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The Need for Democratic Accountability

THE CRISIS IN DEMOCRACY

> He [Dr. Martin Luther King Jr.] said we are all complicit when we tolerate injustice. He said it is not enough to say it will get better by and by. He said each of us has a moral obligation to stand up, speak up and speak out. When you see something that is not right, you must say something. You must do something. Democracy is not a state. It is an act, and each generation must do its part.
>
> —REPRESENTATIVE JOHN LEWIS[1]

Democratic Accountability Frees Us to Govern Ourselves

When Doris Hayashi graduated from college, she did not expect that she would soon be detained in a concentration camp ringed by a barbed wire fence and seven guard towers.[2] Yet, she was held captive in the Topaz War Relocation Center in Utah's Sevier Desert because of her ethnicity. Doris was one of 120,000 Japanese Americans incarcerated

1. John Lewis, "Together, You Can Redeem the Soul of Our Nation," *New York Times*, July 30, 2020, https://www.nytimes.com/2020/07/30/opinion/john-lewis-civil-rights-america.html.

2. Sandra C. Taylor, *Jewel of the Desert: Japanese American Internment at Topaz* (Berkeley: University of California Press, 1993); Patricia Wakida, "Doris Hayashi," *Densho Encyclopedia*, accessed March 11, 2025, https://encyclopedia.densho.org/Doris%20Hayashi; Niiya Brian, "Topaz," *Densho Encyclopedia*, accessed March 11, 2025, https://encyclopedia.densho.org/Topaz.

and subject to forced labor during World War II as the result of President Franklin Roosevelt's Executive Order 9066 in 1942.[3] Years later, in 1988, President Ronald Reagan signed the Civil Liberties Act, which provided compensation and apologized for the "fundamental injustice" of the mass internment.[4] The act declared, as one of its central purposes, the intent to "discourage the occurrence of similar injustices and violations of civil liberties in the future."[5]

The mass internment of Japanese Americans illustrates how discrimination and the denial of democratic rights are not new trends. They are long-standing problems, which are intensifying in today's crisis in democracy. These injustices raise three important questions, which this book sets out to answer.

First, how can citizens govern themselves freely in a representative democracy? I hold that to be self-governing means that as citizens, we are ultimately in charge of our government. We are the bosses.[6] Such a system contrasts with being governed by others, such as a dictator, a colonial power, or an otherwise discriminatory regime that excludes groups of the governed. Abraham Lincoln once said, "No man believed more than I in the principle of self-government; that it lies at the bottom of all my ideas of just government, from beginning to end."[7]

The puzzle about self-government is that, in reality, it seems that officials possess all the power. And yet citizens cannot be self-governing if they are powerless in their own government. A common reply to this

3. Stephanie Hinnershitz, *Japanese American Incarceration: The Camps and Coerced Labor during World War II* (Philadelphia: University of Pennsylvania Press, 2021), 2; Franklin D. Roosevelt, Executive Order 9066—Authorizing the Secretary of War to Prescribe Military Areas, American Presidency Project, accessed March 11, 2025, https://www.presidency.ucsb.edu/node/210838.

4. Civil Liberties Act of 1988, Pub. L. 100–383.

5. Civil Liberties Act of 1988.

6. Brook Manville and Josiah Ober define self-government as meaning that citizens are the bosses in *The Civic Bargain: How Democracy Survives* (Princeton, NJ: Princeton University Press, 2023).

7. Abraham Lincoln, "Speech of Hon. Abraham Lincoln at Springfield, June 17, 1858," in Abraham Lincoln and Stephen Douglas, *Political Debates between Abraham Lincoln and Stephen A. Douglas* (Cleveland: Burrows Brothers, 1894), 8. On Lincoln's principles, see George Kateb, *Lincoln's Political Thought* (Cambridge, MA: Harvard University Press, 2015).

dilemma is that we govern ourselves by electing our officials.[8] But the vote, though necessary, is not sufficient for self-government. Doris Hayashi was able to vote when she was held captive, but she was in other respects disempowered and relegated to the margins of the citizenry. She wrote in her diary, "I voted this afternoon. . . . I haven't been able to do any reading on these issues so it was rather blind voting for me."[9] Although Doris could vote, she was deprived of her democratic accountability right to freedom of the press to gather information about the candidates and public issues.[10] Behind the barbed wire of her camp, her right to freedom of speech was silenced. She could not participate in public deliberation about the election or canvass for candidates.[11] Aware that this deprivation of rights rendered the internees outcasts among their fellow citizens, Doris noted about one of her fellow inmates, "She is rather bitter about the treatment we are receiving—as non-citizens—when we are really citizens."[12]

I argue in this book that to be freely self-governing, we must be equally empowered to hold our officials democratically accountable,

8. Richard Tuck, *Active and Passive Citizens: A Defense of Majoritarian Democracy*, ed. Stephen Macedo (Princeton, NJ: Princeton University Press, 2024); Jeremy Waldron, *Political Political Theory* (Cambridge, MA: Harvard University Press, 2016).

9. Doris Hayashi Diary, November 2, 1942, available at University of California, Berkeley, Bancroft Library, Japanese American Relocation Digital Archives, p. 2, https://digicoll.lib.berkeley.edu/record/172733?v=pdf.

10. Freedom of speech and freedom of the press extend to the right of listeners and readers to receive information. Justice Hugo Black wrote, "The right of freedom of speech and press has broad scope. The authors of the First Amendment knew that novel and unconventional ideas might disturb the complacent, but they chose to encourage a freedom which they believed essential if vigorous enlightenment was ever to triumph over slothful ignorance. This freedom embraces the right to distribute literature . . . and necessarily protects the right to receive it." Martin v. City of Struthers, 319 U.S. 141, 143 (1943).

11. On deliberation as a key component of democracy, see Amy Gutmann and Dennis F. Thompson, *Democracy and Disagreement* (Cambridge, MA: Harvard University Press, 1996); Joshua Cohen, "Procedure and Substance in Deliberative Democracy," in *Deliberative Democracy*, ed. James Bohman and William Rehg (Cambridge, MA: MIT Press, 1997), 407–37; André Bächtiger et al., *The Oxford Handbook of Deliberative Democracy* (New York: Oxford University Press, 2018); Jürgen Habermas, *Between Facts and Norms* (Cambridge, MA: MIT Press, 1996); Robert E. Goodin, *Innovating Democracy: Democratic Theory and Practice after the Deliberative Turn* (New York: Oxford University Press, 2012); and James Fishkin, *Democracy When the People Are Thinking: Revitalizing Our Politics through Public Deliberation* (New York: Oxford University Press, 2018).

12. Hayashi Diary, 3–4.

and we must all be equally included in the citizenry.[13] Although officials use government power, this is compatible with self-government if they work as public servants and answer to us, the governed. I call this conception of democracy *equal accountability*. Equal accountability requires more than elections. It demands a host of rights and institutions that allow us to hold our public servants accountable during office. Throughout this book, I show that it is not enough to have democratic accountability rights only on paper. Equal accountability crucially demands that we be *empowered* with the material resources, civic education, legal aid, campaign finance reform, and voting access to exercise our democratic accountability rights equally, regardless of socioeconomic status or educational attainment.

Accountability stands against the helplessness implied in only being able to plead with officials, imploring them to act justly, like subjects to a king. I define democratic accountability as the *equal authority*, or set of rights, for the governed to impose the enforceable duties on officials. What makes the duties enforceable is that they can be upheld by the rule of law, which can only function if officials serve subject to the constraints of office.[14] For example, we should have recourse to independent courts to secure our democratic accountability rights to speak, protest, and vote against attempts by officials

13. I explain in chapter 5 how, in order to be self-governing, we must possess two types of rights: procedural democratic accountability rights and substantive human rights. While a procedural right relates to how government decisions are made, a substantive right pertains to the impact of those decisions. For instance, the rights to vote, run for office, and campaign for candidates are procedural rights to participate politically. The rights against discrimination and arbitrary imprisonment are substantive rights. Other rights, such as freedom of speech, contain both procedural and substantive elements. The denial of either type of right detracts from our democratic standing as equal citizens who are ultimately in charge of our government.

