Democracy and People over Profit

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ABSTRACT

A principle of equal moral agency undergirds much support for democratic political institutions. This same principle, however, undermines one central argument against a market economy—namely, the "People Over Profit" demand—while at the same time providing perhaps surprisingly strong reason to support a market economy. Moreover, several other arguments often adduced in favor of democracy seem, on examination, to support market economies at least as much as they support democracy. If any of these arguments are compelling, or even plausible, in marshaling support for democracy, then they support market economies as well. Many supporters of democracy might therefore find expression of at least some of their moral aims in market economies. I argue that on the basis of their own arguments, many supporters of democracy should be supporters of the market.

INTRODUCTION

One central argument for democracy is based on a premise of moral equality. All human beings are equal moral agents and thus should be accorded the same respect and dignity—as well as rights, liberties, and privileges—in light of this agency.[1] Some critics have argued that, in practice, democracy does not actually respect this premise of equal moral agency,[2] but I propose to set that worry aside and pursue a different line of thought. Since at least Rawls,[3] one aspect of democratic advocacy has been a concern for fairness, and this has been applied by its advocates not only to conceptions of justice and the basic political institutions of a democratic society but also to their economic institutions.[4] Thus, some aspects of a market economy have been criticized on the grounds that markets allow people to capitalize on lucky circumstances of birth, family, or schooling—for which they can claim no credit—while others suffer from bad luck due to adverse circumstances. Similar criticisms are based on the claim that the market does not treat all with dignity and respect and are therefore unfair.[5]

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[1] *See, e.g.*, RONALD DWORKIN, SOVEREIGN VIRTUE (2000); Thomas Christiano, *The Authority of Democracy*, 12 J. POL PHIL. 266 (2004); Thomas Christiano, *An Egalitarian Argument for a Human Right to Democracy, in* HUMAN RIGHTS: THE HARD QUESTIONS 301–26 (Cindy Holder & David Reidy eds., 2013).

[2] *See, e.g.*, JASON BRENNAN, AGAINST DEMOCRACY (2016).

[3] JOHN RAWLS, A THEORY OF JUSTICE (1971).

[4] *See, e.g.*, JOHN TOMASI, FREE MARKET FAIRNESS (2012).

[5] *See, e.g.*, John Rawls, *A Kantian Conception of Equality*, 96 CAMBRIDGE REV. 94 (1975); JOSEPH E. STIGLITZ, GLOBALIZATION AND ITS DISCONTENTS (1994); DEBRA SATZ, WHY SOME THINGS SHOULD NOT BE FOR SALE: THE

In this essay, I argue that one particular criticism of market economies—captured by the slogan "people over profits"—is mistaken because it violates a foundational moral principle of equal moral agency. I will propose that the principle of equal moral agency that some deploy to defend the fairness of democratic political procedures seems, in fact, more clearly at work in market economies, and therefore one plausible way to instantiate and respect this principle is to have a properly functioning market economy. In sum, my argument will be: if the, or a, reason one advocates for democracy is because one believes it fulfills the principle of equal moral agency that underpins fairness, then one should reject a "people over profits" objection to market economies and should support a market economy.

I. People Over Profit

Before addressing democracy directly, let us consider market economies and some of the objections people raise to them. In particular, consider the criticism of some activities in market economies that is captured by the slogan "people over profit." What does it mean to advocate "people over profit"? According to its advocates, it entails placing a higher value on the people affected by decisions about how to allocate resources than on the search for profit.[6] When a firm decides to downsize, lay workers off, relocate, or otherwise shift its resources, or decides not to pay its workers more or give them more generous benefits, a person demanding "people over profit" is implying that the firm's decision reflects that it values money more than it does the workers involved. Specifically, the implication is that the firm values its profitability more highly than it does the welfare of the individual workers that it might fire, lay off, or dislocate. Seen in this way, "people over profit" seems like an important reminder that what matters ultimately—not just in a firm, or even in an economy, but in life generally—is the welfare, interests, desires, and goals of the people who constitute the firm, economy, or society. To sacrifice them in a search for greater profitability thus seems not only to have the priorities wrong, but it seems to subordinate a worthy end of benefiting people to an ignoble end of satisfying greediness.

That might be how it seems, but that is not how it is. On the contrary, to advocate "people over profit" is to endorse a morally objectionable selfishness. In a properly functioning market economy or commercial society, the way one can make a profit is by creating some good or offering some service that others value enough to willingly part with some portion of their time or treasure to procure. In other words, profit is an indicator that one is creating a net value surplus for others—providing them some value that is greater than whatever they have to give up for it. It is a net benefit to them: otherwise, they would not do it. Similarly, if you judge that it is worthwhile to you to create the good or provide the service in exchange for what someone else offers to give you for it, then that means you are getting a value surplus for it as well—what you

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Moral Limits of Markets (2010); Michael J. Sandel, Democracy's Discontent: America in Search of a Public Philosophy (1996).

[6] As, for example, the nonprofit People Over Profits puts it, "We must put the interests of working people ahead of quarterly profits, shareholder dividends, and stock buybacks." People Over Profits https://thepeopleoverprofits.org [https://perma.cc/M97E-TBX4] (last visited March 14, 2019). *See also* Noam Chomsky, Profit Over People: Neoliberalism and Global Order (1999).

are getting constitutes more value to you than the time or treasure you are giving up. Otherwise, you would not do it.

