In *Demopolis*, Josiah Ober writes that "While neither value neutrality (other than specified above) nor human rights are demanded by basic democracy, <u>neither are they blocked by it</u>." (p.171). He argues that although political liberty, political equality and civic dignity are "thinner" conceptions of equality than liberals might desire, they provide the necessary substrate for the later addition of "thicker," value-laden conceptions. In essence, the thin conceptions of equality required by basic democracy do not prelude the later formulation of thicker conceptions.

But Demopolis is not value neutral - it insists on three explicit values (security, prosperity and non-tyranny) that not all citizens will share, nor will those who share them emphasize the values in the same proportion. Ober is quite explicit about this in his formulation of the utility functions (pp.42-43). Such preference mismatches make the state's objectives a poor foundation for subsequent construction. It is difficult to see how to build, for instance, a conception of human rights on the Demopolis Stage 2 values. Human rights, as they are currently conceived, imply a moral universalism that Demopolis explicitly negates.

Chauvinism was characteristic of Greek democracy. The goods provided by the polis were never considered to be the birthright of all human beings, and indeed the polis is predicated on the notion that some goods will be provided to citizens that will not be provided to anyone else. While Demopolis relaxes this chauvinism, it cannot entirely excise it because basic democracy's stated aspirations are particularist. It seeks to provide a good life for *certain* people, "now and around here." Notions of universal moral truth would seem to be beside the point. Demopolitans will therefore be constantly exposed to the temptation to improve the lives of the people living "now and around here" at the expense of others. It is difficult to see how one might build thicker concepts on such an ephemeral foundation.

Our own liberal inclinations make Ober's account more plausible to us than it would have been to a Greek practitioner of "basic democracy." Consider citizenship. Ober does not attempt to establish a conception of citizenship *ex ante*, except to point out that security in a basic democracy will require broad inclusion, as those who are excluded from citizenship will be a source of civil strife. He argues that citizenship will be determined by prevailing international norms, and then goes on to imagine a 21st-century basic democracy taking on liberal practices common among its neighbors. This would appear to be importing liberalism via the back door, and frees him from the unpleasant task of justifying limited suffrage on the grounds of the results achieved.

Rights present an additional concern. Even leaving aside notions of universal human rights, Demopolis will only ever be able to accord rights contingently, on the basis of actual or potential contribution to the polis. While Ober gestures at practical extension of rights to resident aliens (Ch.3), he ignores the harder cases. What is to be done with enemy combatants? Refugees? Ought we to care about immiserizing our neighbors through trade? On Ober's account, such difficult decisions can safely be postponed to Stage 3. I contend that, on the basis of the foundation laid out in Stage 2, there is no apparent way to construct Stage 3 values without relaxing or eliminating Stage 2 conditions. Denying the existence of this tension will defer attendant problems to Stage 3, but will also increase the scale of the problem. The particularism inherent in basic democracy seems fundamentally opposed to the universalism characteristic of modern liberalism.