14. Melissa Lane elucidates how the ancient Athenians construed government positions as offices in *Of Rule and Office: Plato's Ideas of the Political* (Princeton, NJ: Princeton University Press, 2023). For the ancient Athenians, anarchy did not simply refer to the absence of government; it also applied to despotic regimes, where power is exercised without the constraints and duties of office. Daniel Carpenter sets out insightfully the evolution of the notion of "office" from ancient times to the Middle Ages, early modern era, and the American Founding. See Daniel Carpenter, "2023 John Gaus Award Lecture: Toward a Theory of Office: Ministry, Accountability, Authority," September 7, 2024, American Political Science Association Annual Meeting, Philadelphia, available at: https://dcarpenter.scholars.harvard.edu/sites/g/files/omnuum8536/files/gaus_lecture_20250207.pdf.

to restrict those rights. Democratic accountability grants us authority over our officials, empowering the governed and compelling officials to work not as kings, but as public servants who answer to the governed.

The second question this book addresses is: How can we stop the violations of rights aimed at denying citizens their freedom as self-government? These injustices are mounting in severity. For example, Asian Americans suffered 6,603 violent hate incidents during the first year of the COVID-19 pandemic.[15] It is tempting to believe that the solution lies in elite checks and balances, such as courts.[16] These institutions are indispensable to democracy. But they do not suffice on their own. Judicial review failed to stop the mass internment of Japanese Americans and the disenfranchisement of African Americans under Jim Crow laws. The Supreme Court upheld these discriminatory policies in *Korematsu* and *Plessy v. Ferguson*.[17] It took the democratic participation of citizens to dismantle the legal structure of racial segregation through the Civil Rights Movement.

Citizen action is needed to safeguard democracy from two threats. The first is the peril of *factions*, or a group of citizens who are, as James Madison says, "adverse to the rights of other citizens."[18] For instance, the instigators and accomplices of the Jim Crow regime of racial segregation comprised a faction. The second threat to democracy emanates from officials who exercise power unjustly. These officials act as *elected authoritarians*.[19] Factions and elected authoritarians strip citizens of

15. Barbara Sprunt, "Here's What the New Hate Crimes Law Aims to Do as Attacks on Asian Americans Rise," NPR, May 20, 2021.

16. On judicial review to protect minority rights, see Ronald Dworkin, *Freedom's Law: The Moral Reading of the American Constitution* (Cambridge, MA: Harvard University Press, 1996). I leave open whether democracies adopt strong judicial review that can strike down legislation. This is a question of institutional design that citizens must work out. Some democracies have not instituted it, such as The Netherlands and the United Kingdom. See Stephen Macedo, "Against Majoritarianism: Democratic Values and Institutional Design," *Boston University Law Review* 90 (2010): 1031.

17. Plessy v. Ferguson, 163 U.S. 537 (1896); Korematsu v. United States, 323 U.S. 214 (1944).

18. James Madison, "Federalist No. 10," in Alexander Hamilton, James Madison, and John Jay, *The Federalist*, ed. Terence Ball (Cambridge, UK: Cambridge University Press, 2003), 41.

19. The term "elected authoritarian" is fitting, since the officials who endanger democracy today are largely elected: "Since the end of the Cold War, most democratic breakdowns have

their freedom of self-government by extinguishing their rights and taking away their standing as the ones in charge. Throughout this book, I refer to such actions as marginalization, and the targeted citizens as the *marginalized*.[20]

I argue that as citizens, we should fulfill a vital set of *democratic duties* necessary to end marginalization and other injustices.[21] The duties are democratic in calling for the exercise of our democratic rights, and in securing the inclusion of all citizens in democracy. I bring to the forefront the novel insight that our democratic duties are morally grounded in self-government. If we are the bosses in charge of our government, we have the duty to hold the public servants who work for us democratically accountable for exercising the power of our government justly on our behalf.[22] As citizens, we bear what I call the democratic duty of *oversight*. Like townspeople who have lent a gun to a sheriff, we should

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been caused not by generals and soldiers but by elected governments themselves. . . . Democratic backsliding today begins at the ballot box." Steven Levitsky and Daniel Ziblatt, *How Democracies Die* (New York: Crown, 2019), 5.

20. I thank Jan Feldman, Sonu Bedi, Lucas Swaine, and Julie Rose, as they contributed helpful discussion regarding whether to use the term *marginalized* or *minority*. There are two potential meanings of a minority: a group of citizens that is *numerically smaller* than the majority, or a group of citizens *subject to injustice*. Marginalized is a clearer term. It acknowledges the possibility that citizens who are the victims of injustice can comprise either a numerical minority or majority. Injustice is not just a subjective belief that one has been wronged, such as billionaires believing they have been slighted. Injustice occurs when people have been denied their human rights, deprived of their equal authority in democracy, or afflicted with other forms of oppression. See Iris Marion Young, *Justice and the Politics of Difference* (Princeton, NJ: Princeton University Press, 1990). I benefited from conversation with Jan Feldman at the University of Vermont and my Stanford PhD students on the work of Iris Marion Young.

21. I use "officials" neutrally to denote people who work in one of the three branches of government. A "public servant" is a moralized role that officials ought to take, where they understand themselves as working for citizens and as having democratic duties of fidelity in public office. The leaders of the East German Stasi or secret police were officials but not public servants.

22. The duty to participate in democratic accountability may be morally attenuated for citizens who are marginalized, because they are not being treated as among the people in charge. However, this marginalization should be rectified by other citizens and public servants acting on their democratic duties. Citizens should be empowered to participate as equals in democratic accountability, so they can take full responsibility as the ones ultimately in charge of government. Chapter 4 discusses how marginalized citizens may have prudential reasons to participate in democratic accountability to protect their rights. I thank Kevin Elliott for discussion of this point at APSA.

hold our sheriff accountable for exerting that power to secure rights and not to abuse anyone, either citizens or noncitizens.

Alongside our duty of oversight, we should act on our duty of *solidarity* and harness our democratic accountability rights to protect our fellow citizens. When officials commit injustices, we should speak, write, protest, petition, organize associations, and vote for new public servants who will pursue justice with integrity. We should also urge public servants to enact and enforce laws that secure citizens from the danger of elected authoritarians and factions. Citizens acted in solidarity when they advocated the 1964 Civil Rights Act, which prohibits discrimination in public accommodations, public education, and federally assisted programs.[23] Solidarity secures our liberty in the form of self-government that is free from the threat of marginalization. The horizontal relation of solidarity between citizens protects the vertical relation of citizens holding their public servants democratically accountable.

Former attorney general Merrick Garland spoke eloquently of citizens' democratic duty of solidarity in a speech on the first anniversary of the January 6th attack on the Capitol:

> We are all Americans. *We must protect each other*. . . . [The] Justice Department—even the Congress—cannot alone defend the right to vote. The responsibility to preserve democracy—and to maintain faith in the legitimacy of its essential processes—lies with every elected official and with every American.[24]

The lesson that as citizens "we must protect each other" epitomizes the duty of solidarity. I explain that we protect one another by holding our public servants democratically accountable, ensuring that they pass and enforce laws to safeguard our fellow citizens from injustice. Public servants, in turn, owe us the democratic duty of *fidelity* to cooperate with democratic accountability and to aid us in stopping elected

23. Civil Rights Act of 1964, Pub. L. 88-352.

24. Merrick Garland, "Attorney General Merrick B. Garland Delivers Remarks on the First Anniversary of the Attack on the Capitol," Washington, DC, January 5, 2022, available at Archives, US Department of Justice, www.justice.gov/opa/speech/attorney-general-merrick-b-garland-delivers-remarks-first-anniversary-attack-capitol (emphasis added).

authoritarians and factions from trampling on rights. For example, the president and Congress acted on their duty of fidelity when they passed the COVID-19 Hate Crimes Act in 2021 to stanch the wave of violence by factions of citizens against Asian Americans.[25] Similarly, Attorney General Elliot Richardson fulfilled the duty of fidelity when he resigned to protest President Nixon's interference with the Watergate investigation.

