Chapter 1
Preliminaries

I. Preliminaries

Politics, in large part, is a response to diversity. It reflects a seemingly incontrovertible condition—any imaginable human population is heterogeneous across multiple, overlapping dimensions, including material interests, moral and ethical commitments, and cultural attachments. The most important implication of this diversity is that disagreement and conflict are unavoidable. This is, in part, not only because the individuals and groups who constitute any population are diverse in the ways just suggested but because that diversity is irreducible. There simply is no neutral institutional arrangement that will accommodate their competing demands and projects without leaving some remainder over which they still disagree. But the inevitability of disagreement and conflict also partly reflects the fact that precisely as members of a relevant population, those individuals and groups are commonly, as it were, stuck with one another. Their fates are highly, irrevocably interdependent. Thus, despite their diversity and the discord to which it gives rise, they require some means of coordinating their ongoing social and economic interactions. For this, they need, most importantly, social institutions. More specifically, in their efforts to coordinate in mutually beneficial ways, they require a set of institutional arrangements consisting of everything from the most decentralized institutional mechanisms, like informal norms, practices, and conventions, to a wide range of decentralized (e.g., markets) and centralized (e.g., government) formal institutions. Under these circumstances of discord and interdependence, politics largely consists in deep, persistent contests over the contours and distributive implications of these shared institutional arrangements.[1]

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[1] As Michael Walzer rightly suggests "opposition and conflict, disagreement and struggle where the stakes are high—*that's what politics is.* " He returns to this theme shortly thereafter, refining his point: "[C]ompetition for power is the primary form of political life . . . it can take different forms. The basic point is that without groups in conflict, *there would be no politics at all*, or nothing that we would recognize as politics" (Walzer 2004, 117–18, 128 [emphasis added]).

From a considerably different point of departure, Raymond Geuss arrives at much the same destination. "Politics" he suggests" is about conflict and disagreement, and this means not only

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Institutions are sets of rules that emerge from and subsequently structure social and political interaction. They are persistent means of coordinating ongoing social, economic, and political activity. And typically they have a systemic quality such that in any particular circumstances, what we call an institutional arrangement will hang together in a more or less coherent, if more or less arbitrary, and more or less contested fashion. Institutional rules often demand that individuals act in ways that run, wholly or partly, counter to their immediate or even longer-term interests, commitments, and attachments. They therefore must specify not simply what can be done, by and to whom, for what purposes, and when but also what happens when the rules are breached and who decides whether a breach has occurred.

On this account, institutions ultimately must be self-enforcing—that is, they must rest on the mutual expectations of the relevant participants.[2] For most forms of social interaction, there will typically be several, perhaps many, alternative and feasible ways to institutionalize that interaction. For example, if we want to establish an institutional framework to coordinate the multiplicity of social interactions involved in the production and distribution of health care, there are several types of arrangements that could accomplish it. Each will differ in the degree to which they rely on decentralized, as opposed to centralized, mechanisms. In such situations, we encounter further unavoidable sources of disagreement. Institutional arrangements are indeterminate in at least two ways. They are indeterminate in the sense that they represent arbitrary outcomes of strategic interactions. Given that there are alternative ways of institutionalizing social and economic affairs, relevant individuals and groups will endorse arrangements that they expect to operate over time in ways that favor their own interests, commitments, and attachments. They also are indeterminate in their operation insofar as the individuals and groups for whom they are relevant will differ over time about what the rules mean, whether and when they are being followed or breached, who is to decide such matters, and so on. Here again, involved parties will seek to resolve such interpretive disputes to their own advantage.[3]

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that parties will disagree but also that they will have a motivation to exploit existing conflicts or ambiguities in shared beliefs and values." One implication is "that the idea of a community in which people are clear and in agreement about what they want is not an ideal of a political system: politics is about getting things done when people do not agree" (Geuss 2001, 5–6, 117).

[2] Because there typically will be several, perhaps many, feasible, alternative ways to institutionalize social and political interaction, any given institutional form and the larger arrangements of which it is a part represent large-scale coordination equilibria in the game-theoretic sense. See Calvert (1995a; 1995b).

[3] Epstein and Knight (1998); Calvert and Johnson (1999).

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The view we sketch here clearly converges with the way others portray "the circumstances of politics."[4] It just as clearly departs from the views of others who hope to distance themselves from the sort of "political theory that presumes conflict and competition as characteristic modes of interaction."[5] That said, people confronting the "circumstances of politics" on our view share a judgment or recognition or assessment that even as violence, coercion, and force constitute the ubiquitous backdrop to politics, they do not afford effective means of coordinating ongoing interactions. In this sense, these circumstances are themselves something of a tenuous achievement in the absence of which social actors might adopt one of (at least) two broad alternative strategies. The first would be *exit*, whether individual (via emigration) or collective (via secession). The second is *violence* (e.g., "ethnic cleansing," genocide) aimed at eliminating or expelling others whose interests, commitments, and attachments animate projects that appear threatening or even just inconvenient.

At this juncture, a skeptic might respond by noting that the historical record is replete with instances in which people adopted either of these two alternatives. We concede the point but suggest the views we advance hardly are unique in being susceptible to the challenge posed by the well-documented willingness of individuals and groups to fundamentally abandon politics in favor of exit or violence. The skeptical view is a challenge to any general argument about the normative significance of political-economic institutional arrangements. It raises a general question: What might persuade people to eschew direct recourse to violence and coercion and to accept institutionalized ways of resolving conflict and achieving cooperation? Our answer to this question is that democratic politics, and especially reliance on democratic institutional arrangements, afford the best prospect for doing so.