On the other hand, if you create something costlier in time or treasure than what others are willing to give you in exchange for it, then that means that they do not value your creation sufficiently to give you what you ask or require for it. It does not necessarily mean that they do not see value in your creation (though they might not); rather, it means that in their eyes, your creation's value is not sufficient to compensate the sacrifice they would have to make for it. If you put your limited resources in this direction nonetheless, the result for you would be a loss, rather than a profit. Temporary losses are sometimes justifiable for future gains, but this cannot—and should not—go on forever, or else it is simply net loss. Thus, the desire for profit is really a desire for value surplus; loss, by contrast, results from actions and decisions that do not lead to a value surplus.

All goods and services arise from human labor,[7] which means that all goods and services arise from costs in time or treasure, usually a combination. But these resources are scarce or limited, and they could have been expended in other directions. Because we all have multiple goals and ends, we have to choose which are the most valuable to us and that hence warrant the expenditure of our scarce resources at the expense of other goals and ends. The fact that resources are scarce means that we cannot simultaneously serve all our goals at the same time; choices must be made among competing ends, and tradeoffs must be made. That does not necessarily mean that any of our goals are unimportant; it means only that some of them are more important, and others are less important, to us. The scarcity of resources entails that some goals, even worthy goals, must be forsaken in the service of other, more important, goals.

F. A. Hayek argued that the goal of an economy should be to achieve a "rational economic order,"[8] by which he meant allocating resources to their most important uses first, then to second-most-important uses, and so on. If we do not carefully consider the ranking of our goals, we might consequently devote resources toward a less-important goal at the expense of a more-important goal—which would be 'irrational' or inconsistent with our own hierarchy of goals or schedule of value. That a goal or value is important or good is thus necessary, but not by itself sufficient: it must be sufficiently *more important* or *better than* something else. Scarcity of resources necessarily forces us to forgo some important and good things for the sake of pursuing yet more important and better things.

It is important to note that this is no one's fault. It is an endemic feature of our world that resources are limited, and that no good or service can be created without the expenditure of cost to some person in time or treasure. As more people create ever more value surplus, the resources available to create further goods or services for further goals increase. This is the definition of

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[7]As the sociologist William Graham Sumner wrote in 1883, "every particle of capital" is produced by human effort; "[w]ealth comes only from production." *See* WILLIAM GRAHAM SUMNER, ON LIBERTY, SOCIETY, AND POLITICS: THE ESSENTIAL ESSAYS OF WILLIAM GRAHAM SUMNER 209, 219 (Robert C. Bannister ed., 1992). This claim has a long pedigree and can be found, for example, in JOHN LOCKE, SECOND TREATISE OF GOVERNMENT (C.B. Macpherson ed., Indianapolis, Hackett. 1980) (1690); ADAM SMITH, AN INQUIRY INTO THE NATURE AND CAUSES OF THE WEALTH OF NATIONS (Campbell & A. S. Skinner eds., Indianapolis, Liberty Fund 1981) (1776); Karl Marx, *Capital, reprinted in* KARL MARX: SELECTED WRITINGS (Lawrence H. Simon, ed., 1994); and in many others.
[8]*See* Friedrich Hayek, *The Use of Knowledge in Society*, 35 AM. ECON. REV. 519 (1945).

growing prosperity.[9] As long as resources nevertheless remain finite, however, and as long as our desires—our goals, ambitions, values, ends, and preferences—continue to outstrip the resources we have to satisfy all of them, having to make choices, sometimes painful choices, among our goals will remain part of the existential condition of human beings.[10]

What does this have to do with "people over profits"? People make this claim because of situations in which they wish they themselves or others either (1) were better compensated for their creation or work or (2) continued to be paid wages for the work they wish to do. But recall that the desire for profit is really a desire for net value surplus. If a desire for profit leads some firms or individuals to choose not to patronize you, not to hire you, or not to be willing to do so at the wage or price that you desire, it means that they do not believe such an exchange or partnership would create a value surplus, or not as much value surplus as other expenditures would. In that case, if you demand that they give you what you want regardless, you are in effect demanding that they be willing to suffer what they consider a loss in value to them to satisfy your ends, ambitions, or goals. Because a loss to them entails a diminished ability to achieve their own ends and goals, however, such a demand entails that you believe that your ends, ambitions, or goals are more important than theirs. In other words, the demand of "people over profits" is, in reality, a demand that you be accorded greater consideration than others, regardless of others' desires, needs, values, responsibilities, or obligations. This is the very definition of selfishness.

It is important to see, however, that this selfishness is morally objectionable. I base this claim on the premise with which we started, namely, that people are equal moral agents and therefore should be accorded exactly the same scope of freedom—the maximum scope compatible with granting the same scope to others[11]—that everyone else has. If anyone has a right to make free choices or to have her choices respected by others, then everyone else does as well.

To show this, consider the alternative: at least one person, S, has a right to make free choices and have her choices respected by others, but at least some other person, P, does not have the same right. It follows that S has a scope of agency that, in at least some relevant respects, is greater or wider or more efficacious than that of P. This means that that S's moral agency is privileged above that of P. In the absence of some special qualification, however—if, for example, P is a minor, is a medically or psychologically infirm adult, or is a duly convicted criminal—privileging the agency of S over that of P violates the foundational moral principle of equal moral agency. Thus, if S demands respect of her agency over that of P, S's demand issues from an assumption of moral superiority to P and an assumption of greater moral importance than P. Such a claim from S would therefore be selfish, and, moreover, objectionable because it

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[9]This is what Nobel laureate Edmund Phelps calls "mass flourishing." EDMUND PHELPS, MASS FLOURISHING: HOW GRASSROOTS INNOVATIONS CREATED JOBS, CHALLENGE, AND CHANGE (2013).