The significance of democratic duties is thrown into sharp relief when we consider what our government would look like without them.[26] Citizens failed in their duties of solidarity and oversight when they did not oppose the mass detention of 120,000 innocent Japanese Americans in concentration camps, and when they faltered in speaking out against the near century of racial segregation during the Jim Crow era, from 1877 to the mid-1960s.[27] Representative John Lewis, a leader of the Civil Rights Movement, expressed the urgency of our democratic duties in the quote that opens this book: "Each of us has a moral obligation to stand up, speak up and speak out. When you see something that is not right, you must say something. You must do something. Democracy is not a state. It is an act, and each generation must do its part."[28]

The third question that this book addresses is whether to recognize a human right to democratic accountability. Suppose that other states are pursuing policies similar to the Japanese American internment or Jim Crow. Do we have duties to refrain from stoking authoritarianism and discrimination in other countries? When South Africa imposed a brutal regime of racial segregation, did we owe Black South Africans the commitment to avoid complicity with apartheid? Citizens of other countries, moreover, are sensitive to the inherent hypocrisy in US foreign policy that is at odds with a professed commitment to democratic

25. COVID-19 Hate Crimes Act, Pub. L. 117-13, https://www.congress.gov/bill/117th-congress/senate-bill/937/text.

26. I am grateful to Sonu Bedi, who made the valuable comment at my Dartmouth presentation suggesting that I demonstrate the importance of democratic duties by describing what a state would look like in their absence.

27. On Jim Crow, see Henry Louis Gates, *Stony the Road: Reconstruction, White Supremacy, and the Rise of Jim Crow* (New York: Penguin Press, 2019) and Margaret A. Burnham, *Hands Now Known: Jim Crow's Legal Executioners* (New York: Norton, 2022).

28. Lewis, "Together, You Can Redeem."

values. For example, in 2005, a Council of Foreign Relations poll asked Arabs what they think of the United States. The responses revealed that many Arabs "simply cannot understand why a country whose democratic institutions they so much admire provides political, economic and military aid to absolute monarchs and military dictators."[29]

Through this book, I seek to demonstrate that democratic accountability is morally owed as a human right. Respecting it prohibits overthrowing the government of a foreign democracy, as the United States did in Iran in 1953, Guatemala in 1954, and Chile in 1973.[30] It is undemocratic to depose another state's democratic government, even if a majority of citizens in our own country prefer we do so. The human right to democratic accountability further entails that we should respect democratic rights in other states by ceasing to send the means of repression to authoritarians.[31] Finally, since the duty of oversight includes the responsibility for citizens to hold their public servants accountable for respecting the human rights of noncitizens, we should ensure that our public servants do not inflict torture on anyone, undermine democracy in other states, or wage unjust wars.

To summarize the thesis of this book, I offer a new conception of democracy, and what makes democracy work well, called *equal accountability*. It affirms, *first*, that we freely govern ourselves when we are equally empowered to hold our officials democratically accountable, and we are equally included in the citizenry that governs together. Equal accountability requires not only elections but also a host of rights and institutions to hold our officials to account during office. We must be empowered with the resources and civic education to exercise our

29. Robin Wright, "Campaign to Change Mideast under Fire," *Washington Post*, June 9, 2005.

30. Stephen Schlesinger and Stephen Kinzer, *Bitter Fruit: The Story of the American Coup in Guatemala, Revised and Expanded* (Cambridge, MA: Harvard University Press, 2005); John Tirman, *The Deaths of Others: The Fate of Civilians in America's Wars* (New York: Oxford University Press, 2010); James Doubek, "The US Set the Stage for a Coup in Chile. It Had Unintended Consequences at Home," NPR, September 10, 2023, https://www.npr.org/2023/09/10/1193755188/chile-coup-50-years-pinochet-kissinger-human-rights-allende.

31. Thomas Carothers and Benjamin Feldman, "Examining U.S. Relations with Authoritarian Countries," Carnegie Endowment for International Peace, December 13, 2023, https://carnegieendowment.org/research/2023/12/examining-us-relations-with-authoritarian-countries?lang=en.

democratic accountability rights equally across the citizenry. *Second*, equal accountability emphasizes the democratic duties needed to secure our equal democratic rights. These duties of oversight, solidarity, and fidelity are essential for democratic accountability to work. Democratic duties are morally grounded in the value of self-government, or our standing as the ones in charge of our public servants. *Third*, all human beings are entitled to a democratically accountable government in their state so that they can govern themselves freely.[32] We bear the duty of oversight to hold our public servants democratically accountable for respecting the human rights of both citizens and noncitizens.

The Global Crisis of Democracy and the Lack of Democratic Accountability

My equal accountability theory of democracy helps us counter the rising democratic crisis. In many countries, governments are marginalizing minorities, attacking the rule of law, and cracking down on the freedom of dissent. Yet these governments claim to be democratic, because they hold elections said to represent the will of the people. But if the elected government represents the people's will, then criticism of the president or prime minister can appear undemocratic, because it opposes what the people want. This influential view makes protestors and the free press the "enemies of the people."[33] As Recep Tayyip Erdoğan, the president of

32. My theory of equal accountability contrasts with the work of high-profile critics of the human right to democracy, influential skeptics of self-government, and prominent majoritarians who focus on elections while overlooking the full range of rights, duties, and institutions required for democratic accountability. Critics of the human right to democracy include David Miller, "Is There a Human Right to Democracy?" CSSJ Working Paper Series, SJ032, April 2015, http://www.politics.ox.ac.uk/materials/publications/13731/sj032is-there-a-human-right-to-democracy-final-version.pdf; John Rawls, *Law of Peoples: With "The Idea of Public Reason Revisited"* (Cambridge, MA: Harvard University Press, 1999); and Charles Beitz, *The Idea of Human Rights* (New York: Oxford University Press, 2009). For skepticism about self-government, see Niko Kolodny, "Rule over None I: What Justifies Democracy?" *Philosophy and Public Affairs* 42, no. 3 (2014): 195–229 and Daniel Viehoff, "XIV—The Truth in Political Instrumentalism," *Proceedings of the Aristotelian Society*, 117, no. 3 (2017): 273–95. Examples of leading majoritarians are Tuck, *Active and Passive Citizens*, and Waldron, *Political Political Theory*.

33. Cristina Maza, "Just Like Richard Nixon, Hungary's Viktor Orban Has a List of Enemies," *Newsweek*, May 15, 2018, https://www.newsweek.com/richard-nixons-enemies-list-being-

Turkey, said to the opposition, "We are the people. Who are you?"[34] Meanwhile, at the global level, democracy is in decline as elected officials ally with and arm foreign dictators.

In short, at the root of the democratic crisis lies the widespread belief that democracy is about carrying out the people's will, defined by the majority and executed by the president.[35] This popular will theory of democracy ignores the people's diversity, stigmatizing marginalized citizens as not being part of the true people.[36] The popular will theory fuels the crisis of democracy by insisting that dissent against the elected government is undemocratic. The theory even allows a government to erode democracy in other countries if a majority prefers it.

We are at a critical juncture. Far from being limited to any one country, the fallacy is gaining ground internationally that all forms of accountability besides elections are undemocratic. From Hungary to Poland, Russia, and Turkey, a shadow is falling on democracy.[37] In India, the world's most populous democracy, the government has imprisoned opposition leader Rahul Gandhi for criticizing Prime Minister Narendra Modi.[38] This turn against accountability is the latest move in a "project

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replicated-orbans-hungary-and-it-could-have-926784. Robert Dahl objects to the popular will–based presidential mandate in "The Myth of the Presidential Mandate," *Political Science Quarterly* 105 (1990): 355–72.

34. Jan-Werner Müller, *What Is Populism?* (Philadelphia: University of Pennsylvania Press, 2016), 3; Kim Lane Scheppele, "Autocratic Legalism," *University of Chicago Law Review* 85 (2018): 545–83.

35. Stephen Macedo and Josiah Ober incisively criticize the popular will theory, which they view as the most prevalent theory of democracy. See Macedo, "Against Majoritarianism." As Ober notes, "In modernity, democracy is often construed as being concerned, in the first instance, with a voting rule for determining the will of the majority." Josiah Ober, "The Original Meaning of 'Democracy': Capacity to Do Things, Not Majority Rule," *Constellations* 15, no. 1 (2008): 3.

36. Müller makes the important point that the popular will theory of democracy ignores the diversity of the people and treats the people as homogeneous. See *What Is Populism?* 57 and 77.