Ronald Dworkin – Sovereign Virtue (Ch.3)
- Which form of democracy is most appropriate to an egalitarian society?
- The **abstract egalitarian principle** – government must act to make the life of each citizen better, with equal concern for each member.
- How does this principle apply to political power?
    - **Dependent** conception of democracy - "democracy is whatever form is most likely to produce the substantive decisions and results that treat all members of the community with equal concern. (p.186)
    - **Detached** conception – "…judge the fairness or democratic character of a political process by looking to features of that process alone." (p.186)
- "A detached conception of democracy…supplies an input test: democracy is essentially a matter of the equal distribution of power over political decisions." (p.186)
    - Detached conceptions treat political equality as a distinct dimension of equality. (p.188)
- "A dependent conception supplies an outcome test: democracy is a set of devices for producing results of the right sort." (p.186)
    - Controversial questions of substance may reappear as process questions (p.189)
- Distributive vs. participatory outcomes: an enlightened tyranny might be able to satisfy the distributive outcomes, but no polity other than a democracy can satisfy participatory outcomes.
- Argument: pure detached conceptions fail
    - Detached conceptions of democracy must take equality of power to be fundamental (p.190)
    - But equality of political power can be distinguished, on the basis of whom it encompasses, into horizontal equality and vertical equality:
        - **Horizontal** – across citizens
        - **Vertical** – citizens vis-à-vis officials
    - Equality of political power can also be distinguished on the basis of what it achieves:
        - **Equality of power** – Calculated by evaluating the change in the expected probability of a particular result induced by the knowledge that a particular voter will <u>vote</u> in a particular way. (p.192)
        - **Equality of influence** – Calculated by evaluating the change in the expected probability of a particular result induced by the knowledge that a particular voter will <u>use their political influence</u> in a particular way. (p.192)
    - Vertical equality of political power is impossible if we mean equality of political impact, but if we mean equality of *influence*, it should be possible to construct a detached conception that achieves vertical equality.
    - Dworkin argues on this basis that <u>the detached conception of democracy can only succeed by interpreting equality of power as equality of influence.</u>
- He goes on to question whether equality of influence is actually desirable:
    - Dworkin: accepting equality of influence as an ideal would conflict with other egalitarian goals.
    - "…even in an egalitarian society, differences in commitment, training, and reputation might be sources of differences in political influence." (p.196)
    - In the face of this premise, the best way to achieve equality of influence would be to reduce the role of influence in politics overall. (p.197)
    - Assuming this measure is unacceptable, Dworkin concludes (without much exploration) that equality of influence is incompatible with other desirable aspects of an egalitarian society. (p.198).
    - He concludes that equality of influence would involve a citizen body striving not to govern well but to avoid expressing too much influence over one another – "a pointless minuet of deference." (p.198)
    - <u>"It follows that we cannot maintain a pure detached conception of democracy."</u> (p.199)
- Dworkin's project is to sketch a conception of democracy that ignores equality of influence.
    - He begins with an intuition: "it seems unfair to ask people to accept substantive results that they think wrong unless they have had as great a role in the decision as anyone else." (p.199)
        - He shows that this applies to equality of impact, but not to equality of influence: "I cannot plead my lack of influence as showing the illegitimacy of the vote against me unless I can trace my lack of influence to a source <u>that is itself illegitimate</u>." (p.199)
    - To begin, he sets out **"symbolic goals"**:

- - - Participatory goals: equality requires that voting assignments carry a symbolic declaration of equal standing for all. (p.200)
      - However, the symbolic goal of participation can be relaxed because "the symbolic goal [participation] permits deviations from that standard when these deviations cannot plausibly be understood as reflecting adversely on the standing or importance of those whose impact is made less."
    - *Question: Is it really possible to reduce someone's impact without affecting their standing or importance?*
      - In the United States, no deviation from one-person one-vote can be tolerated, but we can imagine systems where "unequal voting did not itself display contempt or disregard." (p.201)
  - Next, Dworkin moves on to **"agency values"**
    - Expression and commitment: "We cannot make our political life a satisfactory extension of our moral life unless we are guaranteed freedom to express our opinions in a manner that, for us, satisfies moral integrity." (p.202)
    - *Question: Should our political life actually be "a satisfactory extension of our moral life"?*
    - Influence: politics must ensure "a degree of political leverage for each citizen." (p.202). Moral agency requires that citizens be able to make a difference (p.203)
      - Mediate districting – elections pick representatives who make decisions.
      - Final districting – elections themselves make the decisions (referenda)
    - In large districts, "the leverage of vote is negligible. So the agency goal of politics can be properly served only by providing everyone enough access to influential media…to give each person a fair chance to influence others…" (p.202).
    - *Question: This sounds awfully difficult – why not just abolish large districts?*
    - *Question: How long would influential media remain influential media if they were required to broadcast the vituperations of ordinary citizens? Wouldn't Dworkin also have to require the rest of us to tune in?*
      - "We design a dependent conception of democracy so that it permits anyone who wishes it enough leverage or engagement to make it possible for him or her to treat politics as an extension of his [or her?] moral life." (p.203)
      - "…symbolic values of participation require equality of vote within districts…, and presume equality of impact across districts. The agency values require liberty and leverage." (p.203)
- An adequate dependent conception of democracy requires equality of vote within districts, presumes equality across them, and requires liberty and leverage. (p.203).
- What are the substantive goals of an egalitarian political process?
  - Choice-sensitive issues: "Those whose correct solution…depends essentially on the character and distribution of preferences within the political community." (spending decisions) (p.204)
  - Choice-insensitive issues: the correct solution is independent of preferences. (issues of justice) (p.204)
- People might well argue about how to categorize issues, but Dworkin craftily replies that "…the second-order question whether any particular first-order question is choice-sensitive…is itself choice-insensitive." (p.205). This means that so-called "issues of principle" are forever beyond the scope of democratic decision.
  - There should be horizontal equality of impact with respect to choice-sensitive decisions affecting the whole community, but there is no reason for horizontal equality of impact for choice-insensitive decisions because accurately deciding them does not depend on that kind of information. (p.206)
- Dworkin (the reasons are unclear to me) decides to employ the same structure to decide choice-sensitive and choice-insensitive issues, except where we 1) believe that a different procedure would improve *ex ante* accuracy, and 2) that the new procedure not conflict with any of our other egalitarian goals. (p.207)
  - He takes up the possibility that these goals will conflict, but concludes that "nothing has yet emerged…to show that ex ante conflict between the different goals a dependent conception should recognize is inevitable. (p.208)
- Finally, Dworkin examines judicial review, concluding on the basis of the preceding discussion that "judicial review [in the United States] does not offend any symbolic or agency goals" (p.209) but actually supports those objectives by giving special protections to political liberties.
- He concludes that "constitutionalism is an improvement in democracy so long as, but only so long as, its jurisdiction is limited to <u>choice-insensitive issues of principle</u>." (p.209)

