tip the balance, A’s power over B could not be justified by pointing to A’s desire to rule over B. Other benefits could do the justificatory job; this particular one could not. For what B is objecting to, on the view I am offering, is not (or not just) that she is under another’s rule, or perhaps under A’s rule in particular. What B is objecting to is <A’s having power over her because he desires to rule over her>.28 For what B reasonably cares about is not just whether A has power over her, but also whether A has such power on the right basis.

Notice that B need not have an objection to it ever being the case that one of A’s desires partly justifies A’s rule over her. If, for instance, A desires a good that is realized by suitable coordination, and such coordination is best enabled where A rules over B, then A’s desire may impute the relevant instrumental good of coordination with sufficient additional value to tip the balance and justify his rule.29 But that is because A’s desire is not a desire to rule over B, but one for various goods specifiable independently of his rule.30 Nor need B have an objection to A’s rule-related desires as such, for A may also desire to rule to serve B, by helping her realize goods she has all things considered reason to realize (or contribute to the realization

28 B need not object to A’s having the desire to rule. B may have a desire with the following content: ‘If there are other, acceptable reasons for A’s ruling over me, A should also desire ruling over me’. (She might care that A have this desire because his so desiring may make it more likely that he will in fact rule over her, or rule over her well, etc.)

29 Since I do not deny that one person’s interests or desires gives reasons to others, the issue I am concerned with is not helpfully understood by appeal to Kantian notions of independence which require one person’s ends to be unaffected by the ends contingently set by others.

30 If A has a desire for the good realized by coordination, he may also have an instrumental desire to rule over B grounded in the contribution such rule would make to the realization of the good he ultimately cares about. But that particular instrumental desire to rule plays no independent justificatory role.
of). But since this desire to serve would be satisfied only if A’s rule in fact serves B, and what makes it true that A’s rule serves B (viz. that it helps her realize goods she has overall reason to realize) will anyway suffice to justify A’s rule over B, A’s desire to serve B will not be necessary for the justification of his rule over B. (This doesn’t mean the desire is normatively inert. If ruling over B may be costly to A, then the fact that A desires it may bear on whether it is fair to A to expect him to rule.)

Why would B care about the particular good that justifies A’s power over her, and care in particular not to be under A’s power because A desires to rule over her? I can here only sketch what I think is the understanding of our agency and its place in our social world that underpins these judgments. On a plausible view, a person’s agency has a particular purpose: to enable her to respond to the reasons that she in particular has. And the fact that she has reasons of her own, reasons that differ from those that others have, is itself a non-accidental feature of her moral situation: it reflects that she has a life of her own to lead, structured by its own projects and challenges. The success of her life depends in part on her response to these reasons of her own. Respecting her distinctiveness as a moral agent is to take seriously that her agency is particularly tied up with her responsiveness to her reasons, just as respecting her bodily integrity is to take seriously that her body is particularly hers to use, control, and make decisions about. (It is her agency, we want to say, since it is only through this agency that she leads a good life of a certain sort; just as it is her body, since it is through this agency that she leads an embodied life.)

But where political power is involved, treating her agency as properly her own can be difficult, or at least requires particular care. Both coercion and authority – the two forms of power most central to politics – involve one person’s intentionally changing another’s normative situation, or changing her reasons for action. What is more, the exercise of power is normally intended not just to provide a minor change in reasons (the way that, say, a request creates a new but easily defeated reason to do as requested), but to practically settle how the subject ought to act – to create a conclusive reason for a particular course of action. (Thus coercion involves directives backed by threats that are normally adjusted to overcome at least the most obvious countervailing reasons the subject may think she has. Authority is a source of duties or preemptive reasons, which normally take precedence over reasons against doing as directed. And in general the law, through which much political power is exercised, claims to effectively settle how we ought to act where it speaks.) If A has such directive power over B, then A is enabled to settle what B will do (at least if B is rational), and thus to effectively deploy B’s rational agency at

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31 For a useful discussion, see (O’Neill 2000).
will. And in doing so, B’s agency is at risk of being treated as if it were a mere tool, available to be used by A in the pursuit of what he (A) has independent reason to do, rather than as something that is properly B’s and should be treated as such.