37. Larry Diamond, *Ill Winds* (New York: Penguin, 2019); Andrew Arato and Jean L. Cohen, *Populism and Civil Society: The Challenge to Constitutional Democracy* (New York: Oxford University Press, 2021); Müller, *What Is Populism?*; Jane Mansbridge and Stephen Macedo, "Populism and Democratic Theory," *Annual Review of Law and Social Science* 15 (2019): 59–77. There are some exceptions: In 2023, citizens in Poland voted against elected authoritarians. Jennifer Rubin, "Poland Offers Hope for Reclaiming Democracy," *Washington Post*, October 19, 2023.

38. Karan Deep Singh, "Leader of Indian Opposition Party Opposing Modi Is Sentenced in Defamation Case," *New York Times*, March 24, 2023. See also Martha C. Nussbaum, *The Clash*

to remake India's democracy unlike any in its 75 years of independence—stifling dissent, sidelining civilian institutions and making minorities second-class citizens."[39] The pretext for tightening the vise grip on dissent is that Modi was elected and represents the people, who are nearly 80 percent Hindu, making it undemocratic to oppose him. Democracy worldwide is being pushed to the brink and the marginalized are bearing the brunt of the attack, increasing the stakes of offering an alternative to the popular will theory.[40]

The Democratic Crisis Cannot Be Solved by Existing Approaches

A major reason why critics of this misguided vision of democracy have failed to make much headway is that they have not challenged the fundamental beliefs about democracy from which elected authoritarians draw so much strength. Until we take on that underlying view, we will find it far more difficult to defeat authoritarianism.[41]

The popular will theory is not limited to our era or any one political party. More than a century ago, Woodrow Wilson asserted about the president that "no one else represents the people as whole, exercising a national choice. . . . The nation as a whole has chosen him, and is conscious that it has no other political spokesman."[42] Wilson's words resemble former attorney general William Barr's portrayal of the presidency: it is "a remarkable democratic institution—the only figure

Within: Democracy, Religious Violence, and India's Future (Cambridge, MA: Harvard University Press, 2007).

39. Mujib Mashal, "The New India: Expanding Influence Abroad, Straining Democracy at Home," *New York Times*, September 25, 2022.

40. Not all popular will theorists are populists who view the president as the infallible representative of the people's will. "Popular will accountability" seeks to correct officials who deviate from the majority will. This approach, however, neglects the democratic duties of citizens, democratic accountability during office, and institutions for mediated accountability.

41. I am grateful to the anonymous reviewer of this work who trenchantly suggested this framing.

42. Woodrow Wilson, *Constitutional Government in the United States* (New York: Columbia University Press, 1911 [1908]), 68. Wilson at times moderated his views on this subject. For instance, he saw a role for courts to protect rights (see *Constitutional Government*, 143).

elected by the Nation as a whole."[43] Both Wilson and Barr cast opposition to the president as undemocratic, because it resists the voice of the entire people. Acting on this belief, President Wilson signed the Sedition Act of 1918, criminalizing speech and print critical of the government.[44]

Faced with the threat of elected authoritarianism, many writers have taken the misstep of ceding the authoritarians' claim to democratic legitimacy. Yascha Mounk, in the highly cited book *The People vs. Democracy*, considers elected authoritarians to be democratic precisely because they carry out the will of the people. Calling them "populists," he writes:

> In that sense, populists are deeply democratic: much more fervently than traditional politicians, they believe that the *demos* should rule. But they are also deeply illiberal: unlike traditional politicians, they openly say that neither independent institutions nor individual rights should dampen the people's voice.[45]

Mounk rebukes elected authoritarianism not for being undemocratic, but for being illiberal: "What sets it apart from the kind of liberal democracy to which we are accustomed is not a lack of democracy; it is a lack of respect for independent institutions and individual rights."[46] Writers like Mounk and Fareed Zakaria distinguish liberal rights and institutions from democracy, which is a system to "allow the people to rule" through elections.[47] "A *democracy*," says Mounk, "is a set of binding electoral institutions that effectively translates popular views into public policy."[48]

43. William Barr, "Attorney General William P. Barr Delivers the 19th Annual Barbara K. Olson Memorial Lecture at the Federalist Society's 2019 National Lawyers Convention," Washington, DC, US Department of Justice, November 15, 2019, https://www.justice.gov/opa/speech/attorney-general-william-p-barr-delivers-19th-annual-barbara-k-olson-memorial-lecture.

44. Wilson, *Constitutional Government*, 68.

45. Yascha Mounk, *The People vs. Democracy: Why Our Freedom Is In Danger and How to Save It* (Cambridge, MA: Harvard University Press, 2018), 8–9.

46. Mounk, *People vs. Democracy*, 11.

47. Mounk, *People vs. Democracy*, 27; Fareed Zakaria, "The Rise of Illiberal Democracy," *Foreign Affairs* 76, no. 6 (1997): 22–43 and idem, *The Future of Freedom: Illiberal Democracy at Home and Abroad*, rev. ed. (New York: W. W. Norton, 2007).

48. Mounk, *People vs. Democracy*, 27 (emphasis in original).

Later, Mounk makes the important point that economic opportunity must be made more available to ordinary citizens, so they are not lured into voting for illiberal democrats who promise them a better life in exchange for their freedoms. However, his earlier move of criticizing officials for being illiberal falls into a trap, handing the mantle of democracy over to authoritarians. Mounk grants too quickly that their "claim to being democratic need not be disingenuous. In the emerging system, the popular will reigns supreme (at least at first)."[49] This concession forces the citizens who resist elected authoritarians back on their heels. When the government assaults rights, theorists of illiberal democracy must surrender the point that the elected authoritarians are democratic. To undercut this source of authoritarian power, I maintain that rather than labeling these regimes "illiberal democracies," we should deem them elected *authoritarians*, taking away from them the mantle of democratic legitimacy.

Equal Accountability Addresses the Crisis in Democracy

I argue that elected authoritarians are undemocratic, because they are unaccountable to the people they govern. Resisting elected authoritarians requires that we overturn their underlying popular will theory of democracy, and replace it with a new theory of democracy: *equal accountability*. The purpose of a democratic theory is to define what democracy means and explain why it is valuable. Doing so shows us what the government must do to be fully democratic, and it clarifies our duties as citizens and public servants to sustain democracy.[50] Although

49. Mounk, 11.

50. It would be too high a bar to ask that any political theory completely solve, on its own, the crisis in democracy. The key question is whether the theory helps to move us in the right direction. Equal accountability contributes on three fronts to addressing the democratic crisis. First, countering elected authoritarians requires that citizens and officials act on their democratic duties. The equal accountability theory clarifies what those duties are. Second, citizens need to coordinate their actions in opposing elected authoritarians. Democratic norms lower the costs of collective action by providing coordination points that are common knowledge among citizens. Third, opposition to elected authoritarians is weakened by the widespread acceptance of populism, which views opposition as undemocratic, and popular will

democratic theory might seem abstract, it affords lessons of practical importance. We implicitly draw on claims of democratic theory when we contend that our officials' actions are undemocratic, or when we urge reforms that would make our government more democratic.[51]

Unlike existing democratic theories, equal accountability focuses on the essential role of ordinary citizens in holding their government accountable. I explain that to recover democracy, we must both *empower* citizens to participate in democratic accountability and defend the democratic value of *independent institutions*. Empowering citizens requires that we protect their democratic accountability rights to freedom of the press, speech, petition, protest, association, the vote, transparency, and the rule of law. These rights are not separate from democracy, as Mounk and Zakaria depict them.[52] They constitute democracy, giving us the authority to hold our public servants democratically accountable. Empowering citizens also requires that we equip each other with the material resources and civic education to exercise our democratic accountability rights equally.

Far from being undemocratic, institutions such as independent courts, law enforcement, impeachment, audit agencies, inspectors general, and congressional or parliamentary oversight can enhance democracy. They improve our capacity to investigate officials and uncover their misconduct. If they function properly, these institutions are not independent of democracy. They are independent of the president or prime minister so that he or she cannot warp our system of justice and evade accountability. Elected authoritarians are undemocratic for the very reason that they *disempower* citizens by clawing away the rights and

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accountability, which is silent about the duties of citizens. Both versions of the popular will theory must be superseded by an improved understanding of democracy that emphasizes the democratic duties of citizens and the accountability of government. I thank Philip Petrov for discussion on this point.