[10]*But see* MARY L. HIRSCHFIELD, AQUINAS AND THE MARKET: TOWARD A HUMANE ECONOMY 62 (2018) (denying that "individuals have unbounded desires"). If we ever reached a point where no one wanted anything more, or an age of superabundance in which desired goods and services were (virtually) costless and limitless, then opportunity cost would fall to (virtually) zero and we would no longer face such difficult choices. Perhaps that day will come. Until then, however, we will continue to face choices with tradeoffs.

[11]As claimed, for example, by John Rawls, whose first principle of justice is: "Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all" RAWLS, *supra* note 3, at 302.

violates the equal moral agency principle. I will not argue here for the soundness of that moral principle (I have done so elsewhere[12]), but I would point out that denying it would seem to license morally objectionable behaviors like racism, sexism, xenophobia, and so on. That would seem at least strong prima facie reason to accept the principle of equal moral agency and to reject a claimed exception to it and conferral of superiority on any S.

Of course, sometimes people make poor or unfortunate choices about which goods or services to buy, which firms to patronize, whom to hire, whom to partner or exchange with, or in which firms or financial instruments to invest. Sometimes they themselves recognize their mistakes after the fact. And sometimes firms make poor or unfortunate choices about how to allocate their resources: they pay some people too much (CEOs, perhaps[13]), and not enough to others; sometimes they decide to produce goods or services that do not repay the requisite investment of resources. All such decisions result in losses of, or at least forgone gains in, value. It is typically very difficult, however, to know in advance which decisions will turn out to be the right ones. Another apparently enduring aspect of the human condition is severely limited knowledge. We live in a world of profound uncertainty, which means that many decisions we make, even in good faith, will end up having been wrong or bad—that is, will result in losses.[14]

But much of that lack of knowledge results from uncertainty about what other people want or will want. We do not know what others' goals, ambitions, and desires are; we do not know what opportunities others have or what constraints they face; we do not know what obligations or responsibilities others have; and we do not know what other factors might affect their choices. Even if we somehow could come to know this at any given moment, our knowledge would soon be useless because all these things are in continuous flux: people's desires, opportunities, and obligations are constantly changing—often as a result of yet others' choices, which neither they nor we can predict. It is partly for this reason that approximately eighty percent of all new business ventures fail within two years:[15] what seemed like a good, even great, idea turns out not to be surplus value-creating. Sometimes this occurs because of luck: people happen to hear, or happen not to hear, about what we are offering; chance encounters with other people change people's minds; unpredictable shifts in culture or fashion change people's preferences; other people's or firms' choices and offerings and innovations suddenly alter people's desires or opportunities; and so on.

But the fact that luck figures into the eventuality of our relative success does not mean that it is any less a result of others' choices.[16] And others are entitled to make those choices. As moral agents equal in dignity to us, they should be accorded respect for their choices based on their desires and goals that is equal to the respect we demand for ours. Just as we would rightly reject someone mandating choices for us, we may not mandate choices for others. If they do not

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[12]*See* JAMES R. OTTESON, ACTUAL ETHICS (2006).
[13]*But see* TYLER COWEN, BIG BUSINESS: A LOVE LETTER TO AN AMERICAN ANTI-HERO 55 (2019) (arguing that CEOs, despite their large and recently increasing compensation, nevertheless "capture only about 68 to 73 percent of the value they bring to their firms"—and thus might in fact be undercompensated).
[14]*See* Elizabeth Anderson, *What Is the Point of Equality?*, 109 ETHICS 287 (1999).
[15]*See* PAUL ORMEROD, WHY MOST THINGS FAIL: EVOLUTION, EXTINCTION AND ECONOMICS (2005); Eric Wagner, *Five Reasons 8 out of 10 Businesses Fail*, FORBES (Sep. 12 2013), https://www.forbes.com/sites/ericwagner/2013/09/12/five-reasons-8-out-of-10-businesses-fail/#4c373d676978 [https://perma.cc/YMY3-UEKN].
[16]*See* James R. Otteson, *The Misuse of Egalitarianism in Society*, 22 IND. REV. 37 (2017).

want to buy from us, do not want to hire us, do not want to pay us more, and so forth, they are entitled to make those decisions—even when we disagree with their choices, even when we believe they are mistaken, even when we believe they themselves will come eventually to see the error of their ways, and even when we are right that their choices are incorrect. As equal moral agents to us, they are nevertheless entitled to make their own choices, even incorrect choices, exactly as we are.

Profit, then, is a signal that people are making choices about the allocation of their resources of time and treasure that in fact lead to net value surplus, choices that in fact give others more value than what they must sacrifice to get what we are offering. Profit is the feedback we need in order to know that, amidst our profound uncertainty, we have hit upon something worthwhile, just as loss is the feedback we need to know that we should consider turning our attention to something else. Because profit and loss result from people's choices and thus represent feedback from others, seeking profit and avoiding loss are in their essence putting others' choices—and their needs, desires, goals, ambitions, and so on—on par with our own. It is a recognition of the importance of others as equal to ourselves. We are, or ought to be, free to undertake whatever ventures we want and to offer whatever goods or services we want; others are, or ought to be, free to decide whether to accept or decline our offerings. A mutually voluntary exchange or partnership is thus a transaction among moral equals and peers, with neither party occupying or presuming to occupy a position of privilege over the other.