Josiah Ober – Demopolis
Chapter 1
- Arguing that the conjunction of democracy with liberalism is not inevitable, Ober sets out to develop a theory of *basic democracy* independent from liberalism. (p.1)
    - **Basic democracy** can be modeled as a dynamic, self-reinforcing equilibrium, while liberalism cannot. (p.6) It antedates liberalism, and is concerned with the legitimate authority of the *demos.* (p.3)
- "…a secure and prosperous constitutional framework can be stably established without recourse to the ethical assumptions of contemporary liberal theory [or] the central assumptions of early-modern liberalism…" (p.7)
- Democracy concerns share in government rather than share of resources. (p.8)
- Most founders have concentrated on preventing the recurrence of tyranny, leaving fraught questions of social justice to their successors. (p.8)
- "While the conditions necessary for the practice of democracy are not inherently liberal, neither are they inherently illiberal." (p.12)
- "The fundamental question I hope to answer is whether a democratic political order can, in and of itself (without the admixture of liberalism), be at once stable, limited, and an efficient provider of adequate levels of security and material welfare." (p.15)

Chapter 2
- Chapter 2 attempts to show a case of basic democracy in action – 5th century BCE Athens. (p.18)
- In democratic Athens, city-state institutions managed diversity in a large, heterogeneous population. (p.19)
- "The fundamental conditions of freedom in respect to public speech and association, equality of votes and opportunity for office, and civic dignity as immunity from humiliation and infantilization were robustly supported by formal rules and related behavioral norms." (p.20)
- The original meaning of democracy was "collective self-government by citizens." This involved rule- and norm-bounded decision-making, rather than mere tyranny of the majority. (p.21) "…from the beginning to the end of the democratic era, the core meaning of democracy as citizen self-government remained stable." (p.20)
- *Question: Liberalism is one way to circumvent the small size required for direct democracy. Is Ober correct that small-scale incentives can be sustained in larger populations?*
- *Demokratia* "asserts a *demos's* collective capacity to do things," involving control and capability. (p.28) "The original Greek definition thus captures the core of what a nontyrannical form of democracy is, in principle and practice: legitimate collective self-governance by citizens." (p.29)
- In Athenian democracy, the essential conditions of political liberty and equality were primary, and could prevail over a democratic majority bent on the unconstrained exercise of its power. (p.30)
- Athenians formally distinguished between "day-to-day policy" and "fundamental constitutional law," requiring additional procedures and formalities to enact the latter, including a board of constitutional legislators chosen by lot from among citizens over the age of 30. The aim was to make the process more protracted, public and deliberative. (p.31)
- "After the democratic restoration of 403 BCE, the Athenians saw that a return to prosperity required political stability. Stability in turn required a credible commitment on the part of the ordinary-citizen majority to a legal order that would protect the persons and property of the wealthy. Elite citizens must, for their part, credibly commit to preserving the entitlements (e.g., pay for public service) that enabled the relatively poor to participate in politics." (p.31)
- Ober argues that this quasi-contract (or equilibrium solution) demonstrates that a basic democracy can accommodate opposing policy preferences arising from social diversity. (p.32)
- He thus arrives at the "mature (philo-democratic) Greek definition" of democracy: "collective self-governance by a socially diverse body of citizens, limited by constitutional laws that were also established by citizens." (p.32)