51. I am offering one part of what must be a multipronged response to the democratic crisis. I seek to contribute a better understanding of the meaning of democracy and the democratic duties of citizens and public servants.

52. Zakaria splits rights from democracy when he says that "this latter bundle of freedoms—what might be termed constitutional liberalism—is theoretically different and historically distinct from democracy" ("Rise of Illiberal Democracy," 22–23).

independent institutions that citizens need to hold their officials accountable.

The question of whether we should ground democracy in accountability or the popular will is a persistent puzzle that has confronted democratic governments and its citizens. Nearly two and half thousand years ago, in Herodotus's *Histories,* Otanes hailed democracy as the best form of government, admiring how "it is accountable."[53] The ancient Athenians, who invented democracy in the sixth century BCE, created several institutions to hold their officials accountable. Before they could serve in office, officials underwent a scrutiny, or *dokimasia*, which examined whether the candidate had performed his duties as a citizen, paid his taxes, and served in the military.[54] While in office, government officials could be sued in a legal action, which the ancient Athenians called a *graphē paranómōn*, if they proposed decrees that violated the existing laws. After stepping down from office, officials were subject to a reckoning (*euthyna*) to investigate their financial integrity and uncover potential corruption in the spending of public funds. Many centuries later, this policy informed the 1789 French Declaration of the Rights of Man and the Citizen, which stated that "society has the right to require of every public agent an account of his administration."[55]

The ancient Athenians did not assume that their officials were exempt from accountability as infallible representatives who incarnate the popular will. Without accountability during office, an official would rule

53. Herodotus, *The Histories*, trans. Robin Waterfield (Oxford: Oxford University Press, 2008), 205. I appreciate Ian Walling's edifying discussion of Herodotus on democracy.

54. Melissa Lane, *The Birth of Politics* (Princeton, NJ: Princeton University Press, 2014), chaps. 3 and 5, esp. 364n23; Josiah Ober, *The Rise and Fall of Classical Greece* (Princeton, NJ: Princeton University Press, 2015), 167. Ober writes, "All officials, elected or lotteried, were subject to *ex ante* public scrutiny and held publicly accountable, on an annual basis, for their performance." On ancient Athenian mechanisms for accountability, see Matthew Landauer, *Dangerous Counsel: Accountability and Advice in Ancient Greece* (Chicago: University of Chicago Press, 2019); Bernard Manin, *The Principles of Representative Government* (Cambridge, UK: Cambridge University Press, 1997), chap. 1; and Daniela Cammack, *Demos: How the People Ruled Athens* (Princeton, NJ: Princeton University Press, forthcoming). On the *graphē paranómōn*, see Melissa Schwartzberg, "Was the Graphe Paranomon a Form of Judicial Review?" *Cardozo Law Review* 34 (2013): 1059 and Ober, *Rise and Fall*, 167.

55. I thank Dan Edelstein for an enlightening conversation about accountability in French political thought. *France: Declaration of the Right of Man and the Citizen*, August 26, 1789, article 15, https://www.refworld.org/docid/3ae6b52410.html.

for years with the absolutism of a king. But "how can monarchy be an orderly affair," asked Otanes in Herodotus's *Histories*, "when a monarch has the license to do whatever he wants, without being accountable to anyone?"[56] The popular will, however, is now ascendant in theory and pervasive in practice. We have forgotten the central place of accountability to democracy. When we do recall it fitfully, the meaning of accountability is distorted by restricting it to elections meant to induce officials to follow the preferences of the popular will.

Our self-governing standing as the ones in charge can only be preserved if our officials serve in *offices*, which are limited in powers and attached to duties.[57] If officials breached the restraints on power imposed by public office, they could escape accountability and terrorize citizens, who would no longer be the bosses but the captives of their government. To be freely self-governing, we must be able to hold our officials democratically accountable, not only during elections, but also in their years in office.

Citizen Participation and Institutions Are Both Needed to Remedy the Democratic Crisis

Equal accountability combines *citizen participation* guided by democratic duties, with *institutions* that strengthen democratic accountability to citizens. This strategy differs from the two most common approaches to mitigating elected authoritarians: elite checks and balances, and majoritarianism.[58] Each of these is missing key components for thwarting elected authoritarians. While checks and balances downplay empowered citizen participation, majoritarianism disregards the need for independent institutions.

Proponents of checks and balances recommend institutions and elites as roadblocks to an errant popular will. For example, Steven Levitsky and Daniel Ziblatt in *How Democracies Die* advise that party

56. Herodotus, *Histories*, 204.

57. Lane, *Of Rule and Office* and Carpenter, "2023 John Gaus Award Lecture."

58. I thank the second reviewer of this book, who asked about how my view differs from Waldron's majoritarianism and Dworkin's reliance on judicial review.

leaders should prevent authoritarian candidates from running for office. Jason Brennan and Bryan Caplan want to shift power away from citizen participation to experts. And many writers, led by Ronald Dworkin, pin their hopes on judicial review.[59]

These writers offer valuable insights, but they say little about the pivotal role of citizens in opposing elected authoritarians. Courts and other checks and balances are necessary but not sufficient safeguards, as we saw in the Supreme Court's failure to end the disenfranchisement of African Americans under Jim Crow and the mass internment of Japanese Americans.

James Madison was an eloquent exponent of the rights to free speech and the press. Madison, however, relied mainly on institutional checks and balances to avert the threat of elected authoritarianism: "In framing a government which is to be administered by men over men, the great difficulty lies in this," he says in Federalist 51. "You must first enable the government to controul [*sic*] the governed; and in the next place, oblige it to controul itself."[60] In his view, the government controls itself when it is divided into branches that stave off each other's attempts to accumulate excessive power.[61] While agreeing with the need for institutional checks and balances, equal accountability affirms that we, the *governed*, must control our government, so that we are freely self-governing as the ones in charge.[62]

59. Levitsky and Ziblatt, *How Democracies Die*; Jason Brennan, *Against Democracy* (Princeton, NJ: Princeton University Press, 2017); Dworkin, *Freedom's Law*; Bryan Caplan, *The Myth of the Rational Voter* (Princeton, NJ: Princeton University Press, 2008). Levitsky and Ziblatt focus on how political parties should work as "gatekeepers" against elected authoritarians: "Although mass responses to extremist appeals matter, what matters more is whether political elites, and especially parties, serve as filters" (*How Democracies Die*, 20).

60. Madison, "Federalist No. 51," in *The Federalist*, 252.

61. The "constant aim is to divide and arrange the several offices in such a manner as that each may be a check on the other," safeguarding "the public rights." Madison, "Federalist No. 51," 253.

62. Equal accountability bears a friendly affinity with republican theorists like Philip Pettit, Quentin Skinner, and Frank Lovett. We agree that democracy must include contestatory rights beyond the vote for citizens to control their government. Despite its great appeal, a worry about republicanism is that it may overstate the degree that individual citizens exercise power over their government. Equal accountability is more highly attuned than republicanism to the fact that individuals acting alone can be vulnerable and unfree, even when they possess contestatory rights to challenge government injustices. This individual vulnerability makes it crucial that as

In contrast to equal accountability theory, Madison did not sufficiently emphasize the value of *equality*. Indeed, he helped to draft a constitution that countenanced slavery and barred African Americans and women from participating in democratic accountability.[63] In my theory of equal accountability, all those subject to the jurisdiction of a government are entitled to citizenship and equal democratic accountability rights.[64] Furthermore, citizens must be empowered with the resources and civic education to exercise their democratic rights equally.

If checks and balances place too much stock in institutions to stop elected authoritarians, then majoritarianism places too little stress on those institutions. To better understand this point, we should distinguish between two versions of the popular will theory. One is associated with elected authoritarians, and the other tries to resist elected authoritarians through democratic accountability based on elections.

