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## **The Principle of Affected Interests and Inclusion in Democratic Governance**

### ***1. Introduction***

The question of inclusion in democratic theory has focussed almost exclusively upon the relationship of individuals to government — of citizens to their state. Theorists have sought to provide an account of the political rights of individuals living under the legitimate authority of a democratic state. These accounts seek to ground the judgement that adults living under such authority should be treated as equal citizens who have, among other political liberties, rights to participate in the decisions of that state. Two starting points lead to this end of equal citizenship before a state that is legitimate because it is democratic.

The first is roughly constitutional and contractarian. A democracy of equal citizens is the answer to the question of how a collection of individuals who expect to live with one another in a society should organize their common affairs together. What rules and procedures would each find acceptable? From this starting point, a democratic political order is a legitimate one — a “self-

legislating *demos*, of citizens ruling and being ruled in turn, consisting of all and *only* those who are full citizens and thus *both* authors *and* subjects of the law.”<sup>1</sup>

The second starting point begins with the from the principle of affected interests.<sup>2</sup> That principle, perhaps the most basic of democratic intuitions, is that individuals should be able to influence decisions that affect them. Absent such influence, decisions may not be taken in ways that properly regard the interests of those they affect or may not be made in ways that are informed by their perspectives and knowledge. Furthermore, exercising such influence is a critical aspect of individual autonomy.

Those who begin from each of these quite different starting points have for the most part converged in their focus upon the state as the main object of democratic theory. From the constitutional perspective, individuals have a special relationship to their state. Citizens come together and rule themselves through their state. Within any territory, it is the organization that makes binding decisions that are enforced through coercive power. Constitutional democracy is the answer to the question why citizens should regard such binding decisions as legitimate and authoritative. From the principle of affected interest, the actions of states often have potent effects on individuals’ most important interests. At the extreme, states send their citizens to war, imprison them, and even execute them. More commonly, government actions and public policies clearly affect the security, prosperity, and overall well being of individuals.

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<sup>1</sup> James Bohman (2007). Compare Rawls (1971) formulation of his goal as identifying principles of justice to regulate a society, where “a society is a more or less self-sufficient association of persons” and Joshua Cohen’s (1997, p. 67) formulation of a deliberative democracy as “an association whose affairs are governed by the public deliberation of its members.”

<sup>2</sup> See Mill [1861]; Dahl (1989) 93-95, 119-31; Goodin (2007).

For all of these reasons, the state has been and shall properly remain an important object of political theory. However, democratic theorists should note that scholars in many other areas of social investigation and practice — in political science, sociology, and public public — contend that contemporary conditions have constrained the reach and capability of formal state structures. Such conditions include not just the globalization of economic, cultural, and security concerns, but also the proliferation of “wicked” problems that defy solution through state action in areas like community development, social services, and environmental quality.<sup>3</sup> The assertion is that the commanding mechanisms of law and binding decisions are simply incapable of achieving many public goals and protecting many individual interests.

This broad ebb of the state as the principal, if not sole, actor in organizing common affairs and accomplishing public objectives is now widely called the shift from government to *governance*. The term governance denotes activities that, like projects of government, aims to achieve common purposes. However, the new term is meant to mark shifts in both who acts to achieve those purposes and how they are accomplished. With regard to means, public leaders and policy makers seem to rely less upon binding decisions and state commands and more upon efforts to “steer” the behavior of actors in society and collaborations that frequently include actors outside of government. With regard to who, governance activities are undertaken not just by entities in the state sector, but also in the private sector and civil society as well.<sup>4</sup> In global climate change, economic development, human rights protection, basic education, disaster relief, and many other issues, the most promising strategies involve not states making binding laws but rather a com-

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<sup>3</sup> [Complete citation here]

<sup>4</sup> Nye and Keohane 2000.

plex of governance activities that involve complex collaborations between government and non-governmental actors.

Presume this often noted shift from government to governance is empirically correct. Rules of inclusion that provide for equal opportunities for the participation of citizens in decisions of their state is insufficient. For the constitutionalist, enfranchisement in state decision-making is insufficient for self-rule when many important decisions — decisions that order the common affairs of citizens — are made by non-state actors. The affected interests principle naturally requires that individuals be able to exercise influence over a range of decisions broader than those made by the state when such decisions affect their important interests.

The shift from government to governance thus demands an expanded account of democratic inclusion in which individuals influence not just state decisions, but the decisions of other organizations as well. In this paper, I develop the principle of affected interests to offer an account of inclusion that is appropriate for the circumstance of governance (as opposed to government). The principle of affected interests strikes me as a more promising point of departure from which to grapple with the challenges of governance than the constitutionalist perspective. The constitutionalist begins by delineating a group of individuals — as small as a town or as large as the whole world — who form a persistent political community.<sup>5</sup> But one of the features of governance is that different public problems encircle quite different groups of individuals. Intuitively, very different sets of individuals should exercise influence over decisions concerning global climate change, health care policy, education, or international labor conditions.

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<sup>5</sup> For very different delineations, see Robert Dahl (1967); Dahl and Tufte (1973); and Robert Goodin (2007).

It is natural to think of the principle of affected interests and the contractarian-constitutional approach as alternative accounts of democratic legitimacy.<sup>6</sup> It might be fruitful, however, to think of them as complimentary, rather than exclusive and opposed, justifications of democratic institutions and practices that both have their place in the political culture of democratic societies. So, contractarian and constitutionalist accounts may well provide the best justification for our settled commitment to a national representative government through which we rule ourselves as free and equal citizens.<sup>7</sup> But that justification does not exhaust our democratic intuitions and responses. We face many other situations that fall outside of domain of the contractarian constitutionalist — from the local indignities of tyrannical school principals and authoritarian employers to the cosmopolitan harms of unaccountable global corporations — for which we have strong democratic impulses. In these areas, we feel we ought to have a say when we do not. The principle of affected interests accounts for our democratic sensibilities in these increasingly common areas of social life.