Chapter 3
- Ober introduces the Demopolis thought experiment, setting out a conception of basic democracy without specifying the conditions of social justice. (p.34)
- He argues that democracy is a natural default decision mechanism in small groups/tribes/bands, but that at larger scales mutual monitoring and norm-enforcement can't operate, and polities fall back on authoritarianism as a second-best solution. However, the limited legitimacy of autocratic regimes prevents full achievement of a cooperative equilibrium. (p.35)

- He sets out some attributes of the hypothetical Demopolis – it is numerous (above face-to-face size), socially and economically diverse in its values (though not to such a great extent as to cause civil conflict), with a common prior history and an incipient civil society. (p.36)
- The population of Demopolis is said to be normally distributed on the basis of its preference for autocratic government. Ober identifies a subset of this population with low tolerance for autocracy. By stipulation, their other characteristics will be randomly drawn from the general populace, and Ober adds the stipulation that the "low tolerance" group inhabits a particular region. He names this group the "Founders" of Demopolis. (p.37,39)
- **Goals:** These Founders are said to agree on three objectives or goals *ex ante*: **security** (capacity to respond to exogenous shocks), **prosperity** (citizens may pursue life plans beyond mere subsistence – "city of pigs") and **non-tyranny** (no individual or faction monopolizes political power). These objectives are distinct and cannot be traded off against one another. Notably, distributive/social justice is *not* among the objectives – the three objectives are said to be necessary preconditions for the implementation of theories of justice. (p.40)
- *Question: Does it matter that this restriction on tradeoffs is unrealistic? Trading security against prosperity, for instance, is something that legislatures seem to grapple with frequently.*
- The founders will pursue these goals in three stages. The **first stage** establishes a general agreement concerning preference for non-tyranny. The **second stage** involves the establishment of basic rules. Finally, the **third stage** involves the elaboration of other rules, including those concerning social justice. (p.37)
- Founders' preferences for non-tyranny vary, and are not lexicographic – that is, they desire non-tyranny at a reasonable cost, which will vary by individual. (p.42)
- Ober defines structured utility functions for the Founders, setting out preferences for subsistence goods, public goods and diverse (socially-valued) projects.
- "Each Founder ranks his own survival highest, then the public conditions of social cooperation, and then socially valued projects." Nontyranny is only included as a public good if its cost is reasonable, which will vary by individual. (p.43)
  Question: *Does it make sense to treat only nontyranny in this way? What about other public goods?*
- The basic rules must be ratified collectively, but Ober is silent on whether this requires unanimity. He envisions that subsequent generations will also want to participate in rule-making, and he provides for this by requiring that delegation of jurisdiction be revocable. (p.44)
- Citizenship will be determined by prevailing cultural norms. Ober does not attempt to establish a conception of citizenship *ex ante*, except to point out that security in a basic democracy will require broad inclusion, as those who are excluded from citizenship will be a source of civil strife. He points out that as *revoking* citizenship would offend core values, citizenship will only expand, never contract. (p.45)
- *Question: Ober claims that citizenship will be determined by prevailing cultural norms, and then goes on to imagine a 21st-century state taking on liberal practices common among its neighbors. Isn't this importing liberalism by the back door?*
- Founders also accept the need for coercion to enforce rules, the need for ongoing rule-making, and the ultimate need for Stage 3 solutions like distributive and corrective justice. (p.48)
- Ober proposes three rules that the founders will establish to achieve their basic goals of security, prosperity and non-tyranny:
- Rule 1 – Participation: Since the preservation of non-tyranny is a public good, Ober anticipates free-riding to secure its benefits without paying costs. To counteract this, the Founders will mandate that all citizens must participate in the provision of public goods. This includes deliberation, voting, serving as a juror, enforcing rules and paying taxes. To accomplish this objective, citizens must have access to a basic education and certain minimal welfare guarantees. (p.49)
- Rule 2 – Legislation: The Founders will establish a procedure for making Stage 3 rules. This procedure must accommodate disagreement, ruling out unanimity, and as all citizens must participate (Rule 1), this implies a majoritarian decision rule. Establishing such a rule will also require freedom of inquiry, speech and association, functional political equality, and civic dignity. (pp.49-51) This rule-entrenchment will allow citizens to form reasonable expectations concerning costs and benefits (p.54).
  Question: Ober offers an instrumental justification for civic dignity – it supports the goals of equality and freedom, and will moderate the substantive demands of egalitarians and libertarians regarding resource distribution. Might it be valuable for its own sake?