John Dewey's perspective on the relationship between the use of force and the use of democratic arrangements is especially informative in this regard. Dewey acknowledged that force was a fundamental characteristic of social activity, asserting that "[n]o ends are accomplished without the use of force."[6] From this premise, he argued that the important social questions involved how force is marshaled and employed in the pursuit of social cooperation. The relevant criterion was "the relative efficiency and economy of the expenditure of force as a means to an end." Thus, "what is justly objected to as

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[4] Waldron (1999, 102–8); Weale (1999, 8–13).
[5] Young (1990, 228).
[6] Dewey, (1980, 248); the quoted passage is from a 1916 essay entitled "Force and Coercion."

violence or undue coercion is a reliance upon wasteful and destructive means of accomplishing results."[7]

For Dewey, institutional arrangements like democracy and the rule of law offered a practical and collectively beneficial alternative to the use of violence.[8] "If law or rule is simply a device for securing such a distribution of forces as keeps them from conflicting with one another, the discovery of a new social arrangement is the first step in substituting law for war."[9] In fact, the benefits of institutional solutions to conflict that avoid the use of violence play a fundamental role in Dewey's argument in support of democracy:

> Democracy is the belief that even when needs and ends or consequences are different for each individual, the habit of amicable cooperation—which may include, as in sport, rivalry and competition—is itself a priceless addition to life. To take as far as possible every conflict which arises—and they are bound to arise—out of the atmosphere and medium of force, of violence as a means of settlement into that of discussion and of intelligence is to treat those who disagree—even profoundly—with us as those from whom we may learn, and in so far, as friends. A genuinely democratic faith is faith in the possibility of conducting disputes, controversies and conflicts as cooperative undertakings in which both parties learn by giving the other a chance to express itself, instead of having one party conquer by forceful suppression of the other—a suppression which is none the less one of violence when it takes place by psychological means of ridicule, abuse, intimidation, instead of by overt imprisonment or in concentration camps.[10]

Yet, few if any have followed Dewey's lead in adopting this relatively unromantic view of democratic politics. Normative political theorists tend to ignore or assume away the challenge posed by those who would repudiate politics.[11] There tends to be a common assumption that our debates about the normative legitimacy of democratic decision making, as well as other types

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[7] Dewey (1980, 249); the quoted passage is from a 1916 essay entitled "Force and Coercion."

[8] Recall, that Dewey (1927, 207) agrees with Walter Lippmann that "the ballot is, as often said, a substitute for bullets." He simply, and rightly, thinks that democracy involves more than casting and counting votes.

[9] Dewey (1980, 214); the quoted phrase is from an essay entitled "Force, Violence and Law." The clear contrast to Dewey's reference to friendship here is Carl Schmidt, for whom the category of "enemy" constitutes the realm of politics. It also is clear that Schmidt's own views carried him over to "political" positions that, in fact, eschewed politics in favor of violence.

[10] Dewey (1939/1993, 243)

[11] For exceptions, see Plotke (2006) and Geuss (2008).

of institutions, take place exclusively among participants already committed to the nonviolent resolution of disagreements and differences. And even here we admit that this challenge will not be the primary focus of our argument. Nonetheless, we feel that our emphasis on the persistence and ubiquity of disagreement and conflict gives politics more room in our discussion than is to be found in most normative theories. And it will allow us to return later, in the spirit of Dewey's analysis, to the question of whether the institutional argument we advance—if successfully implemented—would diminish the likelihood that significant actors would opt for nonpolitical means and, crucially, what would happen if it did not.

II. Institutional Pluralism

As we have said, any population inhabiting the circumstances of politics as we have sketched them can avail itself of a plurality or range of feasible institutional forms. In addition to markets and democratic decision-making procedures, this includes, but is not limited to, bureaucracy, adjudication through courts, private associations, economic hierarchies, and social norms. And, of course, these institutional mechanisms, which themselves come in different varieties or forms, also need to be combined in various ways into what we will call "institutional arrangements." Once we recognize this plurality, the task of choosing which institutions would best coordinate our social interactions in any particular setting appears quite daunting. This in turn raises the difficult task of discerning how, in such circumstances, any heterogeneous constituency, with its diverse and often conflicting interests, values, and commitments, might determine which array of institutional forms to use to coordinate ongoing interactions across various social domains. We offer some examples in the next section. It is, in any case, likely that members of the population in question will disagree pointedly and legitimately on this matter. In other words, the choice of which institutional form or combination of forms to rely on in which domains is a political problem whose resolution in any given circumstances will be contested.

Determining which institutional arrangement is appropriate for which purposes turns out to be a very complex task. As standard textbook accounts make clear, in the case of markets, for example, any form of institution will operate effectively and thus generate normatively attractive outcomes only under particular (and, in principle, specifiable) conditions. Not only will the effectiveness with which any institution operates be a function of the extent to which these conditions in fact obtain (e.g., the structural and participatory conditions

necessary for effective market competition), it may well be a function of social and cultural norms that characterize any particular society.[12] Thus, in any particular context, the task of institutional creation involves not only the selection of one among several available institutional forms but also the identification of mechanisms needed to monitor whether the conditions necessary for effective institutional performance are being adequately fostered and sustained.

This point is general. It does not apply only to the selection or design of economic institutions. The effectiveness of any type of institution will be largely a function of the conditions in which it operates. This remains obscured because social scientists have undertaken considerably less systematic analysis of the preconditions for the effective performance of institutions of democratic, bureaucratic, or judicial decision making than has been undertaken on economic transactions in markets. Nonetheless, the task of institutionalizing more centralized arrangements requires that we make a commitment to establishing and maintaining our best understanding of the conditions that make bureaucracy or democratic governance or courts effective in achieving the goals we impute to them.

This obviously places a considerable burden on the members of any society in terms of information and knowledge about institutional performance and effects. On our account, this is where experimentalism emerges as central to politics. Institutional experimentation is a useful instrument for generating knowledge about the effectiveness of institutions in various social contexts.[13] Theoretical analysis can make important contributions to our understanding of issues of institutional performance, but it alone cannot provide definitive answers to questions regarding the actual effects of adopting one or another institution. Such knowledge will reliably emerge only from the cumulative experience of using for various purposes the various institutions at our disposal. We thus need to be able to rely on the lessons such experience affords us. In the end, we will trust or value experimental outcomes insofar as they emerge under proper conditions, and we must therefore expend considerable effort in establishing and monitoring those conditions.

The importance of "proper conditions" highlights the fact that experimentalism is itself an institutional choice. Institutional experimentalism will generate useful knowledge only insofar as the conditions are in place to let the experimental process itself operate in effective ways. To foster and maintain these conditions, we require some kind of institutional framework of monitoring and

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[12] For a compelling argument to this effect in regard to economic institutions and development, see Rodrik (2007). See also Satz (2010) and Lindblom (2001).