The first, "populist" type, asserts that the president and other officials represent the people's will without any need for accountability. Since populism views presidents or prime ministers as closely representing the popular will, criticizing them is considered undemocratic. The bounds of office are seen as undemocratic barriers to the ability of the chief executive to carry out the will of the people. This is the form of

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citizens, we act on what I call our democratic duty of solidarity, using our democratic accountability rights to protect each other from injustice. While Thomas Simpson has written about how republicanism needs a conception of democratic duties, I offer a theory of the democratic duties of the offices of the citizen and public servant needed to sustain self-government. Leading republicans include Philip Pettit, *On the People's Terms* (Cambridge, UK: Cambridge University Press, 2012), Quentin Skinner, *Liberty before Liberalism* (Cambridge, UK: Cambridge University Press, 1998), and Frank Lovett, *The Well-Ordered Republic* (New York: Oxford University Press, 2022). Cf. Thomas W. Simpson, "The Impossibility of Republican Freedom," *Philosophy and Public Affairs* 45, no. 1 (2017): 27–53.

63. The Constitution's Fugitive Slave Clause ordered that slaves who escaped to another state be "delivered up" to their human traffickers (U.S. Const. article IV, section 2, clause 3). Slaves were counted as three-fifths of a person in apportioning a state's congressional representation, which gave slave owners the preponderant power in the House of Representatives to block emancipation (U.S. Const. article I, section 2, clause 3). The Slave Trade Clause restricted Congress from banning the international slave trade for twenty years, until 1808 (U.S. Const. article I, section 9, clause 1). Article V entrenched the Slave Trade Clause by preventing it from being altered even by constitutional amendment (U.S. Const. article V).

64. There is an exception for tourists and diplomats, since they are temporary visitors. I elaborate this point in chapter 5 on my Inclusion Principle, which entitles the governed to equal citizenship.

the popular will theory that elected authoritarians invoke. Populism claims to make us free, but it actually subordinates us to unaccountable power. When officials do not answer to us, we are no longer freely self-governing. Under the pretense of liberty, populism fastens the chains of servility.

The second, more subtle variant on the popular will theory attempts to combine accountability with the popular will.[65] "Popular will accountability" acknowledges that elected officials might act against the people's preferences. Although the choice of officials might reflect the people's will, what the officials do once in power may run afoul of what the people want. Officials can embezzle public money for private enrichment. Corrupt officials may do the bidding of the wealthy, instead of serving the majority of citizens.[66]

Given the danger of officials acting contrary to the will of the people, they must be incentivized to do what the citizens prefer. This is done by elections, which determine what voters want by weighing their

65. The popular will theory may seem to resemble Rousseau's approach to democracy. Rousseau thought that in a democracy, citizens are free because they only obey themselves. His theory depended on citizens making the law through a direct democracy. Since he was not writing about representative democracy, where laws are made through elected representatives, he lacked a full conception of democratic accountability. He did not explain how citizens can exercise equal authority over their elected public servants during office. Rousseau also sits as an uncertain ally of popular will theories. He did not believe that a morally legitimate democracy followed the raw preferences of citizens, or what he called the "will of all." For a democracy to be morally legitimate, or to have the right to make and enforce laws, it must follow the "general will." The general will comprises the preferences of citizens when they vote according to what they believe the public good requires, and when they are not biased against any group of citizens. Brettschneider persuasively points out that Rousseau's theory is susceptible to "the problem of false attribution." While in principle Rousseau distinguishes the general will from the will of all, he tends to conflate the outcome of actual, imperfect procedures with the ideal general will. This issue with Rousseau's proceduralism leads Brettschneider to propose a *value theory of democracy*, which holds that a morally legitimate government must respect the substantive values of equality of interests, autonomy, and reciprocity. The value theory regards these values as constitutive of democracy, because they respect the democratic status of citizens as free and equal. This approach avoids Rousseau's conundrum of how to locate an elusive general will or "true will of the people" that is separate from procedural outcomes. Corey Brettschneider, *Democratic Rights: The Substance of Self-Government* (Princeton, NJ: Princeton University Press, 2007). I thank Corey Brettschneider and Melissa Schwartzberg for asking about the relation between my theory and Rousseau's at an APSA conference.

66. This is the concern that Lawrence Lessig raises: "The great threat to our republic today," he says, is that "our government doesn't track the expressed will of the people." See *Republic, Lost: How Money Corrupts Congress—and a Plan to Stop It* (New York: Hachette, 2011), 7–8.

preferences through a majority vote.[67] Bernard Manin, Adam Przeworski, and Susan Stokes describe lucidly this election-centered approach to democratic accountability: "The standard view of how the accountability mechanism operates relies on 'retrospective voting.' In this view, citizens set some standard of performance to evaluate governments. . . . They vote against the incumbent unless these criteria are fulfilled."[68] Joseph Schumpeter takes a similar election-centric approach to democracy. In a book cited over sixty-seven thousand times, he defines "the democratic method" as "that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's vote."[69] Popular will

67. In the social choice theory that prevails in economics and political science, voting aggregates citizens' preferences. The model compares citizens to consumers who have preferences for candidates in elections. See Anthony Downs, *An Economic Theory of Democracy* (New York: Harper & Row, 1957) and Kenneth Arrow, *Social Choice and Individual Values*, 2nd ed. (New Haven, CT: Yale University Press, 1963). The election-centric approach has been taken up more recently by "principal-agent" models of democratic accountability, discussed in chapters 2 and 4. See also Sean Gailmard, "Accountability and Principal-Agent Theory," in *The Oxford Handbook of Public Accountability*, ed. Mark Bovens, Robert E. Goodin, and Thomas Schillemans (New York: Oxford University Press, 2014), chap. 6. While social choice theorists regard elections as selecting officials based on majority preferences, they are sensitive to difficulties in the majority will. One problem is that cyclical majorities may arise when the electorate is given three or more choices. Arrow observes that the outcome can vary arbitrarily depending on the order of voting. None of the outcomes can be said to express exclusively the majority will. Another issue is that most citizens do not possess preferences regarding many public issues, which means that "they have no real 'will' regarding what should be done." Anthony Downs, "The Public Interest: Its Meaning in a Democracy," *Social Research* 29, no. 1 (1962): 12.

68. Bernard Manin, Adam Przeworski, and Susan C. Stokes, "Elections and Representation," in *Democracy, Accountability, and Representation*, ed. Bernard Manin, Adam Przeworski, and Susan C. Stokes (New York: Cambridge University Press, 1999), 41. Achen and Bartels refer to the standard view of democratic accountability as involving retrospective accountability through elections. See Christopher Achen and Larry Bartels, *Democracy for Realists* (Princeton, NJ: Princeton University Press, 2016), 98.

69. Joseph Schumpeter, *Capitalism, Socialism and Democracy* (New York: Taylor & Francis, 2003 [1947]), 269. According to Google Scholar, by June 5, 2025, this work had been cited 67,351 times. A more recent version of Schumpeter's theory is Ian Shapiro, *Politics against Domination* (Cambridge, MA: Harvard University Press, 2016). Schumpeter admits that it is difficult to impute a will to the people when they disagree, and that they have no preference when it comes to many policies. However, Schumpeter shares with the popular will theory the narrow focus on elections and believes citizens should be passive during their officials' terms in office. As he writes, "once they have elected an individual, political action is his business and not theirs" (*Capitalism, Socialism and Democracy*, 295). Amy Gutmann and Dennis F. Thompson view Schumpeter as a proponent of an "aggregative" or preference-based conception of democracy,

accountability gains credibility when we consider how Indian citizens handed Prime Minister Modi an electoral setback in 2024, when twenty of Modi's ministers were voted out of office.[70]

Despite the appeal of popular will accountability, it overlooks how institutions can augment the power of citizens to hold their officials democratically accountable.[71] For example, the Indian Supreme Court stayed the conviction of opposition leader Rahul Gandhi for criticizing Prime Minister Modi. Parliament then reinstated him as a lawmaker.[72] Constitutional rights, the rule of law, and independent courts raise a *shield* to defend the ability of citizens to participate in democratic accountability and self-government.

Independent institutions may appear undemocratic because they act as a counterweight to the elected chief executive. Elected authoritarians denigrate independent institutions as part of a "deep state" that opposes the will of the people. This view, however, ignores the democratic character of institutions that are independent of the officials being scrutinized. These institutions redress the disparity of power between citizens and officials that jeopardizes self-government. Although citizens should be able to exercise authority over their officials by holding them democratically accountable, this self-governing relationship is in constant peril of being reversed. The danger arises from how officials wield the coercive force of the police and imprisonment.[73] The accountability

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which they criticize. See *Why Deliberative Democracy* (Princeton, NJ: Princeton University Press, 2004), 191.