This doesn’t mean that A’s power over B, and thus his capacity to deploy B’s agency, can never be justified. We said earlier that the power relation may be justified if it realizes net good, the benefits and burdens are distributed in line with certain requirements, and only certain goods figure in the justification. In other words, the power relation may be justified if it enables B to more effectively do what she anyway has reason to do, given an understanding of what she has reason to do that is itself attentive to the significance of her moral independence as an agent. The central point for our purposes is the last one: Among the goods that justify A’s deploying B’s agency cannot be A’s desire to rule over B. Why? Because that desire is itself unresponsive to the fact that B’s agency is not simply a tool that can be used to ensure conformity to just any reasons – including A’s, if he can give suitable directives to B – but especially tied to B and her life. So the desire itself is disrespectful, and thus cannot figure among the reasons that justify A’s having the power he desires.

All of this, it should be clear, is currently only a sketch. For many purposes it would be helpful to have a more fully worked out account of this idea of respect for agency. But for the argument of this essay, something less may be sufficient. So rather than delve into the various ways in which the idea of respect for another’s agency may be spelled out, I want to buttress the central thought – which is what most matters for the limited purposes of this essay – by highlighting how what I have said here about political power and respect for agency has obvious parallels in another case that may be more intuitive to many: that of interacting with another’s body, and the respect we owe to another’s bodily integrity. We are morally barred from touching another’s body without either her consent or suitable justification. Consider, to keep things simple, my touching your shoulder, just lightly enough not to injure you, cause you pain, or dirty your clothes. Even though my non-consensual touching does not harm you, it is normally out of bounds and requires justification. Such justification is available often enough: I may touch your shoulder, for instance, in order to avoid falling over and ruining my new trousers when the subway comes to a sudden and unexpected stop. The good of preventing my

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32 I take a stab at this in unpublished writing.
33 This is true of both intentional and non-intentional touching, though the latter may be easier to excuse. For the sake of simplicity I here focus on the former.
34 That my touching you is justified does not mean that I do not owe you an apology for infringing your right not to be touched. This does not change what is at issue here.
fall, and saving my trousers, is (I believe) normally sufficient to justify my briefly touching you even without your consent. But not just any good can play such a justificatory role. For instance (and here the parallels to the previous discussion should be obvious), my desire to touch you without consent cannot figure in the justification. For imagine that the good of preventing my fall is just about insufficient to justify touching you without consent. Then I cannot complete the justification for my touching you by also invoking my desire to touch you. That desire to touch you without your consent or an adequate independent justification is excluded from any justification that I can offer. And (as before) this is not because my desires (once again suitably broadly understood) are generally irrelevant: whether I may touch you to keep my trousers clean could very well depend on how important these trousers are for me, how much I care about them, etc. It is just this particular desire – to touch you without your consent – that is unacceptable as part of the justification.35

The explanation here (as in the case of power relations) is that, if non-consensually touching your body could be justified by another’s desire to touch you, you and your body would not be granted suitable respect. There are different ways in which this basic thought may be theoretically articulated, just as there are different ways in which one could provide theoretical underpinnings for the observation about power and how to justify it. But these details are less important here than the central insight, that considerations of respect impose limits on the kinds of goods that can justify our treatment of others.

Let me conclude this section by generalizing the point made in relation to desires. I have focused on cases where A’s desire to rule simpliciter was at issue, and argued that this desire could not normally play a role in justifying A’s rule. One might think that this reflects the fact that it is A’s desire in particular that is at issue. But I doubt this is right. To begin, imagine that some third party C desires that A rule over B. Even if there is normally reason to satisfy C’s desire, a desire with this particular content could still not figure in the justification of A’s power over B, because it would once again be disrespectful. (If your desire to rule over me cannot justify your rule, then your grandfather’s desire that you rule over me cannot either.)

Importantly, the same is true if the desire at issue is B’s own: If B desires that A rule over her, not because A’s rule over her helps advance the purpose of her agency, but simply for its own sake, then B’s own desire

35 I do not mean to say that it is unacceptable to have the desire. (That may be true, but is not necessary for the point at issue.) Even if I my having the desire is acceptable, my relying on it to justify my action is not.
would be disrespectful of her own agency, and should similarly be barred from entering into the justification. (What about cases where B promises to obey A, and makes that promise because she believes that her being under A's rule is good as such? In principle the same worry that arises for other ways of imbuing acts with value by our choices may apply here: if my promise rests on a disrespectful premise, it may be null, just as, many think, would be a promise that rests on an immoral premise, like a promise to commit murder for hire.)