I develop the principle that individuals should be able to influence decisions that affect their interests in four stages below. The next section offers a specific formulation of the principle. The third section contends that the principle should regulate not just states, but many other kinds of organizations as well. The fourth section argues that the principle is best understood as part of a non-ideal theory of continuous political reform rather than as part of an ideal, full-compliance, constitutional account of democracy. The circumstances of governance dictate that the principle

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<sup>6</sup> I thank Jenny Mansbridge for the approach suggested in this paragraph.

<sup>7</sup> See, for example, Beitz (1989).

be applied *in media res*.<sup>8</sup> Given existing configurations of decision-making, the principle alerts us to objectionable exclusions and guides the reform of those practices. The fifth section develops a broad notion of “influence” in which individuals ought to affect decisions not just through active and direct means, but also indirectly and passively.

## ***2. The Principle of Affected Interests Formulated***

### *A. Rudimentary formulations*

- 1) Individuals should be able to influence decisions that affect their interests.

This rudimentary formulation is under-specified in at least three ways. What kinds of *entities* and *decisions* are regulated by the principle? *Whose* interests are sufficiently important to warrant participation? And, what sort of *influence* does the principle require? This section addresses second and following sections address the first and third.

Consider a specification of this principle that justifies national representative government. Legislatures are entities whose decisions result in binding laws backed by the coercive power of the state. Such laws affect the fundamental interests in autonomy and welfare of individuals who live in the territory governed by that state. Universal suffrage of those who live in that territory combined with a system of electoral representation allows individuals to influence the composition of the legislature by actively voting for parties and politicians:

- 2) Individuals should be able to be able to exercise voice [voting] to influence decision that affect their interests through [binding and coercively-backed] law.

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<sup>8</sup> Contrast this domain of application to Goodin (2007) and Dahl (1989), who are concerned with applying the principle of affected interests to address questions of constitutional structure.

As suggested in the introduction, this specification is unduly restrictive in at least four ways. Entities other than legislatures (such as administrative agencies, private organizations, other governments, international organizations, civic groups) make decisions that affect individuals (under-inclusion of entities). Individuals' important interests are affected by many kinds of decisions, not just binding laws backed by coercive power (under-inclusion of decisions and interests). Legislatures make decisions that affect those who do not live within its territorial boundaries (under-inclusion of individuals). Finally, voice through voting is just one way to influence a decision. There are both more direct and less direct modes of influence that may be appropriate (under-inclusion of modes of influence).

I will defend a formulation of the principle that is more specific but also more inclusive:

- 3) An individual should be able to influence any organization whose decisions regularly affect his or her important interests.

or, more specifically,

- 3a) An individual should be able to influence an organization if and only if that organization makes decisions that regularly affect that individual's important interests.<sup>9</sup>

### *B. Regularly Affected Interests*

In his illuminating essay on inclusion and affected interests, Robert Goodin holds fixed both kind of entity and mode of influence. He presumes that the principle governs public legislative bodies

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<sup>9</sup> I won't discuss the "only if" portion of this principle in this essay.

and, at least implicitly, that individuals will exercise influence through voting and representation. He focuses upon the question of whose interests ought to be included. In particular, should those whose interests are *possibly* affected by a decision exercise influence, or only those whose interests are *actually* affected? He rejects the “actually affected” formulation on grounds of incoherence:

Notice first that whose interests are “affected” by any actual decision depends upon what the decision actually turns out to be. Notice second that what the decision actually turns out to be depends, in turn, upon who actually makes the decision. Hence the “all actually affected interests” principle suffers the same incoherence as discussed at the outset: *it is unable to tell us who is entitled to vote on a decision until after that very decision has been decided.*<sup>10</sup> [emphasis mine]

Interpreted so expansively, Goodin concludes that the only appropriate demos includes everyone in the world. Properly understood, the principle of (all possibly) affected interests requires “giving virtually everyone everywhere a vote on virtually everything decided anywhere.”<sup>11</sup>

Goodin’s observation about the endogeneity of inclusion is interesting, but his conclusion of incoherence is too quick. He is correct that the “actually affected” formulation cannot uniquely determine the set of individuals who ought to be included because including slightly different set of individuals might well result in a different set of “actually affected” interests. But that endogene-

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<sup>10</sup> Goodin (2007), p. 52.

<sup>11</sup> Goodin (2007), p. 68.

ity by itself does not provide a reason for rejecting a political arrangement as illegitimate because it is under inclusive.

To see why, suppose that two towns, A and B, share a common boundary. The decisions of each town are made only by the residents of that town and they are made in a democratic way. Over a certain period of time, the residents of each town make decisions that have no spillover consequences onto the other town and produce no injustice between them. It is certainly true that if the border between A and B were to shift by a few blocks and some residents of B became new residents of the expanded town A', we would expect the decisions of A' to affect a slightly wider set of individuals. But, by itself, that fact does not provide a reason to reject A. Indeed, both political arrangements — A/B and A'/B' — satisfy the principle of including all and only actually (not possibly) affected interests.

Suppose, quite realistically, that residents of B are possibly affected by the decisions of A. Residents of A could decide to build power plants that emit toxins into B, construct buildings that are an eyesore to the distinguishing tastes of B's townfolk, and the like. If the people of A begin to make such decisions, then the people of B have a claim to be included in influencing A's decisions under the principle of affected interests.