70. Fareed Zakaria, "Narendra Modi and the Myth of the Strongmen," *Washington Post*, June 7, 2023, https://www.washingtonpost.com/opinions/2024/06/07/modi-election-rebuke-democracy/.

71. Admittedly, there are cases when institutions might weaken democratic accountability. The Supreme Court arguably did this in the 2024 immunity case, placing the president above the law (Trump v. United States, 603 U.S. 593). Institutions must be properly designed and enacted, and a key test is whether they enhance equal accountability. Sullivan and Painter present a convincing argument against the Supreme Court's decision in E. Thomas Sullivan and Richard W. Painter, *The U.S. Presidency: Power, Responsibility, and Accountability* (Cambridge, UK: Cambridge University Press, 2025), part 3, chap. 3, section c.

72. Associated Press, "India's Parliament Reinstates Opposition Leader Rahul Gandhi as a Lawmaker," NPR, August 7, 2023, https://www.npr.org/2023/08/07/1192481362/india-rahul-gandhi-parliament-modi.

73. Madison refers to government officials as "public servants" in "Federalist No. 57," in Hamilton, Madison, and Jay, *Federalist*, 280.

rights of citizens are more secure when the president cannot manipulate the judicial system to exact retribution. But to relieve this risk, the courts and law enforcement need to be sufficiently independent of the president, who should be subject to the duties and constraints of office.

Independent institutions play a further democratic role. They heighten the ability of citizens to discover what their public servants are doing. Independent institutions are not only the shield but the *eyes* of citizens. Congressional investigations, law enforcement, the courts, and the press uncovered President Nixon's malfeasance in Watergate. Their efforts informed citizens, who sent over 150,000 telegrams successfully urging the Senate to launch an impeachment inquiry.[74] The threat of impeachment then lifted the *sword* of citizens, sanctioning Nixon for his efforts to compromise the 1972 election. Without congressional oversight, law enforcement, and courts independent of the president, citizens would have been blinded to his crimes, vulnerable to his abuses, and powerless to sanction him during his years in office. Independent institutions fortify our democratic accountability rights with *mediated accountability*, where one set of public servants help us to hold other officials accountable.

Besides neglecting the democratic function of independent institutions as the eyes, shield, and sword of citizens, popular will accountability also tends to set aside forms of accountability other than elections. For example, Schumpeter believes that citizens should lapse into torpor between elections:

> The voters outside of parliament must respect the division of labor between themselves and the politicians they elect. They must not withdraw confidence too easily between elections and they must understand that, once they have elected an individual, political action is his business and not theirs.[75]

Schumpeter criticizes accountability between elections: "the practice of bombarding them [officials] with letters and telegrams for

74. Bob Woodward and Carl Bernstein, *The Final Days* (New York: Simon & Schuster, 1976), 71.

75. Schumpeter, *Capitalism, Socialism and Democracy*, 295.

instance—ought to come under the same ban."[76] These are the same letters and telegrams that had successfully urged Congress to start impeachment hearings against President Nixon. The tendency to truncate accountability to elections is not limited to theorists, but has spread to public officials. Chief Justice John Roberts wrote:

> The resulting constitutional strategy is straightforward: divide power everywhere except for the Presidency, and render the President directly accountable to the people through regular elections. In that scheme, individual executive officials will still wield significant authority, but that authority remains subject to the ongoing supervision and control of the elected President.[77]

Chief Justice Roberts assumed that any abuses of presidential power would be held accountable by citizens in elections. But the vital question is how elections can work if the president is unaccountable in the years between voting. For example, a president with unlimited control over the executive branch could subvert the independence of law enforcement and direct officials to arrest members of the opposition party and judges.

While elections are crucial, we would be hardly self-governing if we had no way of holding our officials democratically accountable for years *during office*.[78] We do so through our democratic accountability rights

76. Schumpeter, 295.

77. Seila Law v. Consumer Financial Protection Bureau, 591 U.S. 197, 224 (2020). In *Seila*, the court ruled in a 5–4 decision that the president may remove the director of the Consumer Financial Protection Bureau, even if there is no cause to justify removal such as "inefficiency, neglect of duty, or malfeasance" (591 U.S. 197, 207). The court added that Congress had violated the separation of powers by protecting the director from being fired at will by the president.

78. On election-centered democracy, see Tuck, *Active and Passive Citizens*. A compelling defense of elections is Emilee Chapman, *Election Day* (Princeton, NJ: Princeton University Press, 2022). Melissa Schwartzberg upholds majority rule in *Counting the Many: The Origins and Limits of Supermajority Rule* (Cambridge, UK: Cambridge University Press, 2013). Schumpeterians regard majoritarian elections as definitive of democracy. See Schumpeter, *Capitalism, Socialism and Democracy*, 269, and Jeffrey Green, *The Eyes of the People* (New York: Oxford University Press, 2011). Adam Przeworski takes a Schumpeterian, "minimalist" view that equates democracy with elections, valuing voting as an alternative to violent contests for power. See Przeworski, "Minimalist Conception of Democracy: A Defense," in *Democracy's Value*, ed. Ian Shapiro and Casiano Hacker-Cordón (Cambridge, UK: Cambridge University Press, 1999), chap. 2. Economists and political scientists have largely adopted an election-centric approach

and mediated accountability. Our rights to free speech, press, petition, protest, association, transparency, and the rule of law enable us to govern ourselves freely in the long span of years between elections. It is precisely because these democratic accountability rights and institutions during office are so potent in restraining the malice and corruption of office-holders that elected authoritarians worldwide are bent on repudiating them. Citizens who are only awake in elections are liable to be suffocated in their sleep.

Despite their differences, the theories of popular will accountability and checks and balances share a similar flaw. They seldom pay attention to the democratic duties of citizens and public servants. Checks and balances rely on the structure of the constitution instead of citizen participation in accountability to contain elected authoritarians. Popular will accountability takes a more active approach to citizenship, but it tends to give short shrift to citizens' duties. It restricts democracy to responsiveness to majority preferences, regardless of their substantive content, detaching citizens from any duty to adopt just preferences when they impose government power through their public servants. The distinguished democratic theorist John Ferejohn equates democratic accountability with this type of neutral responsiveness to popular preferences: "responsiveness is a measure of how much accountability an institutional structure permits."[79] Ferejohn conditions the claim by sounding the cautionary note that "responsiveness is not an unmitigated virtue."[80] Responsiveness to preferences is desirable when the majority wants to pursue justice, but it is dubious when it aims at racial segregation or other injustices. Ferejohn concludes that "how much and what kind of accountability there should be is a delicate matter to be decided in view of how much popular responsiveness is desired."[81]

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to democracy, beginning with Downs, *Economic Theory of Democracy*, and continuing with the principal-agent model of democracy (Gailmard, "Accountability and Principal-Agent Theory").

79. John Ferejohn, "Accountability and Authority: Toward a Theory of Political Accountability," in Manin, Przeworski, and Stokes, *Democracy, Accountability, and Representation*, 131.

80. Ferejohn, "Accountability and Authority," 132.

81. Ferejohn, 132.

Equal accountability instead reconciles democratic accountability with justice by according a more prominent place to the *democratic duties* of citizens and public servants. The central idea of this book is that democratic accountability makes us freely self-governing. But an essential component of my position is that democratic accountability is premised on *duties* related to how citizens should exercise their democratic accountability rights. When we meet these duties as citizens, we work together to protect the inclusion of our fellow citizens in democracy. When we shirk these duties, we abandon other citizens, like Doris Hayashi, to be excluded.

A skeptic might say that citizens do not always meet their democratic duties. But I am not providing solely an empirical theory limited to predicting how citizens will behave. I am presenting a moral or normative theory of democracy that explains how citizens *should* act to sustain democratic government and protect the inclusion of their fellow citizens in self-government. Just as the moral requirement to shun slavery is not invalidated by the existence of servitude, the duty of citizens to hold their public servants democratically accountable is morally valid even if citizens might fall short of fulfilling that responsibility. It is possible and important for citizens to fulfill these duties, as shown when citizens acted to ban slavery in the Constitution's Thirteenth Amendment.[82] At the same time, the moral duties matter empirically. As the Nobel laureate in economics Elinor Ostrom has written, norms coordinate citizens to overcome collective action problems.[83] In my theory of equal accountability, the duty of oversight is a norm that coordinates citizens to stop the injustices committed by their public servants. The duty of solidarity is a norm that coordinates citizens to fend off the injustices inflicted by officials or groups of other citizens. The duty of fidelity constitutes a norm coordinating public servants to cooperate with democratic accountability, and to aid citizens in guarding against

82. U.S. Const. Amend. XIII. I thank the PhD students in Corey Brettschneider's graduate class in political theory at Brown University who contributed thoughtful discussion on the empirical and normative distinction and how norms can overcome collective action problems.