[13] On this general point, see Ostrom (1990); Rodrik (2007); Unger (2005; 2007).

assessment. Here the logic of institutional experimentation starts to resemble an infinite regress of institutions and conditions and meta-institutions and meta-conditions, and so forth. Yet, in this way, it nonetheless clarifies the task before us: to avoid the regress, we must identify some institutional arrangement (or set of arrangements) that can serve as a mechanism for (1) coordinating effective institutional experimentation, (2) monitoring and assessing effective institutional performance for the range of institutions available in any society, and, most importantly, (3) monitoring and assessing its own ongoing performance. Our argument, unsurprisingly, is that we should accord priority to democracy precisely to the extent to which it is adept at performing these tasks.

III. Examples and Comparisons

We speak throughout this book of institutional pluralism or diversity. On the view that we advance, institutions consist of sets of rules that emerge from and subsequently structure social and political interaction. They are persistent, systematic means of coordinating ongoing social, economic, and political activity. Institutions specify what can be done, by and to whom, for what purposes, and when, as well as what happens when the rules are breached and who decides whether they are. Recognizing institutional pluralism simply means grasping that in any given instance, there may well be various ways to structure ongoing social, economic, or political interaction. Moreover, there typically is no general criterion for deciding among the sets of institutional rules on offer.

Given the problem of establishing, monitoring, and assessing ways of coordinating ongoing interactions in various domains, consider just a small handful of the institutional arrangements we might adopt for just a limited number of purposes.

Economic Exchange. In many instances, a population will confront the choice between trying to regularize commercial transactions by creating and sustaining a market for particular goods and services or trying to block such transactions. For instance, the population might confront the problem of dealing with the selling and buying of votes. It might create a market in votes, or it might adopt the secret ballot as an institutional mechanism that can effectively block such exchanges by preventing voters from revealing to potential buyers how they cast their vote.[14]

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[14] Schelling (1960, 19) offers this interpretation of the secret ballot. Of course, the same population might opt, for other reasons, for public voting. Brennan and Pettit (1990) make a case for the latter.

The primary point of the secret ballot is to prohibit trafficking in the "good" altogether.[15] In other instances, a population may want to facilitate the availability of some crucially important, scarce good or service and thus face the problem of whether or not to have recourse to markets for that purpose. In other words, it wants to allow exchanges but not allow them to be commercial in the sense that they involve buying and selling. Consider, for instance, human blood.[16] A population might opt to allow for voluntary contributions ("gifts") of blood for medical purposes and establish an official agency to collect, process, and distribute it. Or it might encourage markets in which blood is procured and circulated via commercial transactions and distributed by private entities, whether they be for-profit business corporations or not-for-profit agencies like the Red Cross.

Distribution of the Franchise. Any democratic institutional arrangement confronts the problem of how to distribute voting rights. If we focus solely on nation-states, it turns out that participation is partitioned across multiple dimensions. Virtually all countries exclude individuals under some minimum age (usually, but not always, eighteen) and those with a documented mental disability. But while there is imperfect convergence on those exclusionary rules, there is more or less wide cross-national divergence on whether voters must be citizens, whether they must reside in the country, whether they must reside in the electoral district in which they vote, and whether prison inmates can vote.[17] In short, even if we set aside variation over time, the rules governing inclusion and exclusion from this minimal political right differ considerably.

Constitutional Politics. A central feature of many contemporary constitutions is some form of separation of powers among legislative, executive, and judicial branches. Such arrangements inevitably generate problems of what to do in cases of disagreement or conflict among branches. Such conflict might be resolved by force (e.g., a coup) or by any of a range of political gambits (e.g., impeachment or defunding). Either manner of dispute resolution could evolve into an informal norm to govern ongoing interbranch interactions. But such conflict might also be resolved by accommodation. Among the most common forms of the latter is the institution of judicial review, which affords constitutional courts the prerogative of ruling on the legality of acts of the

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[15] This is a contentious claim. Recall that we are simply illustrating the diversity of institutions. For present purposes we set aside other, critical interpretations of the secret ballot and its uses. See Bertrand, Briquet, and Pels (2006).

[16] Titmus (1971/1997); Arrow (1972); Singer (1973).

[17] Massicotte, Blais, and Yoshinaka (2004, 15–39).

executive and/or legislature.[18] But even if judicial review either emerges informally or is intentionally adopted, a range of possibilities remains; judicial review can itself take different forms.[19]

Democratic Decision Making. Judicial review is rightly viewed as antimajoritarian and therefore as nondemocratic. We sidestep the ongoing debates on that point. Instead we simply point out that democratic polities often incorporate a range of "submajority" voting rules into their decision-making institutions. Such a rule "authorizes (i) a predefined numerical minority within a designated voting group (ii) to change the status quo (not merely to prevent change) (iii) regardless of the distribution of other votes" in the body.[20] Just in the context of the U.S. federal government, the following examples meet these criteria:

The Journal Clause which allows one-fifth of the legislators present in either House of Congress to call for a roll call vote;

The "discharge rule" in the House of Representatives, which (at various points, although not today) has permitted a specified minority of legislators to force bills out of committee for consideration on the floor;

Senate Rule XXII, under which a cloture petition is valid when signed by sixteen Senators;

The "Seven Member Rule" under which a minority of designated committees in the House and Senate can require the executive branch to divulge information;

House Rule XI, which entitles committee minorities to call witnesses at hearings;

The famous "Rule of Four" that allows four Justices to grant a writ of certiorari and thereby put a case on the Supreme Court's agenda.[21]

So, not only is there, as is commonly recognized, a variety of voting rules that incorporate the principle of majority rule, there are a number of operative voting mechanisms that make no pretense of so doing.

Property Rights and Common Pool Resources. Markets are not adept at providing or distributing public goods, that is, goods characterized by joint

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[18] This paragraph draws on the account of how judicial review emerged in the United States advanced by Knight and Epstein (1996).