Finally, what is barred are not simply arguments that appeal to goods constituted by power relations where these goods have been imbued with value by our attitudes. If desiring that you rule over me is disrespectful because it fails to properly respect my agency, then proper respect for my agency is also incompatible with its simply being a good thing as such (not derived from anyone’s attitude) that you rule over me. Even if such a good could exist (and one may reasonably doubt that it could), it could not normally figure in the justification of A's power over B for the simple reason that there is great value in B’s agency being treated with the respect B is owed.36

VI.

It is worth developing the implications of the position I defend by considering how it affects two views about political power that many philosophers have found tempting. The first has already been foreshadowed several times: Many relationships are non-instrumentally valuable. These include relations between friends as well as between parents and children; and they may very well include relations among co-citizens. These relationships have non-instrumental value if the parties to it have reason to value them non-instrumentally, as such rather than for their instrumental benefits. And these relationships are in turn sources of reasons for those party to them: there are certain duties I have qua friend, or qua parent, or (perhaps) qua citizen, precisely because the relationship has non-instrumental value and I properly value it as such. What these duties are is partly constituted by social convention – by what are taken to be the duties friends have, by our understanding of what makes a friend a good friend, etc.37 (Call this the ‘associative argument’ for the justification of

36 The details of how one would treat such a case are complex, and I won’t dwell on them here.

37 As Scheffler puts it, as members of non-instrumentally valuable groups we have “membership-dependent reasons” that are “reasons for doing one’s share, as defined by the norms and ideals of the group itself, to help sustain it and contribute to its purposes.” (Scheffler 2017), p.4. Let me flag here that the instrumentalism I defend is not what Scheffler discusses under the label “instrumentalism about political mem-
power relations, to highlight its connection to what are often called ‘associative accounts’ of political obligations.)

On views of this sort, there are relational goods that we have (non-instrumental) reason to realize, and we realize them by doing our part in the relationship. Now imagine that the relationship includes, as one of its constitutive norms, that one party must obey another – that, for instance, an adult child must still obey an ageing parent, or that the citizens must accept rule by a king, or by each other.\textsuperscript{38} By the logic of the associative argument, these norms provide reasons for the child to be under the parent’s authority, for citizens to submit to another’s decisions, etc.

In the last section I argued that there is something disrespectful to grounding power relations in considerations that do not advance the purpose of the subject’s agency, viz. her conforming to the reasons she has. But here, one might think, the power relation does in fact advance the purpose: Just as I have non-instrumental reason to be party to a friendship, so I have non-instrumental reason to be party to a valuable relationship to my parents or co-citizens. If standing in this relationship is partly constituted by my parents’ having power over me, then I have reason to stand in this relationship to them. And thus their standing in this relationship to me is, one might think, not disrespectful.

But I think this argument fails. For by the same logic, there would be nothing problematic about A’s desire to rule over B as long as B has reason to treat A’s desire as reason-giving and, once the reason-giving force of the desire has been added, B had reason to accept A’s rule over her. Yet I think there is no doubt that A’s desire to rule would indeed fail to be reason-giving even in such cases, precisely because the desire is disrespectful of B’s agency, and thus B can object to its reason-giving force entering into the justification of A’s rule.

Something similar is true when it comes to associative arguments. A norm that simply requires B’s being under A’s power (rather than requiring that B be under A’s power if A’s being given such power serves B’s purposes)\textsuperscript{38} is disrespectful of B’s agency. And just as B could complain about norms that unfairly distribute the benefits and burdens of the relationship, and insist that this norm would not be reason-giving for her, so B could

\textsuperscript{38} For examples along these lines, see (Dworkin 1986), pp. 203-205.
complain about a norm that is disrespectful of her agency.\textsuperscript{39}

Does this mean that disrespectful desires or social norms can never be reason-giving? No. Imagine that C threatens to harm D unless B obeys A. And C’s reason for doing so is simply his desire that A rule over B, a desire not grounded in any concern for the purpose of B’s agency. B clearly has reason to object to this desire, as well as to the threat that C makes. Yet B may still have reason to go along and submit to A’s rule, since avoiding disrespect may be less important than preventing serious harm to D.