By contrast, a demand to privilege "people over profit" is a demand to privilege some people over others. It is to say that what I want is more important than what you want because I want it and I do not care, or do not care as much, about what you want. But such a claim can be justified only if I am more important than you. It is hence, again, to express objectionable selfishness.

Sometimes the amounts involved, however, can be so large as to seemingly complicate the issue. Why should a CEO make so much when entry-level workers make so little? Why am I being laid off when an executive is getting a bonus or when shareholders are getting a dividend? If a CEO is making ten times, or a hundred times, more than I am, it is easy to think that a small reduction in her pay would, if transferred to me, create a far greater benefit to me than the loss would constitute to her.[17] Or if we see that a firm that has a multi-billion-dollar market capitalization or billions of dollars in sales or revenues, it is easy—it might even seem self-evident—to conclude that it can "afford" to pay me more or retain me in its employ. If such a firm decides, however, not to pay me more or to keep me in its employ, this seeming disrespect of my situation or my interests might lead us to conclude that the firm is either privileging its profitability over my welfare or is privileging its executives over its workers—that it is privileging "profits over people," instead of the other way around.

But the conclusion is mistaken. The issue is not what the firm could in principle afford to do, or even whether I am providing or could provide value to the firm. The firm's mission is, or should be, to create value—specifically, to create value surplus—as much as it can, given its

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[17] *See, e.g.*, PETER SINGER, DEMOCRACY AND DISOBEDIENCE (1973) (especially chapter 2); THOMAS PIKETTY, CAPITAL IN THE TWENTY-FIRST CENTURY (2014) (especially part 3); MARIANA MAZZUCATO, THE VALUE OF EVERYTHING: MAKING AND TAKING IN THE GLOBAL ECONOMY (2018) (especially chapter 6).

resources.[18] Because it too has limited resources, however, it cannot put resources toward all purposes that might be good or create value; it must put its resources toward those purposes that it believes are best or create the most value. That means that it must necessarily forgo not only projects that would lose value but even some that would create value—but not enough value as other projects. Something's being a good idea is therefore not enough: it must be a *better* idea than other good ideas. Like every decision any individual makes, the firm must consider its opportunity cost: what is it (or what am I) giving up in order to attempt to achieve this goal? Because a firm, like a person, wants to survive and even flourish, it must dedicate its resources to purposes that it believes will lead to greater benefit than whatever it is giving up. Such decisions are made at the firm's or individual's risk and are often made under uncertainty; they are also typically made at the margin, where the question is not regarding an estimation of total value but of the next increment of value. These facts mean that mistakes will often be made. But a firm that is not constantly making these comparative judgments of marginal value is one that will end up putting at least some of its limited resources to purposes providing less benefit (or even loss). This will mean either forgone gain or loss, which no firm—and no individual—can continue to do for long and hope to survive, let alone flourish.

Thus, the claim that the firm could afford to keep me in its employ or pay me more may be true, but the question is: what would the firm have to give up in order to do so? If a firm will not employ me or will not pay me more, that means the firm has decided that, at the margin, the potential value I could provide the firm is not worth whatever else the firm might do with those resources. Either it would lose value, or it would not gain as much value as it could otherwise. To repeat, these are very difficult decisions to make—not only because it can lead to disappointment, hardship, or dislocation for those adversely affected by the decisions, but also because it is simply extremely difficult to know in advance what the best use of limited resources is. And, also to repeat, mistakes often get made, even in good faith: that is why so many businesses fail.

But the other crucially important point to consider is that we are not entitled to others' resources. As equal moral agents, we are all equally entitled to make choices about how we think we can best achieve our ends and purposes, given the constraints we face. In the absence of properly required compensation for criminal wrongdoing or a promise or contract otherwise, no one of us—and no group of us—is entitled to demand, as a matter of right or on principle, that others allocate their resources in ways other than what they choose.

To substantiate that claim, consider the case of Jack and Jill.[19] They have been dating for some time, and Jack has decided to ask Jill to marry him; Jill, for her part, has decided that if Jack were to ask her to marry him, she would say "yes." Then Jill happens to meet Joe, and there is a spark. Jill and Joe suddenly fall in love; just before Jack asks Jill to marry him, Joe asks Jill to marry him—and Jill agrees to elope with Joe. Now, consider Jack's situation. He has obviously suffered from bad luck, and the disappointment he now feels is entirely reasonable. But does Jack have a claim against Jill? Should he be able to sue her for the loss of future affection he hoped or even expected to get from her but now will not? May he sue her for compensation for the previous investment of time and other resources he put into the

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[18]*See* JAMES R. OTTESON, HONORABLE BUSINESS: A FRAMEWORK FOR BUSINESS IN A JUST AND HUMANE SOCIETY (2019).
[19]I draw here on Otteson, *supra* note 16.

relationship, an investment that has now come to an unexpectedly fruitless end? The answer to such questions is, of course, no. And the reason, crucially, is that Jack has no right to Jill. He has no right to her love, to her affection, or to anything else from her because she is a free person, a moral agent equal to Jack (and everyone else), and thus as entitled to make choices about to whom to give or from whom to withhold her time, love, and affection as anyone else is. If Jack were to demand of Jill "people over love," Jill would rightly reject Jack's claim as both presumptuous and confused.