83. Elinor Ostrom, "A Behavioral Approach to the Rational Choice Theory of Collective Action," *American Political Science Review* 92, no. 1 (1998): 1–22.

elected authoritarians and factions. Whether we fulfill our democratic duties lies in our hands. Our choice will determine whether we will continue to live in a democracy.

For example, if citizens abdicated their democratic duty of solidarity, we would be forsaken by our fellow citizens when we are preyed upon by factions and elected authoritarians. Consider a group of friends beset by a bully. Suppose that the friends are apathetic and stand aside when the bully degrades and humiliates one of them. The abused person would be left in the lurch, the sense of friendship would atrophy, and the bully could pick off the rest one by one. But consider the case if the friends put up a united front and protect each other in solidarity. No longer left isolated and vulnerable, the friends would combine their forces, steadfastly come to each other's aid, and fend off the bully. When citizens fulfill their democratic duty of solidarity, they mutually support each other, forming a more perfect union so as to overcome elected authoritarians and factions. Citizens acting in solidarity secure one another's equal authority, so that they are all freely self-governing.

Equal Accountability Is Properly Responsive to Citizens

Proponents of popular will accountability may claim their approach is more responsive than my theory to the preferences of citizens. I reply that equal accountability offers a better understanding of *why* democracy should be responsive to citizens. Equal accountability discerns that the lack of responsiveness by public servants to ordinary citizens is a problem. Majorities of both Republicans (53 percent) and Democrats (77 percent) back a wealth tax, yet the policy has not passed Congress, which is beholden to rich voters.[84] Equal accountability agrees with

84. Howard Schneider and Chris Kahn, "Majority of Americans Favor Wealth Tax on Very Rich: Reuters/Ipsos Poll," *Reuters*, January 10, 2020, https://www.reuters.com/article/us-usa-election-inequality-poll/majority-of-americans-favor-wealth-tax-on-very-rich-reuters-ipsos-poll-idUSKBN1Z9141. I agree with the political scientists Levitsky and Ziblatt that the government is insufficiently responsive to the majority of citizens in the United States. See Steven

popular will accountability that Congress should be more responsive to the ordinary citizens who endorse a wealth tax. Unlike popular will accountability, however, equal accountability can shed greater light on why the government should not enact discriminatory preferences, such as the demand for the Japanese American internment. I argue that officials should listen to citizens due to the *standing* of citizens as the equal authorities or bosses in democracy.

Equal standing is what I call a *bounded ground*: the reason that morally justifies an entitlement can also limit that entitlement. For instance, equal standing is a bounded ground, because it explains why our public servants should be responsive to our preferences, and it limits when it is appropriate to implement those preferences. Our public servants work for us, so they should listen to us. At the same time, counting preferences is downstream of our equal authority. Securing our standing as equal authorities mandates that the government refuse to coercively execute plurality preferences that are inimical to our standing, including the desire to enslave or disenfranchise our fellow citizens.

The idea of standing being a bounded ground is akin to how friendship justifies why we should listen to our friends' preferences when deciding what to do together. At the same time, friendship gives us the duty of respect, which requires us to refrain from carrying out abusive preferences. Our standing as friends is the reason to consider each other's preferences when we make plans together. But our standing forms a *bounded ground,* because the moral reason why we should listen to preferences also limits when it is proper to carry out those preferences. Abuse would be anathema to one another's standing as friends. The preference for it must never be inflicted. Similarly, public servants should refuse to blot out the rights of a racial group, even if a majority demands it. Our public servants' recognition of our rights protects democracy by guaranteeing our equal standing as citizens. Our equal standing to hold our government democratically

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Levitsky and Daniel Ziblatt, *Tyranny of the Minority* (New York: Crown, 2023). Martin Gilens and Benjamin Page confirm this lack of citizen influence in "Testing Theories of American Politics: Elites, Interest Groups, and Average Citizens," *Perspectives on Politics* 12, no. 3 (2014): 564–81.

accountable is the bedrock of democracy: it shows why government should be responsive to our preferences, and it regulates that responsiveness to protect our equal authority, which makes us self-governing.[85]

Popular will accountability is partially correct in calling for greater responsiveness to citizens. But it suffers from a larger structural defect that has gone unnoticed. It reverses the proper relation between democratic standing and responsiveness. Popular will accountability takes responsiveness to preferences, no matter how malicious they may be, as the basis for democracy. This inverts the proper relation between democratic standing and responsiveness. It holds hostage our democratic standing to the vagaries of plurality preferences, which can disenfranchise or discriminate. Popular will accountability's reversal of the proper relation between democratic standing and preferences makes it self-defeating. A plurality can exclude other citizens from democracy and deny them both responsiveness and the democratic value of self-government. By contrast, equal accountability explains that citizens freely govern themselves when they are equally included in the citizenry, and they are empowered with the equal authority to hold their public servants democratically accountable. We should protect the inclusion of all citizens in democracy through the democratic duties of solidarity, oversight, and fidelity.

85. A philosophical precursor for my bounded grounds argument is Locke's justification for private property. Locke derives the right to private property from the precept to "preserve" oneself and "the rest of mankind" (see his "Second Treatise of Government," in *Two Treatises of Government*, ed. Peter Laslett [Cambridge, UK: Cambridge University Press, 1988], 271). The right of private property preserves humanity by protecting each person's possession of food, shelter, and other necessities from interference. The crucial point is that "the same law of nature, that does by this means give us property, does also *bound* that property too" (290). Since the purpose of property is to preserve humanity, the right to property can be curtailed when it contradicts that end. For example, Locke qualifies the right to private property with the right to charity, which entitles the poor to food from people who possess a surplus (170). Whether or not we accept Locke's argument for property can be bracketed. The key is that Locke provides an example of what I call *bounded grounds*: the reason that morally justifies an entitlement can limit that same entitlement.

Missed Opportunities in the Absence of the Equal Accountability Theory

How have opportunities to avert elected authoritarians and marginalization slipped through our grasp in the absence of equal accountability? Consider two key cases. First, many commentators and officials oppose impeachment because they believe that removing a president would be undemocratic. They claim that impeachment would stymie the will of the people. As one congressional representative said, "The effect of impeachment is to overturn the popular will."[86]

If equal accountability had been central to our understanding of democracy, an impeachment would not have been perceived as undemocratic, provided there was a sound basis for it. Impeachment is a form of mediated accountability through our elected representatives. It holds the president democratically accountable during office, and it protects the integrity of elections. For example, the House of Representatives Judiciary Committee held impeachment hearings against President Nixon. The Committee investigated Nixon's attempt to disrupt the integrity of the 1972 election when his subordinates broke into the Democratic National Committee headquarters at the Watergate Hotel and covered up his involvement.[87]

Other writers approve of impeachment, but at times they focus only on Congress and do not back up the impeachment process with enough active citizen support. Equal accountability would place at center stage the need for citizens to participate in democratic accountability. They should have launched a grass-roots campaign, contacted members of Congress, submitted petitions, organized civic associations in favor of impeachment, and assembled mass protests.[88] Citizens would then have

86. CNN. "Transcript: Rep. Jerrold Nadler on Impeachment." CNN.com. December 11, 1998. https://www.cnn.com/ALLPOLITICS/stories/1998/12/11/transcripts/nadler.html.

87. John R. Labovitz, *Presidential Impeachment* (New Haven, CT: Yale University Press, 1978), ch. 3.

88. A petition circulates to the government and the public a statement of grievances with a list of signatories. This gives voice to citizens and identifies injustices to be corrected. On the importance of the right of petition to democracy, see Daniel Carpenter, *Democracy by Petition* (Cambridge, MA: Harvard University Press, 2021). On the democratic role of civic associations,

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