Goodin's formulation of possibly affected interests is motivated by his desire for the principle to yield the delineation of *a* demos that is persistent through time, perhaps even a once-and-for-all. In order to ensure against decisions that are impermissible because they affect the unincluded, such as B's residents in A's belligerent period, the circle of inclusion must be very wide indeed. But as he himself acknowledges, there are good reasons for resisting a norm of world govern-

ment. One reason is feasibility. But another reason stems from considerations that are internal to the principle of affected interests. Smaller political units allow individuals to exercise meaningful and consequential influence over decisions that affect their lives.<sup>12</sup> The residents in the two-town scenario might well prefer to be members of separate towns rather than a metropolitan government that fuses A and B in order to be able to exercise more meaningful influence.

The trade off between a very large demos that includes all possibly affected interests and smaller ones that afford are more consequential individual influence is intractable if, as both Goodin and Robert Dahl before him supposed, the aim of an account of inclusion is to delineate the boundaries of a demos permanently.

But the principle of affected interests can also be understood in a way that is more sensitive to circumstance and fluid that makes this trade off somewhat more tractable. As a regulative principle for continuously adjusting the boundaries of inclusion in real-time. A/B, A'/B', and a metro government of A+B might all be justified by the principle of affected interests under various circumstances. If the capacities of these towns, the problems they face, and the priorities of residents are such that the decisions made in A do not affect those in B, then the value of meaningful influence favors smaller political units. If however, environmental, economic, or other conditions create substantial interdependency between A and B, then the importance of influencing decisions that address those encompassing concerns weighs in favor of larger political units.

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<sup>12</sup> Dahl (1967).

*C. Organizations as Decision-Makers and Objects of Democratization*

The term “regularly affected interests” (as opposed to actually or possibly affected interests) in formulation (3) above is meant to capture this kind of circumstantial contingency. Notice that this formulation shifts the domain over which the principle operates from decisions to organizations. In order to determine who should be included, this formulation directs us to look not just at that single decision, but rather to the organizational entities that make those decisions. As an analytic matter, this shift is necessary to make sense of the term “regularly,” which describes not a single decision but rather multiple related decisions. It is natural to understand those decisions as being made by organizations because organizations (e.g. national states, town governments, firms, clubs) are entities of sufficient coherence to enfranchise or exclude individuals. This shift also renders the principle in a way that fits with the sociological reality of organizations and the everyday ways in which the notion of affected interests is used.

Organizations are entities that collectively control resources, advance purposes, and make decisions whose effects are moderately consistent over time. To a first approximation, it is usually sensible to say whether or not the interests of a particular individual are “regularly affected” by the decisions of a particular organization. The decisions of a territorial state regularly affect all of those living within its boundaries and often those living outside of it. The decisions of a multinational corporation regularly affect its managers, workers, shareholders, and residents of communities where it, its subsidiaries, and its suppliers operate. The decisions of the school board in Sacramento, California do not regularly affect residents of Massachusetts.

Furthermore, organizations are sufficiently coherent that they typically possess durable procedures of decision-making that specify the boundaries of inclusion and exclusion. Democratic

states have rules of citizenship, suffrage, parties and elections, administrative and executive consultations, judicial and administrative standing. Public corporations have directors, shareholders, and sometimes works councils and stakeholder boards.

Organizations — rather than free floating decisions — are typically the object of demands for inclusion. Those demands frequently arise from the claim that the organization acts in ways that affect individuals who have no influence on them (“no taxation without representation”). Demands for inclusion can be satisfied, or rejected, by modifying the existing decision-making procedures of the target organization.

Finally, the set of individuals whose interests are regularly affected by any organization’s decisions typically changes over the medium and long term. Corporations abandon some communities and move into others. Individuals leave and join firms, local communities, and even societies. The environmental consequences of production and regulation choices expand, contract, and shift over land and sea. Societies engage and disengage from various trading and security relationships. Organizations take on new priorities and missions even as they shed and gain consequential capacities (the United States engages in a War on Terror; General Electric shifts from industrial production to financial services). These shifts are unavoidable and favor a dynamic understanding of the principle of affected interests in which those who ought be included in influencing any particular organization’s decisions changes over time as the consequences of that organization’s actions fall on different individuals. Before explaining this dynamic approach in section 4, the next section examines the sorts of organizations to which the principle of affected interest applies.

### ***3. Beyond the State: The Fact of Governance***

As noted above, the principle of affected interests has been applied primarily to decisions of territorial states that result in binding laws, rules, and policies. There are at least two possible reasons for limiting the application of the principle in this way. Neither is persuasive. The principle should be understood more expansively; it should be applied not just to states, but to any organization whose actions affect an individual's important interests.

#### *A. Only Binding Decisions Affect Important Interests (Necessity)*

The first reason for limiting enfranchisement begins with the notion that claims to inclusion and influence in decision-making are warranted only when particularly important interests are at stake. Binding decisions — those that are backed by the coercive, potentially violent, force of the state — affect individuals' critical interest in freedom. Binding decisions of governments are the most obvious — and perhaps most historically important — way in which and individuals' choices can be deliberately constrained. Unless an individual can influence such binding decisions, these restrictions are objectionably arbitrary. The individual becomes merely a subject and not a citizen, ruled without in turn ruling. If the aim of inclusion and influence is to protect freedom, then perhaps the principle of affected interests should regulate only the binding decisions of states.