[19] See Vanberg (1998) for the operation of "abstract" as opposed to "concrete" forms of judicial review.

[20] Vermeule (2007, 87).

[21] Vermeule (2007, 186–87). Compare Guinier (1995).

supply and nonexcludability.[22] Neither are they useful for coordinating inter-
actions on what are called common-pool resources, which consist in "a natu-
ral or man-made resource system that is sufficiently large as to make it costly
(but not impossible) to exclude potential beneficiaries from obtaining benefits
from its use."[23] Pertinent examples here are fisheries, irrigation systems, graz-
ing lands, and forests. Given such a resource, a population might want to
establish an official, more or less centralized institution to monitor its use and
enforce restrictions on those who use it. In some contexts, such a centralized
solution may be appropriate, but there are many reasons why a population
might deem a more local, less centralized arrangement preferable.[24] Having
reached that conclusion, however, the population still confronts a choice be-
tween relying on some variety of privatization and one or another regime of
common property. In other words, a population deciding on how to govern a
common pool resource faces a complex problem. "Instead of there being a
single solution to a single problem . . . many solutions exist to cope with many
different problems."[25] Neither the state nor a regime of private property rights
is always and everywhere appropriate to the governance of common-pool re-
sources. There are other options.[26]

These are just a few examples of situations where institutional diversity makes
itself felt. We might well extend the catalog but believe we have made the
basic point. Rather than offer more examples, we now briefly want to situate
our approach to the matter of institutional pluralism in the context of some
provocative recent research that also addresses the problems it raises.

The studies we have in mind are *Democracy and Knowledge,* by classicist
Josiah Ober, and *One Economics, Many Recipes,* by political economist Dani
Rodrik. These works offer robust defenses of democratic practices and institu-
tions in terms of their consequences for macro-level performance. Ober aims
to explain the success of Athens relative to other Greek poleis in terms of

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[22] Knight (1993).

[23] Ostrom (1990, 30).

[24] Ostrom (1990); Taylor (1987).

[25] Ostrom (1990, 14; 2005).

[26] Ostrom (1990, 12–13, 22, 60–61), like Rodrik, warns against what the latter calls "property
rights reductionism," a position that "views the formal institutions of property rights protection as
the end-all of development policy" (Rodrik 2007, 184, 155–57). Both are concerned, by contrast,
with the task of establishing effective institutions, which requires looking at local problems in
ways that will allow analysts and participants to discover what might count as effective. Both, for
instance, countenance the possibility that common property rights can sustain effective control
in instances where state authority or privatization might not.

political-economic and military competitiveness. Rodrik analyzes the factors that account for economic growth, and thereby political-economic development, cross-nationally. Despite their seemingly divergent preoccupations the books share several features. Both Ober and Rodrik recognize the exigencies of inferring from particular evidence—whether case-based or statistical studies—to broader conclusions regarding political and economic institutions.[27] Both promote the importance of experiment in face of the tendency to premise institutional analysis on formal "blueprint" designs.[28] And both gesture toward a pragmatist justification for their arguments.[29]

For both Ober and Rodrik, democratic institutions are crucially important. Both focus on the capacity of democratic institutions to coordinate and communicate socially dispersed or "distributed" knowledge in the face of difficult, persistent, large-scale problems or social, economic, and political interaction. Ober attributes the relative success of Athens to the ways its democratic arrangements facilitated "the aggregation, alignment and codification of useful knowledge," while Rodrik argues that economic growth, and hence economic development, requires reliable intuitions for "processing and aggregating local knowledge" and insists that democratic institutions "are the most effective mechanism" for accomplishing that task.[30]

As will become clear, we find this general line of argument congenial. Yet we think it is, by turns, troubling and incomplete. We find the arguments Ober and Rodrik advance troubling to the extent that they tend toward a functionalist account in which political institutions emerge *because* they are "efficient" or are "market supporting."[31] Indeed, if institutions—including markets—are themselves public goods, and if we assume in our explanatory account that agents are, if not opportunistically self-regarding, then not naively other regarding either, surely there is no reason to assume that those agents will be motivated to contribute to the provision or maintenance of that public good.[32] If, as Ober reasonably suggests at various points, political agents will avail themselves of the "opportunity to use the system in ways that will promote their own personal and partial interests to the detriment of the interests

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[27] Ober (2008, 30–31, 268–70); Rodrik (2007, 3–4).

[28] Ober (2008, 19, 270–72); Rodrik (2007, 163–66).

[29] Neither author develops this theme at length; they acknowledge their pragmatist propensities primarily in scattered footnotes.

[30] Ober (2008, 3); Rodrik (2007, 8).

[31] See Ober (2008, 12) and Rodrik (2007, 156), respectively.

[32] Ober (2008, 12) makes clear that he is making fairly narrow motivational assumptions of the sort we describe. That markets are themselves public goods is a commonplace. See, e.g., Ostrom (1990, 15).

of the less powerful or the general interest" or, conversely, if institutions are susceptible to being "exploited by strategic actors for socially unproductive purposes," what leads us to believe that in setting up those institutions in the first place, those same agents will set aside narrow preoccupations and the advantages of power to promote the general welfare or collective good?[33] We offer a realist account of institutional emergence and change that makes no such presumption and that depicts institutions as by-products of bargains between self-interested but differentially situated actors. And we argue that that account raises a serious burden of justification for anyone who embraces it.