It may be argued that, by the same logic, a desire or social norm could be reason-giving even if disrespectful because the reason we have to avoid such disrespect is insufficient to outweigh the normative force of an especially weighty desire or of a norm that is especially central to a relationship. But this misapprehends the role that considerations of disrespect play when we think about the desire or social norm. For I am not suggesting that their normative force is outweighed by countervailing considerations of respect. Rather, I am suggesting that their normative force (at least when it comes to justifying relations of power) is \textit{conditional on their being respectful}. So even if the positive reason we have to avoid disrespect were relatively weak, the fact of disrespect may be sufficient to disable the reason-giving force of disrespectful relational norms or desires. (Compare: I have reason to avoid being the subject of cruel remarks by others. But if I’m sufficiently hungry, I may be willing to accept a cruel remark in exchange for a slice of bread. Yet this does not mean that, if I had to choose between a friendship with one person who has bread to share but also makes cruel remarks about me, and a friendship with another person who has no bread to share but wouldn’t make such comments either, I ought to choose the latter over the former.)

Let me turn now to the second position this section considers. On to this view, respect for agency, however important when it comes to restricting the justification of non-democratic procedures, imposes no significant constraints on the justification of democracy. Why? Because democracy assigns equal power to each person, so that citizens rule over each other reciprocally. This commitment to reciprocity is sufficient to solve the problem of disrespect. So democracy can in fact be justified by appeal to goods that make essential reference to rule. The basic idea is this: It may be disrespectful to desire that I rule over you unless my rule serves you. But the matter is different if what I desire is that I rule over you and you rule over me. For then I am simultaneously treating you as both subject

\textsuperscript{39} (Scheffler 2017), p.4, recognizes that the norms of a group we value non-instrumentally are reason-giving only if “they are neither gravely unjust nor irrational.” I would add to this: nor fundamentally disrespectful of the agent.
and ruler. And in doing so I may be avoiding the problem of disrespect for your agency on which the previous discussion focused.

But this is mistaken. That I also desire for you to rule over me doesn’t undo the fact that I desire for me to rule over you. If I let you treat my agency as a tool for your purposes in exchange for your letting me treat your agency as a tool for mine, I disrespect both my agency and yours. (What makes this often difficult to see is that, in just about any case where such an exchange of agency would normally occur, it would be instrumentally motivated: I would let you use my agency because my agency will help you better pursue your ends, and I have reason to pursue your ends because if I do, you will let me pursue mine through your agency, and I will thus achieve my ends more effectively than I could by myself.) And once again this is unsurprising once we recognize the parallels to other cases. The easiest way to see this involves cases of harm: Normally I have a right that you not harm me. But I can waive this right by consenting to such harm. Yet if I waive my right simply because I think it would be good as such if you could harm me, then that exercise of consent is tainted with disrespect. And this is true even if, in exchange for giving you permission to harm me, you give me permission to harm you because I rather like being able to harm you for its own sake.

vii.

I have argued that power relations (such as A’s having power over B) are difficult to justify by appeal to alleged goods that make essential reference to one person’s rule over another. Such justification is difficult because there is something disrespectful about valuing A’s having power over B unless A’s having such power advances the purpose of B’s agency. A’s having power over B is justified in a respectful fashion, I thus propose, only if A’s having such power advances B’s conformity with reasons she has independently of any good making essential reference to A’s rule over her, or serves her.

What does this entail, concretely, for the justified distribution of political power in our community? I highlighted earlier that the most plausible understanding of a broadly instrumentalist position is not committed to the view that relevant goods cannot make any essential reference to the distribution of political power. For we do value autonomy, and would want our political arrangements to be suitably responsive to this value; yet the value of autonomy is itself best understood as making essential reference to the distribution of power: it is up to C to decide how C acts, rather than up to A or B. And this is unproblematic, on the view developed here, because valuing, desiring, etc. rule over oneself is not objectionably disre-
spectful towards one’s own agency.

