CHAPTER 22

Democracy and the Lawmaking Mechanism

“Who are you to tell me what is right and wrong?” A tyrant asks it to silence a community. A relativist asks it to rule out persuasion. An absolutist answers it by moving the law out of human hands, to a superior source.

Chapter 21 argued that one way of settling conflict alone produces lasting peace. It called that way deep persuasion: changing a preference by bringing the person to meet the perspective that would change it. This chapter asks what a society must be like for that to happen at scale. Its answer is that lawmaking needs opportunity and needs no authority.

The argument has two layers, and the chapter keeps them apart on purpose. The first layer follows from what deep persuasion is. A perspective must be expressible, so that it can enter the discussion. It must be received on its merits, so that the listener weighs what is said. And no relevant perspective may be shut out in advance. The necessity of these three conditions is “of the cheap kind”, since it comes straight from the definition.

The second layer is institutional. Free speech, open speech and equal standing are how a society secures the three conditions. That they are the best available means is an empirical claim, since a society could secure the conditions another way.

Speaking and listening

Free speech protects the first condition, since the power to silence is cheap and widely held. The preferences most in need of change are the ones you find most objectionable. A society that permits only agreeable speech has disabled persuasion where it matters most.

A limit follows, drawn by the three conditions themselves. Speech is itself a substitute for force. Speech used to incite violence turns into a stand-in for force instead, so the protection lapses. The same test reaches speech that silences someone else. Where the line falls in a given case is an empirical question about effects.

Receptivity is the listener’s side. Open speech is the willingness to weigh a claim on its content. Picture someone who assumes a child cannot follow hard mathematics. She rejects the child’s correct solution without looking at it. Here the institutional layer thins out, because no law can order a disposition into being. Receptivity is the condition institutions secure least and culture must carry furthest. Domination can shape a person to think her own perspective worthless, and then she will not speak even where the law protects her. This condition therefore needs prior work, which the chapter calls evaluative liberation: dominated groups recovering their own responses.

Who is let into the room

Non-exclusion carries the heaviest load, because it raises the question of who must be admitted. The chapter grounds standing in the being's own capacity, actual or potential, for states that are better or worse for her. A woman lies in a vegetative coma, and her mother sings at the bedside. The mother's feeling is real. It detects and protects the woman's standing, and it never confers it.

Ask instead which beings move us, and the question is begged. The capacity to feel is the only criterion that excludes no being whose condition is at stake. Its cost is that it takes in animals, who do feel, and the chapter treats that as a feature.

Moral consideration is graded by what is at stake for the being. Equal standing among humans does not come in degrees. The chapter closes that gap through the mechanism. What lawmaking needs from a participant is a perspective that could transform the field. A perspective either can enter as a candidate or it cannot, so eligibility is binary. Every bearer of a ranking carries one, so each counts equally as a source.

A perspective enters the field only if it can be put into words, answered and revised. Equal standing in debate therefore holds among those who contribute this way. Animal perspectives come in as subject matter, carried by people who can speak for them. An infant enters the field the same way. Her standing before the law is full and ungraded, and she gains a claim to faithful representation. The criterion fixes whose condition counts, and nothing else. Where two standings conflict, as in the abortion debate, the chapter leaves the weighing open. The potentiality clause still takes a side where sides are contested. A critic may reject it at the metaphysics of the continuant, holding that an early foetus is not yet the individual who would feel. Where the boundary falls, for early foetuses, severely brain-damaged patients and advanced AI, is a matter for evidence. The chapter names the right question without settling those disputes.

How private values become law

Two laws define the democratic form. All are equal under the law, so nobody is exempt from the standards adopted. All are equal above the law, so nobody is shut out of shaping them. Other accounts derive the second law from autonomy, fairness or mutual respect. This chapter derives it from the mechanism, since excluding a person loses whatever her perspective would have added.

The pair sorts political structures. Authoritarianism keeps the first law in name only, and forecloses the second by power. Privilege breaks the first and keeps the second for the privileged alone. Tyranny keeps neither. Only democracy keeps both.

Each person arrives with her ranking of what moves her. Through long exchange she meets things she had never registered. One participant ranks

economic growth above environmental protection. She engages with someone whose children are ill from pollution. The weight of those consequences enters her evaluation, and protection rises in her ranking. She has been neither overridden nor manipulated. When enough rankings align, the shared preference becomes law. Lawmaking of this kind means sharing “values first, rules second”.

Democracy accordingly does two distinct jobs. Its deep layer maintains the standing conditions for persuasion, and a society that abandons that layer forecloses peace itself. Its shallow layer decides the residue, the conflicts persuasion has not yet reached. Majority voting is the least bad instrument for the residue. It settles matters peacefully, binds nobody permanently, and leaves persuasion open afterwards.

The demand the two poles share

The chapter stages a sequence at a round table. A strong man breaks the practice by force, and the community lives under him. United by that, it writes its first law: all are equal under the law. A second speaker then turns the remedy into a refusal. Since we are all equal, who are you to tell me what is right? Persuasion lapses, and the community has passed into relativism. A third speaker restores lawmaking by taking it out of human hands. He claims laws from a superior source, and where that claim is believed nobody can challenge them. That is absolutism.

Both poles make authority the precondition of law. The absolutist judges a claim by its source, so the law becomes unreformable. The relativist judges a claim by the speaker’s standing, so no law can be made at all. In each case the second law is foreclosed.

The target here is a stance of political life, and relativism as a philosophical thesis about moral truth is exempted by name. Together the poles form what the chapter calls bipolar authoritarianism.

The objections the chapter answers

Jeremy Waldron holds that lasting disagreement is the normal condition of politics. Majority rule respects it, and treating disagreement as a shortfall grades some convictions as errors in waiting. The chapter replies with the levels of Chapter 21. A first-order conviction housed inside an agreement about the framework counts as resolved for that framework. The conviction itself still stands. The loser of a vote is owed full weight in later persuasion. Waldron also holds that such disagreement is permanent, and the chapter leaves that question to evidence.

Jason Brennan argues that weighting votes towards the competent would be permitted if it reliably improved outcomes. The deep layer is untouched, since standing is binary and competence is graded. At the shallow layer, weighting would turn a reversible settlement into a standing ranking of voices. Any

competence test must also win acceptance in the field it would constrain, and none has.

A third objection says that every democratic failure is blamed on too little democracy, so nothing could refute the claim. The chapter grants the objection force. Refutation needs a society meeting all three conditions where the mechanism still produces no movement, and no existing society meets them fully. Its value, it concedes, is diagnostic; it promises no society peace.

What the chapter claims

The three structural conditions are graded *established*, the second rung of the book's ladder. That means they follow from premises the book defends, so a challenger must reject one of them. The necessity claimed is necessity for a particular aim, aligned social peace, so it binds whoever seeks that aim.

Equal deliberative standing, held apart from graded moral consideration, is graded *constructed*, the rung below. It rests on the mechanism and on Chapter 14's anchor, which grounds moral harm in the affected party's response. It carries the same condition about the aim. The lawmaking mechanism is *constructed* as well. The claim that democracy is the structure housing the mechanism is *proposed*, the lowest rung, because other arrangements could in principle do the same work.

The diagnosis of the two poles is *constructed*, inherited from standing and from the error named in Chapter 16. It carries the same condition about the aim. The swing between the poles is illustrated, and the chapter does not derive it.

Chapter 23 turns to religion, the most socially consequential form of absolutism today, and asks how religious absolutism builds a wall of private intolerance.