We find the arguments Ober and Rodrik advance incomplete in the following sense. The claim, which Rodrik makes a running theme, that "democratic institutions . . . can be viewed as metainstitutions that help society make appropriate selections from the available menu of economic institutions" partially anticipates the argument we advance in this book.[34] While Ober does not state his case quite so directly, his analysis of Athenian democratic institutions rides heavily on examples of how they enabled Athenians to adopt especially effective political-economic institutions and practices (say, the owl currency or the physical design of public spaces). Yet—quite properly, given their own substantive preoccupations—they offer no systematic account of how democracy operates, in Rodrik's sense, as a "metainstitution." That said, if they are to be fully persuasive, the arguments that Ober and Rodrik advance presuppose the case for the priority of democracy we advance in this book or something very much like it. Indeed, we argue that democracy enjoys a second-order priority precisely because it is uniquely useful in approaching the crucial, complex, and conflictual tasks involved in the ongoing process of selecting, implementing, and maintaining effective institutional arrangements. We sketch this view below and advance a systematic argument in its favor in the chapters that follow. But if we are to generalize from cases like

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[33] The quoted phrases are from Ober (2008, 97, 213). Ober could respond that agents might be moved by considerations of social efficiency (say, to create institutions that mitigate or minimize transaction costs) due to the "hypercompetitive environment" the Greek poleis inhabited. In fact, he explicitly invokes the analogy of a firm in a competitive market to this effect (see Ober 2008, 80–84). But markets are competitive and thus generate efficient results just insofar as the parties to exchanges cannot affect one another. So the analogy is flawed at best. Ober would have to establish how the sort of military competition he depicts—in which defeat means "destruction . . . the temporary or permanent end of the polis as a physical or as a social entity as a result of the sack of the central city and/or the extermination, enslavement, or forced resettlement of the entire population" (Ober 2008, 81)—resembles the sort of market competition that generates efficient outcomes from self-interested interactions.

[34] Rodrik (2007, 51, 8, 154–55, 169, 182–83).

the one Ober so cogently constructs, and if we are to fully appreciate the force of Rodrik's observation that the "plausible variation in institutional setups is larger than is usually presupposed," then, we suggest, what is called for is a theoretical account of how democracy operates in the ways they suggest. We offer just such an account.

IV. The Tasks of Political Theory

Our brief sketch of politics and institutions poses three interrelated but distinct tasks for political theorists.[35] The first *analytical* task requires that we identify the set of feasible social institutions, examine their respective features, and delineate the conditions necessary for the effective operation of different members of the set. This amounts to an examination of possibilities—what are the best outcomes that can be produced by a particular institutional arrangement under the various possible sets of conditions? For analytical purposes, we are unconcerned with the question of how, or under what conditions, any given institutional arrangement might actually emerge. That concern animates the second task theorists face. This properly *explanatory* task is pressed upon us by the first of the indeterminacies we mentioned above. If multiple feasible ways to institutionalize social interaction exist, we must account for how and why actors eventually arrive at a particular institutional arrangement. This is a theoretical rather than an immediately empirical problem. It demands that we specify mechanisms of institutional emergence and change and the conditions under which we can expect them to operate.[36]

These first two tasks are clearly related. They nevertheless are distinct enterprises. This becomes clear when we see that those pursuing these two "positive" tasks also unavoidably confront a third, *normative*, task that arises directly from the demands of analysis and explanation. Insofar as the task of analysis involves not simply identifying possible institutions but also inquiring into both their features and the conditions under which they operate effectively, theorists are involved in the comparative assessment of institutions. Thereby, we hope to be able to discriminate among the normative features of competing institutions and, in particular, to establish expectations about when such institutional arrangements will operate in more or less attractive ways. But notice the plural here. It makes the intrusion of distributive considerations

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[35] We are indebted to Schelling (1978, 25–27) for this point.

[36] On the importance of understanding explanation in terms of mechanisms and the conditions under which they operate see Knight (1995) and Johnson (2006).

unavoidable. Given that there almost always are different ways to institution-
alize social interaction, and given that these will sustain often dramatically
divergent distributive outcomes, we must confront the demand to explain why
a relevant population arrives at one among the possible set of institutional
arrangements. This raises, unavoidably, if tacitly, what we call the burden of
justification.

  This normative challenge arises because the different explanatory accounts
on offer invoke different causal mechanisms, some of which noticeably in-
crease the burden of justification while others tacitly diminish it. Given the
strategic exigencies involved in common processes of institutional emergence
and change, the mere fact that an institution emerges as the stable outcome
of the process in no way implies that it is justified. Indeed, those exigencies,
minimally including power differentials among actors and unforeseen contin-
gencies, often pose a heavy burden of justification. This problem commonly
manifests itself in the significant discrepancy between how an institution ac-
tually emerges and operates in a particular society and the theoretical ideal
of how that institution operates, as advocated by its proponents. Faced with
such discrepancies, it is quite easy to misplace the burden of justification.
But efforts to justify the choice of one institutional form over another cannot
avoid attention to these discrepancies. We can only appreciate this difficulty
and accurately assess the extent to which competing theoretical positions sur-
mount it by attending explicitly to normative questions. This, it turns out, is a
complicated matter.

V. Situating Our Argument

Given our view regarding the tasks of political theory, it turns out that the
argument we present fits uneasily within existing categories. In particular, the
view we just sketched leads us to believe that the now conventional dichotomy
between "ideal" and "nonideal" theories is especially unhelpful. The tasks of
political theory, as we sketch them, are considerably more complicated than
the dichotomy allows. In the end—indeed, well before the end—the dichot-
omy between ideal and nonideal theories turns out to be a diversion that we
should set aside in order to get on to important questions.

  One might distinguish between ideal and nonideal in more or less expan-
sive ways. Some seek to differentiate the specification of principle from any
consideration of "the facts" very broadly construed.[37] We focus on the way

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[37] Cohen (2008).

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Rawls draws the distinction because it is familiar and influential.[38] For Rawls, an ideal theory is one that *assumes* that "(nearly) everyone complies with, and so abides by, the principles of justice." By depicting what he calls a "realistic utopia," Rawls believes that we can establish the criteria by which to assess various forms of injustice and how they might be remedied. He presents this task as necessarily prior to any assessment of whether it might operate effectively in nonideal circumstances.

We set aside the question of whether such assessments presuppose specification of an "ideal theory."[39] Instead, we concentrate on matters Rawls assumes. In particular, he assumes that matters of implementation are of secondary concern. He assumes, in other words, that given what he calls "the circumstances of justice," it is possible that "a perfectly just, or nearly just, constitutional regime" can both be generated and sustained. This is hardly an innocent assumption. Indeed, it truncates the tasks of political theory in untenable ways. Specifically, it presumes that concern for institutions—which, after all, is what a constitutional regime consists in—is derivative of or parasitic on the specification of ideals.