But arbitrary binding decisions of government are only one source of interference with individual choice. It may be that non-binding decisions made by non-governmental actors — the power of employers over workers or men over women — threaten an individual's freedom just as

much.<sup>13</sup> The interest in freedom, and against arbitrary interference, would thus seem to support inclusion in influencing these other decisions as well.

*B. Binding Laws Can Secure All Important Interests (Sufficiency)*

A quite different reason for limiting enfranchisement to binding state decisions supposes that the state, acting through its power to make binding decisions that regulate social interaction, has the capacity to secure all important interests. Binding workplace standards and discrimination laws might, for example, protect workers from the arbitrary power of employers or women from that of men. In this way, individuals' influence over binding state decisions might be sufficient to protect their interests from a broad range of threats that come not just from the state, but from many other quarters also.

Note that the term “influence” in the principle of affected interests (see formulations (1) - (3) above) is usually understood to mean direct and active influence through voting, face-to-face participation, and the like. As discussed in section 5 below, however, influence can occur in indirect and passive ways as well. When an employer makes decisions that affect the interests of workers in the shadow of a democratic state whose workplace regulations adequately protect the interests of workers, I want to say that the principle of affected interests is satisfied. Workers have the opportunity to influence binding legislation governing workplaces which in turn influences the decisions of employers in regard to the interests of their workers. More direct participation through workplace democracy might also protect worker interests and thus also satisfy the principle of affected interests.

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<sup>13</sup> This example comes from Philip Pettit's (2000) discussion, p. 85-6.

The claim that state action through binding laws and policies is sufficient to protect important interests seems obvious to many. If not the state than who? Yet, there are many reasons to doubt that states lack the reach — despite their authority, monopoly on violence, financial resources, and bureaucratic capacities — to adequately protect individuals' interests in this era of globalization and social problems stemming from complex interdependencies. The question of whether extending individuals' influence to other organizations such as workplaces and non-profit enterprises and decisions other than binding laws would better secure their important interests is an empirical one. If the correct empirical answer is affirmative, then the principle of affected interests should cover not just states, but those other organizations and decisions as well. Consider briefly some grounds for skepticism about the sufficiency of state power.

### *C. The Fact of Governance*

Scholars of governance claim that the role of formal laws and policies of nation states in ordering social affairs is diminishing. Conversely, the role of other actors — such as local and regional governments, private firms, voluntary associations, and transnational organizations — and the use of non-binding means — soft power, voluntary standards and protocols,<sup>14</sup> collaboration, and negotiation — is increasing. They have dubbed this broad trend the shift from government to *governance*. Joseph Nye and Robert Keohane write that:

governance [is composed of] the processes and institutions that guide and constrain the collective activities of a group. Government is the subset that acts with authority and creates formal obligations... Private firms, associations of firms, non-governmental organi-

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<sup>14</sup> See Lessig (2006) and Benkler (2006).

zations (NGOs), and associations of NGOs all engage in it, often in association with governmental bodies, to create governance; sometimes without governmental authority... more governance activities will occur outside the box represented by national capitals of nation states.<sup>15</sup>

This shift away from the national state in the public ordering and public action has resulted from practical necessity rather than merely a political ideology of state retrenchment. Circumstances in the world have made states less capable of protecting the interests of their citizens through binding laws. In response, individuals increasingly organize their common affairs not just through their state but through a host of other organizations as well. Sometimes in collaboration with governments and sometimes parallel to them, non-governmental organizations such as charitable foundations and advocacy groups increasingly provide financial resources, expertise, and staff to address problems such as health and education. This phenomenon is most visible in the large scale activities of organizations such as the Gates Foundation in developing countries, but it also common in the United States and other developed nations.<sup>16</sup> Responding in part to the limitations of governmental standard-setting, efforts to protect the environment increasingly involve joint efforts between government agencies, non-profit organizations, and private sector firms.<sup>17</sup> Actions to address concerns that cross national boundaries such as transnational migration, trade, security, human rights, natural resource exploitation, and global labor standards fre-

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<sup>15</sup> Nye and Keohane (2000): 12-13.

<sup>16</sup> Complete citations; Gates local urban efforts; Rob Reich on philanthropy and public education.

<sup>17</sup> See, for example, Weber (2003).

quently involve not just a single national government, but multiple states as well as international organizations, private sector groups, and non-governmental organizations.<sup>18</sup>

Those who accept the fact of governance as an inevitable, and perhaps even desirable, shift away from national government as the paramount agent of social ordering must also thereby reject the claim that binding laws of states are sufficient to protect all important interests of individuals.

The fact of governance is that many social decisions — some that do not involve binding laws and some that are made by organizations outside of the state — are also necessary to protect individuals' interests.

This reasoning, admittedly dependent upon a controversial empirical claim about the fact of governance, leads to the rejection of the narrow formulation (2) of the principle of affected interests that applies just to decisions of governments that result in binding laws in favor of a wider formulation (3) in which individuals have a claim to influence any organization whose decisions regularly affect their interests.

This view envisions many overlapping circles of inclusion. Associated with every organization — government or not — is a set of individuals whose important interests are regularly touched by the decisions of that organization. When they comply with the principle of affected interests, all individuals in that set have the capacity to influence the decisions of that organization. Each individual in turn is a member of many such sets because he is touched by the decisions of many organizations.

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<sup>18</sup> Nye and Keohane (2000).

#### ***4. Non-Ideal and Real-Time, Not Ideal and Constitutional***

Returning to the issue of temporality raised above in section 2, one can work out the principle of affected interests in the realm of ideal theory or as part of the non-ideal theory of democracy.