I argue that similar reasoning applies to markets. If you own a coffee shop, which I have been patronizing every day, but another coffee shop opens up across the street from yours and I—as well as, perhaps, many other customers—decide to patronize your competitor, should you be entitled to compensation for the loss of expected revenue from me and other customers as a result of our choices not to patronize your shop? The answer, again, is no: you have no more right to our resources than Jack has to Jill's affections. Your disappointment, and even dislocation, is real, but it does not trump my right to make such choices. And if you have to lay off some of your workers due to the decline in revenue as customers go to your competitor's coffee shop, if the laid-off workers were to demand to keep their jobs by claiming "people over profit," they would be claiming a right to your resources, and by extension to those of your former patrons who have changed their preferences. They could make this demand, however, only by claiming an exception for themselves to the principle of equal moral agency. Because we are all equal moral agents, others—Jack, coffee shop owners, and so on—must respect the choices we make, even when our choices result partly from luck, when they lead to disappointment for at least some parties, and even if we are making mistakes.

To demand otherwise is to privilege ourselves over others and to arrogate to ourselves import and authority that we deny to others. The demand for "people over profits" is premised upon exactly such an assumption. Profits result from (some) people's choices, and hence the search for profit is the search to create as much value for as many people as possible—while recognizing that no single firm (or person) can create unlimited value for all others at the same time. Thus, people benefiting from a firm's employment or from the goods or services a firm offers are not demanding "profits over people"; instead, they are people who *are* profiting.

It should be noted that my argument would not apply to cases of cronyism, protections, subsidies, legal monopolies, or other cases of legal intervention into markets or special privileges bestowed upon some market participants. Cases such as these are not instances of honest profit or "honorable business,"[20] which operate on the basis of mutually voluntary and mutually beneficial exchange. Rather, they are examples of extraction,[21] which benefit one party to the exchange (or transfer) at the expense of others—exactly as those demanding "people over profits" are desiring. So those demanding "people over profits" are not, in fact, demanding that firms consider the interests of all people, but are rather demanding that the interests of a select group of people be accorded privileged consideration over, and at the expense of, the interests of other people. In a properly functioning market economy, however, profit *means* people—all people, equally considered. Profit results precisely from creating value for all parties to transactions and can arise in no other way.

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[20]*See* OTTESON, *supra* note 18.
[21]This terminology comes from DARON ACEMOGLU & JAMES A. ROBINSON, WHY NATIONS FAIL: THE ORIGINS OF POWER, PROSPERITY, AND POVERTY (2012).

II. People over Votes

What does this have to do with democracy? People defend and support democracy for a variety of reasons, many of which have little to do with economics or markets. One of the central arguments for democracy—or some elements or aspects of democracy (not necessarily a pure democracy)—is that it is a better way to respect the dignity of each individual citizen, as compared to most other forms of political organization.[22] If each person has a voice, or a vote, then each person has the opportunity to contribute, to at least some small (but no smaller than everyone else's) extent, to the shape and direction of his or her country's political institutions. This can function both as a check on tyranny and as a recognition that no citizen in the country has, or should have, more power, influence, or authority than any other. The core moral premise of this argument is a public recognition of the equal moral agency, and hence equal moral dignity, of each citizen, regardless of race, sex, class, religion, or any other identifying characteristic. Democracy is thought to be a preeminent way—or perhaps the least ineffective way—to respect the equality of moral agency and dignity.[23] Giving all adults (with the standard uncontroversial qualifications) the privilege of voting expresses a country's respect for the equal moral agency and dignity of all its citizens.

Imagine, however, a citizen who dislikes the result of a democratic vote and hence decides to protest "People Over Votes!" Our reaction should be that this person is suffering from confusion. Universal suffrage and voting rights are not ways of privileging *voting over people;* they are a way of allowing *people to vote.* Democracy is defended not as a method of granting some special privileges over others and allowing the former to exercise undue authority over the latter. It is instead envisioned as a method of granting equal privileges to all, and letting the resulting chips fall where they may—with the hope that the results, whatever they are, will be a closer approximation of what serves the public interest and common good than alternative methods of making political decisions. Hence, it would make no sense to protest a democratic result as privileging votes over people; the votes are cast by people, and hence they are an expression of people's judgments as determined by their desires, goals, ambitions, preferences, and so on. A protestor who demanded "people over votes" would thus be advocating not only against democracy itself but would also be demanding that his own (political) preferences be privileged over those of others. It would thus be tantamount to a claim that he himself deserves privileges not afforded to others, that he is superior in some morally relevant way to them, and that his desires and preferences should trump theirs. In other words, it would constitute an objectionable selfishness—and a selfishness even more objectionable in a society premised on the assumption of moral equality.

The same argument applies to people demanding "people over profits." Profits (and losses) result from choices people make, just as electoral victories (and defeats) result from choices that people make. Profits and losses in markets issue just as directly from individuals' choices as victories and defeats in politics do in democracies. Indeed, there is an important and profound respect in which the choices people make in markets are *more* moral—despite losses or

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[22]*See, e.g.*, Amy Gutman & Dennis Thompson Gutman, Why Deliberative Democracy? (2004).
[23]*See, e.g.*, Singer, *supra* note 17; Jeremy Waldron, Law and Disagreement (1999).

dislocations to which they might lead for some—than political choices made in democracies. This is because democratic votes tend to be winner-takes-all and zero-sum, whereas market choices tend to take place in the context of numerous alternatives and positive-sum exchanges.