- Rule 3 – Entrenchment: Finally, the Founders will limit the citizens' collective ability to make subsequent rules that would threaten the three ends of prosperity, security and non-tyranny or that would jeopardize the conditions that make these ends possible, such as political equality, political freedom and civic dignity. (p.52)
  Question: Ober is at pains to distinguish between liberalism's reasons for limiting the scope of majoritarian power (which involve assumptions about the intrinsic value of such things as human or natural rights) and the basic-democracy reasons, which will instead involve the imperative of achieving the established goals of security, prosperity and non-tyranny. Might this be a distinction without a difference? If forced to defend the assignment of intrinsic value, might not a liberal legitimately point to positive consequences?
- Ober explicitly provides for those who wish to remain in the state's territory but decline to participate in the (potentially arduous) work of sustaining the rules. He calls these people "citizenship-eligible noncitizens," and exposes them to special taxes or other "disabilities." (p.55)
- Regarding consent, Ober argues that tacit consent is insufficient, and suggests founding consent on an active affirmation (the equivalent of participation in the founding). This will require basic education to allow for an informed choice, as well as a safety valve to allow discontented citizens to leave. (pp.55-56) See also Ober's footnote #35, citing Hardin 1999 on the inappropriateness of consent as grounds for joining a collective project.
- "…the state is predicated on self-government by citizens that is collective (based on active participation by the citizens who constitute the demos), limited (rules cannot violate conditions necessary to achieving the ends for which the state exists), and stably effective in the sense of producing policy that enables the state to be at once prosperous and secure." (p.57)

Chapter 8
- In earlier chapters, Ober has framed what he calls "Hobbes' challenge" as a collective action problem, that "the claim that any secure and prosperous state requires a third-party enforcer in the guise of a lawless sovereign." He claims that basic democracy solves the collective action problem by giving citizens good reasons to believe that participation costs are shared. (p.157)
- While the costs of self-government are high, Ober argues that they are balanced by gains in the stock of knowledge acquired by extending political participation, and that these gains confer benefits outweighing the costs of self-government. (p.158)
- Ober continues his discussion of representation begun in Chapter 7, concluding that basic democracies may delegate authority (conditionally) for "day-to-day government" to representatives, but that citizens must be capable of governing themselves should their representatives violate the trust placed in them. Representation solves the problem of scale, but introduces new problems of elite capture. (pp.159-160)
- In the absence of proper civic education, Ober argues that the antityrannical impulse can actually facilitate either populism or elite capture, frustrating its antiyannical purpose. (p.161)
- Ober concludes by grappling with two related objections: is basic democracy either "too illiberal to sustain liberalism?" or "too liberal to sustain nonliberal norms?" (p.163). He argues from history that basic democracy need not be illiberal (p.164), and from theory that basic democracy is compatible with illiberal features (p.174).
- Ober argues that democracy promotion has been inextricably bound up with promotion of liberal values, which has served to discredit democracy by attaching a sound decision procedure to a possibly-spurious set of values. (p.167).
  Question: Ober argues that enfranchising the whole Athenian population would not have compromised Athenian peace and security. What might the consequences have been for political decisionmaking?
  Question: Ober writes that "While neither value neutrality (other than specified above) nor human rights are demanded by basic democracy, neither are they blocked by it." (p.172). Can this be correct? Demopolis is not value neutral - it insists on three explicit values that not all citizens will share (despite Ober's assertion of broadly similar utility functions). Human rights, as they are currently conceived, imply a moral universalism that Demopolis explicitly negates.