This complaint may seem misguided. After all, Rawls proposes justice as fairness as a set of principles to govern "the structure of political and social institutions." The difficulty appears in the way proponents of ideal theory approach institutions.[40] They proceed by articulating principles and then postulating a set of institutions that might best approximate what those principles demand. That, we believe, is a disabling approach to the tasks political theorists confront.

Even when they disagree vigorously, political theorists acknowledge that in their joint enterprise, they confront multiple tasks.[41] Indeed, disagreements among theorists consist to a significant degree in conflicting visions of what they are, or ought to be, up to. Here we wish only to reiterate that the various

[38] Unless otherwise stated, all the quoted snippets in the remainder of this section are from Rawls (2001, 12–14). It hopefully is clear that we "pick on" Rawls and his followers here because we take his work to be enduringly important.

[39] That seems doubtful. For reasons, see Geuss (2008) and Sen (2009).

[40] Again, see Sen (2009), who contrasts a transcendental and a comparative approach to institutions, attributing the former to proponents of "ideal theory" while endorsing the latter.

[41] Rawls (2001, 1–5), for instance, identifies four such tasks: the "practical" task of addressing the problem of order; the task of orienting us "in the (conceptual) space, say, of all possible ends, individual and associational, political and social"; the task of "reconciliation," by which we can come to see our current institutions and their development as "rational"; and, finally, a "realistically utopian" task of exploring the bounds of political possibility. For a contrasting list, see Geuss (2008, 37–50).

tasks any theorist takes up discipline one another.[42] The commitments a theorist makes when addressing any task clearly constrain the options available to her as she pursues others.

Given the conception of institutions we adopt, we suggested that any political theorist tacitly confronts at least three tasks: she must account for both how institutions *persist* and how institutions *emerge and change*, and she must offer criteria for assessing institutional *performance*. How a theorist approaches each of those tasks—we called them analytical, explanatory, and normative—places constraints on how she might plausibly approach the others. Throughout the chapters that follow, we seek to keep those constraints in mind both as we discuss the work of others and as we lay out our own argument.

Here, ideal theory of the sort Rawls advances serves as a useful counterpoint. Recall that Rawls is concerned with formulating principles of justice while setting aside the tasks of showing how any institutional arrangement governed by those principles could emerge or sustain itself. In short, he neglects almost completely the explanatory and analytical tasks we sketched in the last section. It may be unfair to Rawls to suggest that he dismisses those other tasks as unimportant. Nevertheless, it remains the case that in the various reformulations of his theory that he crafted, he nowhere addresses them in a systematic way. Yet Rawlsians cannot defer indefinitely the explanatory and analytical tasks we identify. For even if we follow Rawls and adopt the reasonable rather than the rational as a standard of moral action, this in no way eliminates the sorts of strategic adjustment that demand an equilibrium settlement or something like it. Rawls himself acknowledges: "Reasonable persons also understand that they are to honor these principles, even at the expense of their own interests as circumstances may require, *provided others likewise may be expected to honor them.*"[43] In other words, beyond the obvious point that it is not narrowly rational for one to accept the principles of justice, the question of whether it is reasonable to do so will in each instance depend on one's expectations regarding how others will behave. How deep and pervasive the gap between the reasonable and the rational turns out to be is a crucial question. We will not explore it here. How susceptible Rawls's conception of justice is to the potentially destabilizing pressures of strategic interdependence is one that seems much more important.

It therefore seems appropriate and sensible to ask whether Rawls, having defended his principles of justice for the basic structure of society as ones that

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[42] How, for instance, might a political theorist, on Rawls's view, both promote reconciliation and explore utopian possibilities?

[43] Rawls (2001, 7 [emphasis added]).

reasonable agents must accept, is able to plausibly explain how institutional arrangements that embody those principles might emerge or to analyze how they might be sustained in equilibrium. In short, does Rawls do more than bracket or set aside analytical and explanatory concerns? Does the way he constructs his normative argument—as an ideal theory unconcerned with matters of implementation—preclude addressing them in a persuasive way? It seems that Rawls—or, now, his progeny—is under considerable burden to argue otherwise. This is a task that, to date, Rawlsians seem to have almost wholly neglected.[44] And it is a task whose importance, paradoxically enough, Rawls underscores with his tacit demand that reasonable expectations must be self-enforcing.

Our point here is simple and burden shifting. Instead of defending our argument as an exercise in nonideal theory, we have been concerned with whether ideal theory, at least as Rawls characterizes it, is a plausible undertaking. We have not claimed that ideal theory is impossible. We merely have suggested that in its Rawlsian variant, ideal theory both (1) acknowledges analytic and explanatory tasks and (2) pursues a normative project in ways that seemingly foreclose the possibility that theorists who subscribe to the latter undertaking can credibly prosecute those tasks. With those objections in mind, we proceed by setting aside the distinction between ideal and nonideal theory. Indeed, one distinctive aspect of our argument is the explicit way we not only acknowledge the multiple tasks that political theorists confront but also acknowledge how the ways we take up those tasks constrain one another in our own argument.

VI. A Note on Method

A final caveat is in order here. Several brands of institutionalism have emerged in recent years.[45] We focus on rational-choice models of institutions for three reasons.

First, these models allow us to keep distinct the analytical, explanatory, and normative tasks that political theorists confront.[46] In that sense, they provide a useful vehicle for our argument.

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[44] See Simmons (2010) for a defense of ideal theory that takes this observation as a premise.
[45] Hall and Taylor (1996).
[46] In this regard, we hope it will be clear that we interpret the usefulness of formal models in a way quite different from those who advocate "positive political theory." See Johnson (2010).

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Second, both critics and advocates of rational-choice analysis commonly and mistakenly suppose that it sustains substantive political conclusions quite divergent from those we defend. In particular, both presume that the results of social choice and game theoretic models underwrite a robust challenge to democratic theory.[47] We consider that presumption largely misguided. So, by relying on rational-choice models ourselves, we tacitly assume a rather substantial burden of argument. In short, we argue for the priority of democracy on theoretical terrain that many will think especially inauspicious.