There are two reasons to favor an understanding of the principle of affected interests that is both non-ideal and non-constitutional. First, the ideal, full-compliance, approach seems to have several unattractive implications that a non-ideal understanding avoids. Second, the organizations, relationships, and procedures involved in the kinds of governance activities described above are frequently less durable than the constitutions of nation-states because they emerge, evolve, and dissolve in response to changing problems and circumstances. Therefore, questions of inclusion in governance are not in the first instance questions about the constitution or basic structure of a society.

##### *A. Difficulties with Ideal Theory and Full Compliance*

One way to work out the principle of affected interests in ideal theory is to derive its implications for the basic structure or political constitution of a society under full compliance. What rules of inclusion and collective decision-making would assure that individuals could always influence the decisions that affect them? This is essentially the question that Robert Goodin takes on in his 2007 article.<sup>19</sup> Many decades earlier, Robert Dahl began to reflect upon this question in his reflections on the question of scale and democracy:

That larger political systems often possess relatively greater capacity to accomplish tasks beyond the capacity of smaller systems leads sometimes to a paradox. In very small po-

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<sup>19</sup> Goodin (2007).

litical systems a citizen may be able to participate extensively in decisions that do not matter much but cannot participate much in decisions that matter a great deal; whereas very large systems may be able to cope with problems that matter more to a citizen, the opportunities for the citizen to participate in and greatly influence decisions are vastly reduced.<sup>20</sup>

Concern for the scope of influence — assuring that one can influence the maximal number of decisions that might affect one’s interests — presses for larger political units. Conversely, concern for depth of influence — assuring that one’s voice will be meaningfully considered — weighs in favor of smaller political units.

A similar concern for scope leads Goodin to favor an interpretation in which all who could “possibly” be affected by a decision be included in influencing it. Since it is conceivable that just about any government could make decisions that affect just about anyone in the world, this expansive formulation leads to the conclusion that only a government that is global in scale conforms to the principle of affected interests. Any smaller unit is unstable with respect to the principle of affected interests because the individuals in that smaller unit might make decisions that

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<sup>20</sup> Dahl (1994): 23-34; discussed earlier in Dahl and Tufte (1973). What Dahl calls effectiveness in this discussion, I call depth of influence, and what he calls capacity I call scope of influence.

affect individuals outside of it.<sup>21</sup> Only the most inclusive unit — a demos of the entire world — would make decisions that robustly and ideally include all those whose interests are affected.

These implications are unattractive for two reasons. First, even if a global demos could be realized, such institutions would seem to completely sacrifice the value of meaningful influence for the sake of expanding scope of influence over many decisions that have minor or only unrealized and potential effects on an individual's interests. Second, the possibility of constructing political institutions on such a global scale seems remote. That reality risks reducing the principle of affected interests to a utopian ideal with few regulative implications.

### *B. Accepting Noncompliance, Restoring Compliance*

A dynamic and non-ideal alternative to the constitutional and ideal approach accepts that organizations' decisions, the interests they affect, and the individuals who influence those decisions all shift over time. As a democratic norm, the principle of affected interests seeks to regulate those shifts. The approach is non-ideal because it recognizes that, at any particular moment, there may be organizations that make decisions affecting individuals who have no influence on those organizations. At such moments, it is democratically imperative to expand inclusion of decision-making in those organizations in order to satisfy the principle of affected interests. If such democratic reform efforts were successful, they would bring periods in which the third formulation of

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<sup>21</sup> Goodin (2007), p. 63. Goodin writes that:

Notice, however, that on the expansive analysis of what interests might be “possibly affected,” any given decision is highly likely to affect a great many interests, at least some of which are likely not to be included in any relatively restricted demos. On this “decisional power” reading of the “all affected interests” principle, any restricted demos would be debarred from making those sorts of decisions, which, empirically, seems to be most decisions.

But it isn't clear why this is the case. While it is true that many bodies *could* make decisions that affect anyone in the world, it seems that most bodies make decisions most of the time that affect a much more delineated set of interests and individuals.

the principle of affected interests was fully satisfied. Every individual would be able to influence any organization whose decisions regularly affected that individual's interests.

But the approach is also necessarily dynamic. Full-compliance periods fall far short of satisfying Goodin's more demanding formulation. Many, if not all, organizations could possibly make decisions that affect individuals who have no influence over them. Inevitably, some organizations would do so. Firms will seek new markets, states will embark on new adventures, civic organizations will drop old agendas in favor of new ones, and so on. Periods of non-compliance will emerge. During such periods, the principle of affected interests again demands institutional reform efforts that alter the boundaries of organization to include those who are affected but lack influence. And so on.<sup>22</sup>

If noncompliant periods of adjustment were sufficiently brief, the realization of this non-ideal account of the principle of affected interests would be more appealing than the realization of the ideal, full compliance, account that requires a world demos. The non-ideal approach envisions many overlapping circles of inclusion, one per organization. Because each circle is determined by the regular impacts of decision made by a particular organization, the size of each circle (the number of individuals in it) strikes a more sensible balance between the scope of influence and its meaningfulness than a circle that includes the whole world. Furthermore, the individuals in any particular circle are all connected by the fact that they are all commonly affected by an organization's actions. While that consequential tie may be less thick than a community united by ties of blood-and-soil or avowed membership, it is more substantial than ephemeral cosmopoli-

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<sup>22</sup> This recursive account political institutions in which the scale and shape of governance institutions is reciprocally determined by the consequences of the decisions emanating from those institutions echoes John Dewey's account in *The Public and Its Problems* (1927).

tan bonds between individuals in far corners of the earth who might possibly be affected by the decisions of a global political entity. Finally, this dynamic account fits with how the principle of affected interests is commonly deployed in politics. When investors and community residents demand more voice in the decisions of corporations, neighborhood groups ask for participatory planning, and governments of developing countries want greater say in the UN Security Council or world trade decisions, they all appeal to the principle of affected interests.