This explains, in turn, why instrumentalism applies most straightforwardly to the justification of political power. It is sometimes suggested that the focus on political rights is difficult to reconcile with the observation that power relations also arise from other rights – for instance, property rights. So why, it is asked, should there be a special instrumentalist constraint on the justification of, e.g., democracy? The account offered here provides a straightforward answer: Property rights are not, in the first instance, rights to direct other people’s lives, and thus do not give rise to the same problem regarding respect for another’s agency. Correlatively, even if having property rights does in fact amount to having power over others, what justifies property rights are not (normally) goods that make reference to such power. Instead, insofar as the assignment of decision-making power does enter into justifications of property, what is appealed to are considerations of autonomy.

This does, however, raise a question: What if someone were to justify democratic arrangements by arguing that it constitutively realizes the value of individual autonomy, enabling each citizen to rule over herself? The appropriate answer, it seems to me, is that instrumentalists are not as such opposed to arguments of this sort. They simply think that no such arguments will in fact succeed: Democratic political decisions are decisions by large groups of people for large groups of people. So any decision-making power an individual citizen acquires through the democratic franchise is most plausibly understood as a matter not of her gaining control over herself, but of her gaining minimal control over many other people, who in turn have (each individually minimal, but all together collectively a whole lot of) control over her. But then the claim that democracy enables each of us to rule her own life in any interesting sense is hard to sustain.

Matters are different where the appeal to autonomy focuses on the self-government of the collective. For if the self-government of the collective is realized through exercises of power over individuals – and I struggle to see what else collective self-government could amount to – then the good of self-government is in fact once again a matter of valuing a form of decision-making by one (collective) agent for another (individual) one. And this is admissible only where it is justified without reference to a good that is partly constituted by the collective’s ruling over the subjects.

I argued earlier that instrumentalism is best understood as barring appeals to certain goods, goods the characterization of which makes essential reference to certain procedural considerations, and in particular to

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40 See, e.g., (Griffin 2003).
who has power over whom. But (and this was the impetus for the discussion of autonomy arguments for democracy a moment ago) I also argued that instrumentalism should not bar appeals to goods that make reference to an agent’s ruling herself. In light of the discussion, in the last couple of sections, of what motivates the instrumentalist constraint, we are now in a position to recognize that instrumentalism may in fact make room even for some goods that make reference to interpersonal power. Respect for agency bars, in the justification of power relations, appeals to goods characterized by one person’s rule over another (including, I said earlier in the discussion of democracy, appeals to the good of each of us ruling over each other). This is compatible, however, with allowing for the appeal to goods that make essential reference to the absence of power, or at least of certain kinds of power. This distinction – between goods defined by the presence of power on the one hand, goods defined by its absence on the other – has important implications for the role that political equality can play in the justification of democracy.

Consider two different ways of thinking about the good of equal power. According to the first, there is something good in our having equal power over each other, and in the absence of such power, we have at least some reason to create it. For instance, if public equal respect is a good, and one way in which it can be instantiated is by each of us accepting as authoritative the output of an egalitarian procedure, then we have reason to create the relations of power that define this procedure, even if there are no relations of power to begin with.41 According to the second way of thinking about the good of equal power, by contrast, we have no reason to create equal power if that requires creating power in the first place. Instead, a concern for political equality is a concern for equalizing power where power relations exist anyway. Imagine property relations are justified by appeal to autonomy, and not because they have any positive impact on who has power over whom; but that, once property exists, this will empower some people to exercise control over the lives of others. The power over others that is the result of independently justified property relations might in turn give rise to a distinctive bad – the bad of unequal power. We may have reason to care about how power is distributed because we care about the good of one person’s not being under another’s unequal power, rather than that of each of us having positive equal power over the other.42 And this concern with equality is compatible with respect for agency because it attaches no particular value to one person’s ruling over another. It does not so threaten the subject’s agency if the good as-

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41 As I understand it, Christiano’s view has this character: (Christiano 2008).
42 I have defended an account of political equality of this sort in (Viehoff 2014). A view that is similar (at least in this respect) is also developed in (Kolodny 2014).
sociated with rule over the subject is one that makes no essential reference to ruling over the subject, and thus does not treat the subject’s agency in a way that is incompatible with recognizing her moral independence.