Finally, as our title suggests, we endorse a pragmatist approach to the tasks of social and political theory. Rational-choice accounts of institutional emergence raise suspicions about any strategy that grounds justification in the processes of institutional genesis. Such accounts thus are perhaps surprisingly congenial to our pragmatist leanings insofar as these lead us to seek justification in a brand of consequentialism that is constrained or tempered by awareness of the conditions under which consequences are produced.

Combined, these considerations amount to the following: while we find rational-choice models useful, we offer a distinct interpretation of the enterprise as a whole.[48] In that sense, we aim to place pressure on advocates of rational-choice approaches to explore more carefully the ways their analytical proofs, their explanatory claims, and their normative pronouncements hang together.

VII. Précis

In these preliminary comments, we have characterized the circumstances of politics as we think they exist in the contemporary world. This is the terrain on which political theorists must advance and defend their analytical, explanatory, and normative claims. Diversity is a "social fact." One of the main implications of diversity is that conflict and disagreement are unavoidable. At the same time, our lives are unavoidably interdependent in significant ways. Thus, we must find ways to coordinate our actions and resolve our differences. Because institutions are the primary mechanism for doing so, politics primarily revolves around problems of institutional choice.

We develop our argument about the normative significance of democracy against this backdrop. Democracy is a set of institutions. It has an important

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[47] Riker (1982) is typically taken as the exemplar here.

[48] We elaborate different aspects of this interpretation in several earlier papers. See Knight (1995); Johnson (2010); Knight and Johnson (1994; 1999; 2007).

priority among the available institutional alternatives. This priority is not of a first-order variety: democracy is not the best way for us to coordinate all of our ongoing social, economic, and political interactions. We are often better served by relying on other institutional forms for that purpose. Rather, the priority we accord to democracy reflects its usefulness in approaching the crucial second-order tasks involved in the ongoing process of selecting, implementing, and maintaining *effective* institutional arrangements. These second-order tasks of achieving effective institutional performance involve monitoring and assessing the performance of the various social institutions—including democratic decision making itself—that any particular society relies upon to coordinate its ongoing interactions. As it turns out, these tasks involve establishing and maintaining an experimental environment that can enhance our knowledge of the relationship between different institutional forms and the conditions under which they produce good consequences. We argue that democracy is especially, almost uniquely, conducive to these undertakings.

The priority of democracy derives from what, on our view, are its fundamental features. We highlight three such features—voting, argument, and reflexivity—each of which relates to the positive effects of democratic processes on collective decision making. We argue that these effects distinguish democracy from other ways of coordinating ongoing social interaction. These qualities lend democratic arrangements presumptive priority of a particular sort. In any effort to negotiate unavoidable social disagreement over institutional arrangements, democracy enjoys a second-order priority precisely because it operates in ways that potentially meet a heavy burden of justification.

This claim will perhaps startle those familiar with the burgeoning literature on social institutions. As we demonstrate, much of that literature tacitly and improperly privileges a quite different component of our institutional arrangements, namely markets. It does so insofar as it presumes that the proper way to explain and assess other institutional forms is in light of the extent to which they are functional to the operation of markets. We argue that once the premises and argumentative strategies common to the institutionalist literature are clarified, it simply is not possible to sustain the privilege it accords to markets. In fact, we argue that the analytical models institutionalists deploy, and the most robust explanatory strategies available to them actually sustain, our case for the priority of democracy.

As with other institutional arrangements, the mechanisms of democratic decision making will not operate effectively (i.e., in terms of producing positive

effects on collective choice) absent a set of specific conditions.[49] In the case of democracy, these conditions relate to the nature and terms of political participation. On our account, effective democratic decision making requires that each participant enjoy *equal opportunity of political influence*. This criterion places a substantial burden on any democratic society, as it has significant implications for how that society institutionalizes freedom and equality for its citizens. One of the interesting features of our account is that it provides a distinctive justification for freedom and equality in a democracy, a justification grounded in the positive effects such participation has on the collective outcomes of the democratic process.[50]

The beneficial consequences of employing democracy as a means of collective governance are substantial. Standard justifications of democracy rest their case on what we call the first-order effects of an institution: the way in which an institutional arrangement coordinates substantive social interactions. On such an account, democracy is beneficial primarily for the task of facilitating collective decision making about substantive policy questions. The emphasis is commonly placed on the extent to which democracy can bring individuals together in the pursuit, if not of a common good, then at least of generally shared goals. The pragmatist justification that we offer here identifies a different source for the beneficial effects of democracy. On our account, the important benefits of democracy are derived from its second-order effects: the way in which democratic institutional arrangements facilitate effective institutional choice. This shift in focus highlights the important role that democracy plays, not in achieving consensus or commonality, but rather in addressing the ongoing conflict that exists in modern society. Significant beneficial consequences accrue to societies that rely on democratic arrangements to accommodate tensions that in any event do not lend themselves to any principled and lasting resolution. Democracy provides an effective means for a society to address these ongoing tensions and to decide in any particular moment how best to resolve specific problems and issues.

Our pragmatist justification of democracy supports the claim that democracy has a normative priority over other social institutions in regard to the fundamental task of effective institutional choice. A remaining question asks about the role this second-order priority plays in arguments about (1) the

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[49] As will become obvious, our argument diverges from the empirical literature—running from Lipset to Przeworski—that probes the social and economic preconditions of democracy.

[50] Put most starkly, we defend particular conceptions of freedom and equality insofar as they are required for democratic decision-making rather than defending democracy because it is instrumental to attaining the goals of freedom and equality.

legitimate authority of democratic governance or (2) the political obligation generated by democratic decisions. Stated otherwise, is there a pragmatic answer to questions of legitimacy and obligation? If there is such an answer, it must, we think, acknowledge the inescapably *political* nature of such questions. And, in doing so, it will also require us to rethink the emphasis on the moral dimension of state action. The key to a plausible pragmatic alternative rests in its underlying commitment to tempered consequentialism and in the role effective institutional performance plays in everyday social life.

We divide our argument into three parts, each consisting of three chapters. In addition to this introductory chapter, the first section contains chapter 2, where we set out our conception of pragmatism and discuss its implications, and chapter 3, where we begin the comparative analysis of institutions by considering the strengths and weaknesses of decentralization.