### ***5. Varieties of Influence***

One immediate objection to this understanding of the principle of affected interests is that it would place excessive demands on individuals; it overloads their cognitive and political capacities. Every individual is affected by the decisions of countless organizations. Few people could list all of the organizations that made decisions affecting them, much less muster the capacity to try to understand of influence decisions that they all make. The limits of attention and understanding seem more manageable if citizens only need worry about influencing the decisions of a single organization, their state.

But this objection understands the term “influence” too narrowly. In their use of the affected interests principle to justify representative government, authors such as Robert Dahl and Robert Goodin understandably think of individuals exercising “influence” by casting a vote for a politician, party, or policy measure. But there are many ways that an individual can influence a decision.<sup>23</sup>

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<sup>23</sup> The work of Philip Pettit (on responsive and indicative representation) and Jane Mansbridge (2003) (on gyroscopic representation) informs the discussion in this section on varieties of influence.

Drawing upon standard discussions of power, we say that

- 4) an individual influences a decision made by an organization just in case that individual's avowed interests or preferences cause that organization's decision.<sup>24</sup>

Framed in this way, influence can operate through channels that are indirect as well as direct, passive as well as active. Active and direct influence is perhaps the most familiar variety, as when we participate in a committee to decide some issue. In representative government, voting is usually a form of active but indirect influence; the impact of a citizen's interests or preferences is mediated through the actions of his representative. But individuals can also have passive influence on an organization's decisions. Investors in many mature capitalist countries benefit from laws and norms of fiduciary responsibility, backed by a regulatory apparatus, that induces executives in firms to make decisions that advance "shareholder interests." In that case, investors exercise direct but passive influence on corporate executives.

For specific individual interests and particular organizations, the principle of affected interests might be satisfied by varieties of influence that occupy any of the four cells that result from juxtaposing active vs. passive and direct vs. indirect influence. In its broad formulation (3) above, for example, the principle of affected interests requires workers at a firm to have influence over that organization's wage policies. It is natural to think that the principle of affected interests requires some sort of workplace democracy. Giving workers' active/direct influence is one way to satisfy the principle, but not the only one. Workers might also vote for political representatives

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<sup>24</sup> See Jane Mansbridge's discussion in the "The Place of Self-Interest In Deliberative Democracy," drawing upon Jack Nagel. We understand "causal impact" in the probabilistic sense. The decision itself need not be different that it would be if the individual had different avowed interests or preferences, just the probabilistic expected outcome of that decision.

who legislate minimum wage laws (active/indirect). Workers might live in communities with labor-friendly social norms that pressure employers to treat their workers well (passive/indirect). Or, workers might work for employers who take an interest in the welfare of their employees (passive/direct). These various kinds of influence are shown in Figure 1 below.

*Figure 1: Modes of Influence, Applied to Firm Wage Decisions*

	<i>Active</i>	<i>Passive</i>
<i>Direct</i>	Worker bargains with employer.	Socially responsible employers have an interest in worker's welfare.
<i>Indirect (mediated)</i>	Worker votes for politician to favors minimum wage laws.	Worker lives in community with potent pro-labor norms.

It may seem odd to count what I have called the passive modes as influence because our use of the term usually refers to agents who are deliberate in the means through which they seek to advance their interests. Those who are drawn to the principle of affected interests primarily from the values of autonomy and self-mastery may resist this broader formulation of influence. But there are good countervailing reasons to favor this broader definition of influence. First, the passive or indirect modes of influence may sometimes offer greater protection for important interests than the active and direct modes. Second, this broader understanding offers a more social, less individualistic, conception of influence in which organizations can be embedded in webs of

incentive and control that work to press their decisions in ways that protect individual interests.

The most obvious of these include the mediated influences of representative government and regulatory systems, but there are many others. The long term construction and maintenance of such webs of influence is not less important for democratic social control or the protection of individual interests than the decisions in which individuals participate directly and deliberately.

Finally, this broader notion of influence is congruent with contemporary psychological understandings of decision-making. Even at the individual level, the psychology of decision tells us that we accomplish most of our ends through arational, non-deliberate, processes. These psychologists distinguish between “central” and “peripheral” routes of cognition.<sup>25</sup> In the central route, individuals employ the tools of deliberate choice in full consciousness, weighing the costs and benefits, gauging the likelihood of various scenarios, and the like. In the peripheral route, decisions result from habits or affective factors that do not rely upon such deliberate appraisal of options. Think of the many decisions that enabled you to get yourself from your home to work this morning, or those that culminated in the last box of breakfast cereal that you purchased. Most decisions employ the peripheral rather than the central route of cognition. Passive routes of influence at the level of democratic society are analogous to peripheral routes of cognition at the level of individual decision-making. They can both operate to advance our interests, and they are both necessary because of our limited time and cognitive capacity.

The principle of affected interests, then, may be satisfied through any of these routes of influence. For a society, the principle is fully satisfied when every individual can influence all of the organizations that make decisions regularly affecting his important interests through at least one

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<sup>25</sup> Pratkanis et. al. (2003); Tversky and Khaneman [complete citation].

of the modes shown in Figure 1 above. A corollary is that the principle of affected interests is fully satisfied when every organization offers at least one mode of influence to all individuals whose interests are regularly affected by its decisions. It is far more plausible that the principle could be satisfied with the broader notion of influence than through just active, or active and direct, modes of influence.