One response this may elicit is that this simply shows that the account I offered here is not an account of instrumentalism, since instrumentalists would never want to make room for justifications of political power based on goods that refer to who has power over whom. But I have already argued that this general claim is quite implausible in light of our concern with autonomy. Perhaps some instrumentalists wish to redraw the lines, and explain why procedural considerations related to autonomy are alright, whereas those related to the equal distribution of political power are not. But if the lines were redrawn in this way, how could they be motivated? How, in other words, would an instrumentalism of that sort be defended? I am inclined to think that it cannot, and that instrumentalists should indeed allow for the value of equal political power, as long as it is understood as a negative requirement (a requirement to see to it that, where power exists, it be distributed equally) rather than a positive one (a requirement to see to it that there be power that can then be distributed equally).43

It is important to recognize that this is compatible with the characterization of the instrumentalist position that we started from: citizens do not have a basic moral right to a say in the making of the laws, both because it is at least in principle possible that there is no need for laws, and because, if there is such need, the requirement of equal power may be realized by giving essentially no such power to anyone, making decisions instead by flipping coins. There are good reasons not to adopt coin-flipping as a procedure. But those reasons have to do with the quality of the decision-making rather than with the basic goodness of people’s having a say. Similarly, saying that citizens may have an intrinsic (or at least non-instrumental) interest in having an equal say is compatible with denying that they have such an interest in having a say.

Correlatively, the account I offer explains Mill’s thought that political power is always a trust rather than a right: It is never justified by the intrinsic goodness of one person’s having power over others. Instead it must be justified by some independently specifiable good, to the realization of which the subject has reason to contribute. And in this sense, political power (like a power of attorney) must be justified by reference to the positive effects it has on the subject’s normative situation, rather than by reference to the benefit that accrue to the power holder qua power holder

(as in the case of property rights).44

VIII.

This essay has sought to articulate a plausible conception of political instrumentalism, both by clarifying what exactly instrumentalism allows and doesn’t allow, and by offering a deeper rationale for the instrumentalist constraint on political justification than is usually advanced in discussions. Yet someone might worry that the view I have ended up with is no longer distinctly instrumentalist. It does fit with Mill’s thought that political power is not a moral right, and cannot be grounded in anyone’s fundamental interest in ruling over others. But it does not fit with much of what current instrumentalists, like Arneson, may be committed to; and most importantly, it leaves room for appeals to political equality often associated with proceduralism.

One response I am inclined to give is: So much the worse for contemporary instrumentalists. But this may be too dismissive; for there is a genuine worry that, even if my own view is more plausible than that which has been offered by contemporary instrumentalists, it ends up being toothless, and without further interest for thinking about political justification. So let me finish by briefly explaining why it would be a mistake to reach this conclusion. First, at a theoretical level, instrumentalism as I defend it forces proponents of, e.g., the value of political equality to articulate an account of that value that is compatible with respect for agency. And many (indeed probably most) existing accounts of political equality do not, because they require an appeal to goods that make essential reference to the relations of rule they seek to justify. Second, the restrictions that I have argued for here still have significant practical impact on political questions. Take a concrete issue like prisoner disenfranchisement. In countries that deny voting rights to those convicted of serious (and often even less serious) crimes, it is common to defend such denial of the franchise on punitive grounds: the law-breaker must pay a price for what he has done, and part of this price is to lose the opportunity to vote. But notice that such a punitive argument is most plausible if the franchise is assimilated to private property or freedom, rights that are justified by the interest of the right-holder, who is also the main one to suffer where he is deprived of the right. If the right to vote is not justified on this basis, but instead by appeal to its effect on various other goods that are fairly distributed among the members of the community, then it becomes plausible that denying the franchise to convicts will primarily hurt people other than the disen-

44 Mill draws out the distinction between property and power held for others in Chapter 10 of (Mill 1991 [1861]).
franchised. It is as if we punished a parent who had committed a crime by denying her the right to take care of her children, even though that right is primarily justified by the benefit to the child in being taken care of. And that casts significant doubt on the justifiability of criminal disenfranchisement. Showing this in detail is, however, a task for another day.

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