The next president of the United States will be either a Democrat or a Republican, and the losing person or party will have to live with the leadership decisions of whoever wins. It is a zero-sum contest: if my party wins, yours loses, and vice-versa. By contrast, if you will not hire me, there are millions of other businesses in the United States who might;[24] if you will not sell to or buy from me, there are millions of others who might. To succeed in a market you do not need to convince a majority of citizens to buy from, work with, or invest in you; you need to convince only a tiny fraction of them. Of course, the more you can convince, the better for you (and, presumably, for them), but there is no requirement or expectation of gaining a majority or even a plurality. Not so in politics, however. In politics, and particularly in a democracy, you must gain a majority or at least a plurality of your fellow citizens' agreement before you can move forward. I suggest that this means that success in markets—signaled by achieving honest profit—is more moral because it does not entail that someone else loses; it entails only that at least some gain, while leaving all others as they were.[25] Unlike democratic politics, in which someone will win and someone else will lose, in markets, we may all win according to our various respective unique conceptions of value and with the willing cooperation of at least some others, possibly only *one* other. It is for this reason that Milton Friedman claims that the principle underlying market exchanges is "unanimity"—no exchange takes place in a market unless all parties to it voluntarily agree—while the principle underlying politics is "conformity"—the winning person or side is now in charge, and all other candidates and ideas have lost and must obey the winner.[26]

My argument makes no claim about whether democracy can, in fact, achieve the various goals people claim it can serve. It focuses only on (one of) its main moral premises, namely, that all citizens are equal moral agents and should be accorded equal privileges (in at least some relevant respects) to every other citizen. I believe this is a foundational moral premise, and I endorse it. The argument can thus be framed as a hypothetical: if one accepts the premise of equal moral agency, then that acceptance entails that one should respect the voluntary choices others make. That may mean that one should endorse democracy (though here I am specifically agnostic on that claim), but it does entail that one should respect the choices they make about how best to serve their interests in markets. Just as a democrat should not demand "people over votes," a person endorsing equal moral agency should not demand "people over profits."

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[24]According to the U.S. Census Bureau, there were approximately 27.6 million businesses in the United States in 2012 (the latest year for which data are provided). *See* UNITED STATES CENSUS BUREAU, *Quick Facts*, CENSUS.GOV (last visited Oct. 24, 2020), https://www.census.gov/quickfacts/fact/table/US/SBO001212 [https://perma.cc/2T83-F47M].

[25]Mutually voluntary and mutually beneficial transactions in markets are thus Pareto-improving: benefiting at least some while leaving others in the same position in which they were. My claim does not address negative externalities, or situations in which third parties' conditions are worsened because of decisions made by first and second parties. But I claim that though mutually voluntary and mutually beneficial exchanges may disappoint third parties who had hoped to exchange with first or second parties, the disaffected third parties remain in their ex ante position of hoping to exchange. No resources have been taken from them by first or second parties, and no new costs have been visited on them.

[26]*See* Milton Friedman, *The Social Responsibility of Business Is to Increase Its Profits*, N.Y. TIMES MAG. (Sep. 13, 1970), https://www.nytimes.com/1970/09/13/archives/article-15-no-title.html [https://perma.cc/FDT6-LQAJ].

III. Markets over Votes

Although I have focused on the equal moral agency principle as a defense of democracy, advocates of democracy deploy several other arguments. Some critics have questioned such arguments in favor of democracy by claiming that democracy either does not, in fact, achieve the ends or benefits claimed on its behalf or is unlikely to do so.[27] Regardless, it turns out that most of the main claims that advocates make on behalf of democracy stand a better chance of being realized in markets, rather than via democratic voting procedures. To suggest how, let me briefly consider four related influential arguments for democracy. My conclusion will be that if one is attracted to any of these arguments offered on behalf of democracy then one should support markets.

Argument #1 is that democracy ennobles and enlightens citizens—or, rather, *deliberative* democracy ennobles and enlightens citizens.[28] Because democracy requires—or at least allows—political participation, citizens are encouraged, by virtue of their citizenship, to consider the good of the whole, not just their private good as individuals. To persuade their fellow citizens, they must appeal to reasons that would be possible for others to find attractive and reasonable, and to develop the appropriate reasons, they must learn to consider the perspectives of other citizens and of the common good.

Let us put aside the concerns that not everyone with voting privileges actually votes, which means that in practice decisions will likely be made by only a portion of the eligible population; that many, perhaps most, voters do not actually take the time to become informed about candidates and issues and do not consider implications, tradeoffs, empirical evidence, and counterarguments dispassionately; and that political mechanisms rarely achieve in reality the goals people hope for in theory. The more relevant problem here is that when people vote, they typically do not bear the entire cost of their political decisions. They can thus vote for candidates or measures that might lead to benefits for themselves or others they care about, but whose costs are distributed among all citizens or among all taxpayers. Thus, they may either directly or indirectly gain, yet pay only a fraction of the actual full cost of their decisions. I suggest that this encourages, not ennobled and enlightened thinking, but rather crabbed and immature thought. Because people do not reconcile their ideals with practical realities and do not themselves feel the full force of the implications of their decisions, they are not encouraged to develop and deploy good judgment about which among our many goals are more important than others, given

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[27]*See, e.g.*, Bryan Caplan, The Myth of the Rational Voter: Why Democracies Choose Bad Policies (2007); Jason Brennan, Against Democracy (2016); Ilya Somin, Democracy and Political Ignorance: Why Smaller Government is Smarter (2nd ed. 2016).