Working out the factors that determine the optimal mix of different kinds of influence lies beyond the scope of this paper. Any such effort must include at least two important factors — the extent to which the mix of modes allows individuals to protect their important interests and the extent to which such modes allow individuals to economize on the attention and energy that they devote to influencing organizational decisions. A fuller theory incorporating the principle of affected interests would specify how to assess the degree to which various governance procedures and social practices satisfied the principle and whether the principle required alternative arrangements. How, for example, ought the balance between protecting important interests and economizing on time and attention be struck? Short of offering such an account, the next section illustrates how the principle of affected interests guides the evaluation of democratic control mechanisms.

## ***6. Two Illustrative Applications***

### *A. Decisions With International Effects*

Perhaps more than ever, states makes decisions that affect those who live outside of their borders and who have no formal voice in the decision-making processes of those states. It is from self-interest as much as voyeuristic fascination that many people from all over the world follow U.S.

presidential elections as closely as they do. Powerful nations make decisions about security, economy, environment, property, and technology, among other issues, whose effects touch the interests of billions outside of their borders. Decades ago, Robert Dahl mused that the principle of affected interests may require people in Latin America to be able to vote in U.S. elections, for no one doubts that U.S. decisions have profound consequences for them. He cautions us not to dismiss this thought as absurd, for “the real absurdity is the absence of any system of government in which that joint interest is effectively represented.”<sup>26</sup> He later writes that if a first transformation gave birth to the democratic city-state, and the second was the shift from local to nation-state democracy, we now face a third transformation in which

the boundaries of a country, even a large country such as the United States, are now much smaller than the boundaries of decisions that significantly affect the fundamental interests of its citizens... the governments of countries are becoming local governments.<sup>27</sup>

As discussed above, Robert Goodin suggests that the principle of affected interests requires a world government to address this challenge to democracy. But, as Steven Macedo points out, there are many other ways to satisfy the principle of affected interests in the face of decisions with trans-boundary effects.<sup>28</sup> Suppose state A makes decisions that affect individuals living in the territory of state B. If both A and B are members of multilateral institutions such as the WTO, EU, and UN, those institutions sometimes allow those in to have influence upon A’s decisions and more influence than they would otherwise have. The mode of this influence is active when

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<sup>26</sup> Dahl (1990), p. 51.

<sup>27</sup> Dahl (1989), p. 319.

<sup>28</sup> Macedo (2008).

individuals vote for political officials in B and is mediated through those political officials, multilateral institutions, and the response of State A.

For some kinds of decisions, influence might be exercised directly as well as actively. When decisions made by a corporation of State A affect those living in B, those in B sometimes circumvent the mediation of state organizations in favor of negotiating directly with that corporation to secure decisions that will protect their interests.<sup>29</sup> Influence over transnational decisions can also operate in passive ways. The advocacy of Bono Vox may be said to give Africans who suffer from AIDS some influence (perhaps only a little, but more than they would otherwise have) over the decisions about foreign aid of national governments, transnational international property rights regimes, and global pharmaceutical corporations. Similarly, efforts of non-governmental organizations such as Oxfam and Care can be said to give the world's poor some influence over the formulation of the rules of international trade. There is in political theory a lively discussion about whether such organizations “represent” the poor or African suffering from AIDS.<sup>30</sup> But it is easier to see how these international advocates afford their intended beneficiaries some influence over international decisions. Whether or not they can be said to properly represent, one of the central aims of these advocacy groups is to shift the decisions of powerful organizations in ways that protect the interests of highly disadvantaged individuals like the poor or AIDS sufferers in Africa; these NGOs aim to connect the interests of the highly disadvantaged to the decisions of powerful nations, corporations, or international organizations in ways that cause them to be more favorable to the disadvantaged. If those disadvantaged individuals did not exist, or if they had

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<sup>29</sup> Provide citations to direct negotiations Nike, Sialkot Rugmark, SEIU in Europe.

<sup>30</sup> See Laura Montenaro (2008); Michael Saward (2008); and the work of Jennifer Rubenstein.

interests very different from what they presently are, those advocacy groups would likely embrace very different goals.<sup>31</sup>

None of this is to say that the operations of multilateral institutions, stakeholder negotiations, or international norms currently confer actual influence over transnational decisions, much less that they confer sufficient influence to satisfy a democratically demanding interpretation of the principle of affected interests. Rather, this discussion simply lays out a number of alternative institutionalizations through which that principle could be satisfied.

### *B. Second Generation Gender and Race Discrimination*

A claim of the fact of governance is not just that states lack reach to over decisions that originate outside of their borders, but that democratic states lack the capacity to protect the important interests of individuals even for decisions occurring inside their territory. To illustrate the plausibility of this claim and its implications for the application of the principle of affected interests, consider the problem of racial and gender discrimination at workplaces in the United States.

In an excellent discussion of this problem,<sup>32</sup> Susan Sturm describes the difference between what she calls first and second generation discrimination. First generation employment discrimination is intentional and explicit. Sturm writes that “workplace segregation was maintained through over exclusion, segregation of job opportunity, and conscious stereotyping. Dominant individuals

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<sup>31</sup> Of course, the advocacy efforts of NGOs does not perfectly track the avowed interests or preferences of individuals on whose behalf they advocate. If there is no correlation between (i) advocacy efforts on one hand and (ii) individuals’ interests and preferences on the other, then these NGOs confer no influence. The closer the tracking, the more influence is conferred to otherwise powerless individuals.