Diverse goods
Socially valued projects

Public goods
State-level security,
prosperity, nontyranny

Subsistence goods
Bare existence

Figure 3.2 Utility function of the median Founder-citizen.

Looking ahead, these chapters seek to demonstrate the validity of three sets of general claims:

I   Basic democracy is reasonably stable collective self-government by an extensive and socially diverse body of citizens. To be stable over time, a democracy requires rules, reliably backed by habitual social behaviors. Those rules must, inter alia, limit the absolutist tendencies of the collective rulers and allow for punishing violations by government agents and other powerful social actors whose actions threaten the democratic order. Basic democracy is not majoritarian tyranny. It is neither morally committed nor opposed to value neutrality, universal human rights, or egalitarian principles of distribution. Democracy in its basic form is neither the antithesis nor the fulfillment of liberalism.

II   Basic democracy can be at once legitimate and effective. It is good for citizens in that it enables them to live relatively well and securely without a master (keeping in mind that noncitizens may do less well).[28] It is good for citizens because, inter alia, it

1   provides for material conditions of human flourishing: adequate security from external and internal threats to life and property; sufficient welfare in the form of (at least) food, shelter, and health; and adequate opportunity to pursue socially valued projects[29]

2   promotes free exercise of constitutive human capacities: sociability, reason, and interpersonal communication

3   sustains desirable conditions of social existence, notably political liberty, political equality, and civic dignity[30]

III   A theory of basic democracy highlights the importance of civic education. It foregrounds the relationship between political practices and certain values that tend to be marginalized in liberal political theory, notably the intrinsic value of participation and the independent value of civic dignity. It also answers two queries posed by liberals and by nonliberals: How can a liberal society be made both stable and adaptive? How might a nonliberal society be sustained without autocratic rulers?

Table 2.1 *Greek (and neo-Greek) terminology for regime types*

1. Empowered body	2. -*kratos* root	3. -*arche* root	4. Other regime-name terms	5. Related political terms: persons, abstractions
One	*autocracy*	**monarchia**	**tyrannia** **basileia**	**tyrannos** **basileus** (king)
Few Many	**aristokratia** **demokratia** **isokratia** ochlokratia (mob)	**oligarchia** *polyarchy*	**dynasteia** **isonomia** (law) **isegoria** (speech) isopsephia (vote)	**hoi oligoi** (few) **hoi polloi** (many) **to plethos** (majority) **ho ochlos** (mob) isopsephos (voter)
Other (exempli gratia)	timokratia (honor) gunaikokratia (women) *technocracy*	**anarchia**	**isomoiria** (shares) **eunomia** (law) politeia (mix of democracy and oligarchy: as used by Aristotle)	**dunamis** (power) **ischus** (strength) **bia** (force) **kurios** (master) **exousia** (authority, license)

Notes: Earlier (fifth-century BCE attested) forms in bold, "standard" terms used in the later fifth and fourth-century in bold underline, exotic ancient inventions in plain type, post-classical/modern inventions in italics.
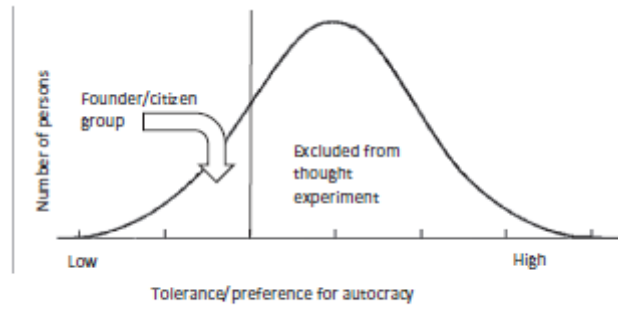
Figure 3.1 Distribution of people in Demopolis thought experiment.