[28]For versions of this argument, *see, e.g.*, Joshua Cohen, *Deliberation and Democratic Legitimacy, in* Democracy 87 (David Estlund, ed., 2002); Hélène Landemore, Democratic Reason: Politics, Collective Intelligence, and the Rule of the Many (2012); David Estlund & Hélène Landemore, *The Epistemic Value of Democratic Deliberation, in* The Oxford Handbook of Deliberative Democracy 113 (Jane Mansbridge & Mark E. Warren eds., 2018).

the constraints they face. Instead, they can develop an unrealistic sense of political alchemy, whereby they come to think that if the government provides something, it is costless.[29]

Contrast that with making decisions in markets. If I buy from Amazon, I have to pay. If I bought well, I get positive feedback in the form of value surplus, which encourages the development of my judgment in good directions; if I bought foolishly, I get negative feedback in the form of value loss, which again develops my judgment in good directions. This pattern recurs with all the other transactions in which I engage in the market. Whenever I myself am responsible for my decisions and when my decisions must be made within the constraints I actually face, I must use my judgment to know when any given potential decision is worth its requisite costs—on pain of suffering cost and loss. Rather than being dissipated by being only a small part of a larger group, responsibility for my decisions is then focused directly on me—which, as the person making the decision, it should be—and this is precisely the personal accountability I need to develop sound judgment. In this way, I also do not impose costs of my decisions on unwilling or unconsulted others, thereby respecting their equal moral agency to mine.

Argument #2 is that democracy is a way to ensure accountability of government to citizens' interests.[30] Because government officials can be removed from office when they engage in corrupt, tyrannical, or wasteful activities, democracy ensures that legislators are responsive to citizens' needs and welfare and, at the same time, acts as a disciplining check that discourages political malfeasance and other unethical behavior.

Recall, however, that politics is typically a zero-sum game: one side wins, the other loses. Suppose you reject a particular candidate for president of the United States, and hence you campaign against and openly declare your opposition to the candidate, and you ultimately vote against that candidate. If that candidate should win despite your efforts, that candidate is now your president regardless of your opposition. Indeed, for any citizen in a democracy, whether she voted for the candidate, voted against the candidate, or decided not to vote, the president is now the president of every citizen—including her. Protestations that the president "is not my president" are otiose, because the president is the head of the executive branch of the federal government, which claims and enforces jurisdiction over all American citizens, regardless of how or whether they voted. It is the case, moreover, that in the United States, the vast majority—over 99 percent—of employees, agents, and staff in the federal government are unelected and hence not subject to being turned out of office.[31]

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[29]As examples, consider recent proposals for "free" college, "free" healthcare, and so on. Of course, these goods and services are not and cannot be free: they require time, money, labor, skills, etc. to produce. If we do not charge the user or consumer for them, that does not mean they are costless; it just means that we are imposing the costs on others.

[30]*See, e.g.*, GEOFFREY BRENNAN & ALAN HAMLIN, DEMOCRATIC DEVICES AND DESIRES (2000); THOMAS CHRISTIANO, THE CONSTITUTION OF EQUALITY: DEMOCRATIC AUTHORITY AND ITS LIMITS (2008).

[31]In 2018, there were 2,124,062 federal employees, not including military and Post Office employees (see Congressional Research Service 2019). Of these, 537 are subject to election (435 members of the House of Representatives, 100 members of the Senate, the president, and the vice president). That means that approximately 99.97 percent are unelected. Because each individual adult citizen may vote for only two senatorial offices, one congressional office, the president, and the vice president, however, that means that approximately 99.9998 percent of all federal office holders are beyond the reach of the electoral authority any individual citizen has. *See*

By contrast, consider that in markets transactions, choices are not only mutually voluntary but are also specific to the parties to the transactions. If I oppose the policies, behavior, or offerings of one company, I typically have thousands of others from which to choose. Amazon has millions of products from which one might choose, and, of course, one does not have to shop at Amazon if one does not want to. If you wish to support or patronize Chick-fil-A, Nike, Walmart, and Hobby Lobby, but I wish to oppose them, we can both win: you shop where you want, I shop where I want. These exchanges are not only positive-sum because both you and I (and the places we patronize) benefit from our respective exchanges, but they are also respectful of, and responsive to, each of our respective preferences. As befits equal moral agents, I do not decide for you, and you do not decide for me.

Argument #3 is that democracy is a way to respect each individual citizen's preferences and interests without privileging anyone's interests over anyone else's.[32] Because each of us has a say, or a vote, in how our government operates, neither of us has any more authority than the other. Even if the votes do not go our way, we can at least rest content in the knowledge that the result arose from no particular person's influence being any greater than anyone else's. And because each of us got a vote, each person's interests were reflected, even if only in a small fractional way (but no smaller than anyone else's), in the process that led to the final result.

If whatever I voted for loses, however, my interests are in fact not served. I had an interest, after all, not only in the mere act of voting itself: I had specific substantive interests that I wanted served and that I hoped could be served if what, or whom, I voted for won. For example, if I wanted specific kinds of immigration reform or specific healthcare or environmental or labor policy, and I voted accordingly, then the reason I voted was not merely to exercise my right to vote, but to get those specific policies enacted. If my side lost, so did my policies—and thus my interests. Because of its winner-takes-all character, democratic politics, therefore, cannot serve everyone's interests.[33] Substantial portions of the public will see their interests go underserved, or even unserved, in a democracy, whether or not they got an opportunity to vote.