<sup>32</sup> Susan Sturm, 2001.

and groups deliberately excluded or subordinated woman and people of color.”<sup>33</sup> During the civil rights movement and afterward, legislators and advocates passed laws, formal rules, that made this form of discrimination illegal by prohibiting the use of race or gender as a factor in hiring decisions, requiring the same standards and processes for recruitment, hiring, training, promotion, and so on.<sup>34</sup>

Though this first generation of discrimination persists, Sturm shows that it is now compounded by a second generation of discrimination that is more subtle and complex. Second generation discrimination consists of patterns of exclusion that result from personal interactions over time that may not involve intentional exclusion or bias. Second generation harassment may, for example, may “consist of undermining women’s perceived competence, freezing them out of crucial social interactions.” The “glass ceiling” that blocks the advancement of women and people of color remains “largely because of patterns of interaction, informal norms, networking, training, mentoring, and evaluation.”<sup>35</sup> These more subtle patterns of discrimination have proven resistant to the sorts of binding anti-discrimination law that successfully addressed much first generation discrimination because practices that produce second generation discrimination vary across workplaces and frequently elude explicit understanding of either perpetrators or victims of discrimination. The force of binding law is insufficient to secure equality of economic opportunity against the challenge of second generation discrimination.

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<sup>33</sup> Sturm, p. 465.

<sup>34</sup> Sturm, p. 467.

<sup>35</sup> Sturm, p. 469.

But the problem of second generation discrimination has been addressed successfully at many workplaces. Successful strategies often result from groups of employees and managers who engage in workplace problem-solving to identify the behavioral patterns, norms, and policies that constitute second generation discrimination. To mitigate discrimination, these findings must then be incorporated in to the human resource practices and culture of the organization.<sup>36</sup> Firms who engage in this sort of introspection and internal reform are frequently prodded, and then assisted, by external groups who advocate on behalf of female or minority professionals.

In response to the discovery of dramatic gender gaps in promotion rates, for example, the accounting firm Deloitte and Touche implemented a Womens' Initiative in the 1990s. The Initiative was born of an employee task force that identified an organizational culture dominated by gender stereotypes, biased informal mentoring practices, and work-life balance as key barriers to women in the firm. The group recommended and management adopted a range of measures that included more explicit and equitable assignment procedures, flexible scheduling and other policies designed to address balance between professional and personal priorities, and measurement and internal publicity around the extent and character of the gender gap within business units. These strategies dramatically decreased several dimensions of the gender gap. In five years, the percentage of women admitted to senior management rose from 8 to 23 percent; turnover for female senior partners decreased from 26% to 15%. The number of women senior partners rose from 88 to 246 between 1993 and 1999.<sup>37</sup>

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<sup>36</sup> Sturm, p. 479.

<sup>37</sup> Sturm, p. 498.

Women and people of color have a important interest in non-discrimination. During the civil rights and women's movements, many of them actively exercised influence over employment decisions through the power of anti-discrimination law to protect these interests. These tools of active/indirect influence have shown themselves to be much less effective against a second generation of workplace discrimination. But other forms of influence, in particular the active-direct mode of employee participation in the formation of human resource and promotion policies, has proven more effective. When the process of representative government does not allow individuals to influence decisions affecting their important interests, the principle of affected interests demands other avenues of influence be created.

## **7. Conclusion**

The principle of affected interests remains one of the firmest and most widespread democratic intuitions. The sensibility that people should be able to influence decisions that affect them grounds not only commitments to representative government, but complaints about the democratic deficits of multilateral institutions like the European Union and the World Trade Organization. It drives demands for participation not just upward from the nation-state, but also outward — into corporations and non-governmental organizations — as well as downward — into local governments, administrative agencies, communities, and neighborhoods.

The above discussion of the principle of affected interests is incomplete. I have not specified which individual interests are sufficiently important to warrant having influence; an account of what counts as an important interest is needed. I have not specified the values — economy of time and attention, extent of influence, deliberateness of control — that guide choices among al-

ternative ways to satisfy the principle of affected interests. Furthermore, individual influence is not the same thing as democratic control. Influence must be rise above a threshold and be distributed fairly to count as democratic. Authoritarian leaders know that they can go so far that they will be overthrown and so avoid that precipice. Though these countries are far from democratic, people in them have some weak influence over their political leaders. Finally, I have said nothing about how influence ought to be distributed. Moral equality probably requires influence to be proportional to the extent to which an individual's interests are affected by a decision rather than equal of opportunity to influence decisions. I hope to develop that argument elsewhere.

Nevertheless, I have tried to develop the principle of affected interests in several ways that render it coherent, feasible, compatible with the complexity of contemporary governance, and yet still responsive to these radical democratic intuitions. This development turns on three specifications. First, because of what I have called the fact of governance, the principle should govern not just state decisions, but the consequential decisions of all kinds of organizations including economic firms and civic organizations. Second, the principle should be used to guide the continuous adjustment of boundaries of organizational inclusion in real, non-ideal world that we actually inhabit rather than as a principle of design for an ideal constitution or basic structure of a society. Third, we should conceive of the idea of influence much more broadly than active and direct control; influence can also operate in indirect and passive ways. Understood in this way, an individual should have influence over many different organizations because many affect his important interests. If we imagine every organization as having a circle of inclusion around it with all of those in the circle having some influence, every individual would be a member of many circles — some above the level of the nation-state and many below it. In some of those circles, in-

dividuals might exercise their influence directly through committee democracy and indirectly through votes for representatives in others. In many, perhaps most, circles, however, individuals would have passive influence that causes organizations to make decisions that are responsive to their interests and preferences through structural inducements, norms, or regulatory provisions. As the effects of organizations shifted, constricted, or expanded, political leaders, citizens, and advocates would press them to adjust their boundaries of inclusion according to a broadly accepted principle of affected interests.

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