In chapter 2, we provide a basis for the claim we make in our subtitle, namely that we advance a pragmatist account of democracy. We specify three features—fallibilism, anti-skepticism, and consequentialism—as central to pragmatism understood as a philosophical position. In that regard, our view is fairly standard. But we also make two further claims that are distinctive. We first argue that pragmatism has important political consequences and that those sustain a commitment to robust democratic politics. We then argue that insofar as pragmatists are committed to democratic politics, they necessarily are committed not just to an ethos or ideal but to the analysis of democratic institutions. Each of these arguments will come as a surprise not just to those who come to pragmatism from the outside but to many who consider themselves pragmatists.

In chapter 3, we launch our comparative analysis of political-economic institutions in what may seem like a counterintuitive manner. We take up what arguably is the default presumption in this domain, namely that the task of establishing institutional arrangements should accord priority to markets and other decentralized mechanisms. We offer an extended critical analysis of the case for markets along with an assessment of several other decentralized mechanisms for social cooperation. We argue that because the commonly acknowledged initial conditions that markets presuppose if they are to operate efficiently are quite restrictive and because markets themselves offer no mechanism for monitoring and maintaining those conditions, there is no clear reason to bestow first- or second-order priority on markets as a default mechanism of social coordination. We recognize that this critical argument, by itself, does not afford grounds for according priority to more centralized institutions. We therefore consider three further decentralized institutional mechanisms (Coasian bargaining, community and technocratic incentive

compatibility schemes) and advance analogous reasons for withholding priority from them (singly or jointly) as well.

In part, but only in part, the argument in chapter 3 is ground clearing. After all, if some combination of decentralized institutional forms can adequately address the problems of coordination that the circumstances of politics generate, then our argument for democracy might be considered redundant. Our critical assessment shows that any such supposition, however common, is mistaken. In the end, however, we also acknowledge that something like our case against granting special priority to decentralized institutional mechanisms applies to more centralized institutional alternatives as well. We consequently conclude that democracy must meet a quite substantial burden of justification if we hope to sustain our claim that it deserves priority in debates about institutional design and reform. In that sense, chapter 3 plays a constructive and fundamental role in our argument: it establishes the threshold that our own account must meet if it is to be persuasive.

In the three chapters that comprise part 2, we directly take up the case for the priority of democracy. In chapters 4 and 5, we analyze the two primary mechanisms that animate democratic decision making: argument and voting. As a starting point, we assess the challenges that social choice theory brings to normative claims about democracy. Social choice theorists commonly critique democratic decision making on the grounds that voting is susceptible to unavoidable pathologies and that insofar as voting is essential to democracy, those pathologies subvert the normative legitimacy of democratic outcomes. After assessing the implications of these critiques, we consider three ways that political argument can affect democratic decision making and, thus, significantly mitigate the force of the social choice challenge. First, we analyze the potential effects of political debate or argument on the assumptions that drive social choice results. We contend that by engaging in political argument, relevant agents can settle the dimensions that, in any instance, structure their disagreements. This causal effect not only dampens the prospects that collective decision making will generate cyclical outcomes, it thereby reduces the opportunities for strategic manipulation that such instability presents. In this fashion, we show how the effects of argument, under the proper conditions, can significantly diminish the challenge that social choice theory commonly is held to pose for any robust normative commitment to democracy. In the process, we change the subject of democratic theory from showing that democracy can induce agreement to recognizing that when it operates effectively, it serves to structure disagreement.

Once the analytical argument has established the possibility that voting, augmented by argument, could produce normatively legitimate decisions, we

consider two ways in which democratic argument can enhance the quality of such decisions. We first present an epistemological argument about the beneficial effects of diversity. We then provide a structural argument about the beneficial effects of a central feature of democratic decision making: reflexivity. We conclude chapter 5 by bringing the three possible effects together to satisfy the burden of justification for democracy and, thus, to justify its priority among the available institutional alternatives.

In chapter 6, we clarify our views on reflexivity and how it operates in democratic arrangements by considering a set of possible objections to our argument. We first address the potential objection that we have underestimated the capacity of decentralized markets. We directly compare the relative claims about democracy and markets. In doing so, we highlight the ways in which competition operates in the different environments and the relative importance of reflexivity for the two institutional alternatives. We then take up a second potential objection: that we have failed to consider other, more centralized institutional arrangements that might embody reflexivity. We consider three such alternatives: courts and judicial decision making, bureaucracy, and a hybrid form that combines informal norms within formal institutional arrangements. Finally, drawing on the analysis of the effects of social norms on formal decision making, we consider whether the positive effects of social norms might, in fact, be most likely to emerge in an environment of democratic decision making.

In part 3, we change focus. We argue, to this point, that democracy is due second-order priority because it embodies a reflexivity that renders it uniquely adept at the experimental task of determining which institutional arrangements to rely on across different domains. Our argument presumes that democratic arrangements operate effectively only under specifiable initial conditions and that democratic institutions are able to reflexively monitor whether their own preconditions obtain. In our final three chapters, we focus directly on those conditions.

In chapters 7 and 8, we offer an analysis of the necessary conditions for democracy to produce the beneficial effects we attribute to it. This involves an extended discussion of the implications of particular conceptions of freedom and equality for encouraging and sustaining political participation. More specifically, we address what effective democratic performance requires in terms of free and equal participation and consider what this actually entails in terms of institutional guarantees and public policy. We conclude with a discussion of the inevitably political nature of these considerations.

In chapter 9, we consider three questions that emerge from our extended argument for the priority of democracy. First, to what extent does our argument

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for the normative priority of democracy provide support for a more general pragmatist theory of legitimate authority and political obligation? Second, to what extent might our argument offer greater appeal to reluctant participants who might otherwise adopt violent or coercive strategies? Third, to what extent is our conception of pragmatist democracy practical, and to what extent is it utopian? Our discussion in this concluding chapter is meant to situate our argument for democracy on the broader terrain that pragmatist political theorists must navigate. In other words, our aim is to conclude not on a defensive note but with a look at some of the broader consequences that follow from our pragmatist argument for the priority of democracy.