Again, however, compare market exchanges, in which my say, or "vote," is decisive. I buy or decline to buy according to my preferences and choices; I work for or decline to work for others according to my preferences and choices. You do the same—even if you and I have very different preferences and hence make very different choices. This does not necessarily mean that each of us gets everything he or she wanted in each case—we still live in a world of scarce resources, which constrains our options. But my choices in a market have far less effect on your choices, and you will typically have many other options regardless of what I choose.

Congressional Research Service, *Federal Workforce Statistics Sources: OPM and OMB*, Congressional Research Report R43590 (2019).

[32]*See* MICHAEL WALZER, SPHERES OF JUSTICE: A DEFENSE OF PLURALISM AND EQUALITY (1983); PHILIP PETTIT, ON THE PEOPLE'S TERMS: A REPUBLICAN THEORY AND MODEL OF DEMOCRACY (2012); PHILIP PETTIT, JUST FREEDOM: A MORAL COMPASS FOR A COMPLEX WORLD (2014).

[33]Consider in this connection Arrow's "impossibility theorem." *See* Kenneth J. Arrow, *A Difficulty in the Concept of Social Welfare,* 58 J. POL. ECON. 328 (1950).

Finally, Argument #4 is that democracy exercises and even expands citizens' autonomy.[34] This argument is often couched in the so-called republican tradition of political thought, which tends to see democratic political structures as a vehicle through which republican civic virtues can emerge, owing, at least in part, to the autonomy such structures and protections provide for citizens. If democracy requires not just the negative right to be left alone but also a positive civic obligation to participate in public decision-making and deliberation about the common good, then citizens' autonomy is expanded to include not only their own lives but the shape, function, and purpose of the polity as well.

Yet politics is coercive in a way that market exchanges are not. In politics, laws get passed, regulations get enacted, and policies are instantiated, regardless of whether I wanted them, and I must obey them regardless of whether I consent to them. Now, I typically have little or no control over how a firm decides to run its operations—what goods or services it offers or under what conditions, what its labor or environmental practices are, and so on. Unless I am an owner of the firm or a major shareholder in it, the firm will adopt whatever practices it wishes, regardless of my individual preferences. Crucially, however, I maintain what I call an "opt-out option":[35] I may decline to patronize, partner with, or otherwise do business with the firm if I so choose. And my decision here is decisive. I do not need to wait to see how others choose or wait for permission before implementing my own choice. In politics, by contrast, I may have a voice, but the efficaciousness of my voice is diluted by its being only one among many and by the fact that majority preference holds for all, myself included. In markets, I have not just a voice but an exit, or opt-out option, which provides me far more influence over the course of my own life (if not over others' lives).[36]

Of course, a comprehensive examination of these, as well as other, arguments in favor of democracy would obviously require much more space than I have given here. And I make no claim that these are the only, or even the best, arguments in favor of democracy (though they are among the most influential). There may well be reasons to support democracy other than the arguments considered here. Perhaps democracy is indeed the worst form of government except for all the others. My argument here has instead been that if one supports democracy for any of the reasons discussed above, then one has at least as much reason—if not more reason—to support a market economy. In each case, the offered reason in support of democracy seems to constitute an argument in favor of markets that is at least as strong as its support for democracy.

CONCLUSION

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[34] *See, e.g.*, IRIS MARION YOUNG, JUSTICE AND THE POLITICS OF DIFFERENCE (1990); Iris Marion Young, *Self-determination as Non-domination: Ideals Applied to Palestine/Israel* 5 ETHNICITIES 139 (2005); MICHAEL J. SANDEL, DEMOCRACY'S DISCONTENT: AMERICA IN SEARCH OF A PUBLIC PHILOSOPHY (1996); RICHARD DAGGER, CIVIC VIRTUES: RIGHTS, CITIZENSHIP, AND REPUBLICAN LIBERALISM (1997); WAYNE NORMAN, NEGOTIATING NATIONALISM: NATION-BUILDING, FEDERALISM, AND SECESSION IN THE MULTINATIONAL STATE (2006); DOMINATION AND GLOBAL POLITICAL JUSTICE: CONCEPTUAL, HISTORICAL, AND INSTITUTIONAL PERSPECTIVES (Barbara Buckinx, Jonathan Trejo-Mathys, and Timothy Waligore eds., 2015).

[35] *See* OTTESON, *supra* note 18, at ch.1.

[36] *See* ALBERT HIRSCHMAN, EXIT, VOICE, AND LOYALTY: RESPONSES TO DECLINE IN FIRMS ORGANIZATIONS, AND STATES (1970); ROBERT TAYLOR, EXIT LEFT: MARKETS AND MOBILITY IN REPUBLICAN THOUGHT (2017).

A principle of equal moral agency undergirds much support for democracy. This same principle, however, undermines one central argument against a market economy—namely, the "People Over Profit" demand—while at the same time providing perhaps a surprisingly strong prima facie reason to support a market economy. Similarly, several other arguments often adduced in favor of democracy seem, on examination, to support market economies at least as much as, if not more than, they support democracy. If any of these arguments are compelling, or even plausible, in marshaling support for democracy, then they support market economies as well. Many supporters of democracy might, therefore, find even greater expression of at least some of their moral aims in market economies than they would in democratic politics. On the basis of their own arguments, then, perhaps many supporters of democracy should additionally, or even primarily, become supporters of the market.