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WHY CHILDREN SHOULD BE ALLOWED TO VOTE

Maura Priest

I. THE RIGHT TO VOTE

The United States has an ugly record of unjust disenfranchisement. Initially, only property-owning white males could exercise this essential political right. As time went on, progressive legislation began to rectify these grave wrongs. Property ownership is no longer mandated, poll taxes have been eliminated, and the vote has been expanded to women and minorities.¹ However, there remains a class of the unjustly disenfranchised: those old enough to reason, to make rational and informed decisions, yet denied basic political privileges because of age. This paper argues that the current voting age in the United States conflicts with fundamental liberal principles. It considers a wide range of arguments that attempt to justify youth disenfranchisement and concludes that all such arguments fail. It then briefly argues that youth voting is more likely to help society rather than hurt it. Although arguments in this paper focus on voting in the United States, much of what is said applies to all liberal democracies.

I assume that children are persons, and all persons in virtue of their personhood are of equal moral worth. As moral equals, persons have a *pro tanto* claim to equal rights; arbitrary discrimination is unjustified. Because voting is an essential political right and children are persons who by their very nature have such rights, the burden is on those against child suffrage.² As Carl Cohen has noted: “The presumption in a democratic society is that all may participate.”³ This starting point for my argument is an important part of what Claudio López-Guerra has called “The Conventional Suffrage Doctrine.”⁴ This doctrine includes, among other things, a presumption of universal suffrage and the belief that disenfranchisement on the basis of ignorance is unjustified. López-Guerra notes that in a study of sixty representative democratic countries, 76 percent disenfranchise felons and 94 percent disenfranchise children, but none disenfranchise the ignorant.⁵ While I agree with the conventional view’s presumption in favor of universal suffrage, I disagree with the presumption that children are justifiably excluded from this

“universal” class. Rather, I take the presumption of universal suffrage to be truly universal, extending to all persons unless strong reason justifies exclusion. This paper argues there is no reason strong enough to overrule children’s presumptive right to vote.⁶

To reach my conclusion about the injustice of youth disenfranchisement, we need assume only what follows from the acceptance of Rawls’s first principle of justice as fairness: all citizens are entitled to the same basic rights and liberties, including the liberty of speech, association, religion; and notably, the right to vote.⁷ We should note, however, that Rawls argues that children have underdeveloped rationality and no role in original position deliberations; he himself would find nothing wrong with youth disenfranchisement.⁸ This paper aims to show that this position is inconsistent with the acceptance of his first principle of justice.

The right to vote is indispensable insofar as one wishes to be viewed with common respect. As Tom Christiano has explained: “The institutions for making decisions for the society must be democratic. . . . This is a principle of respect for the judgment of each citizen. It treats each person as having something to say and of being worthy of being listened to and responded to.”⁹ Exclusion from democratic decisions disrespects the judgment and worth of the excluded party. Most liberal theorists find this uncontroversial. But many also view children as an exception. Christiano, for instance, argues that it is just to exclude children from “collective decision making” because they fall short of a minimal competence.¹⁰ And this is where the discussion becomes more complex. For although political liberals accept a *prima facie* claim against discrimination, we cannot rule out the permissibility of denying children the vote. Discrimination, the purposeful exclusion of individuals or groups from activities or benefits, is potentially justified.¹¹ In other words, societies can infringe upon fundamental rights in a way compatible with liberalism. Convicted murderers cannot freely associate. Although freedom of association is a fundamental right, its infringement is thought circumstantially justified. In whatever sense rights are absolute, absolutism that leaves no room for infringement goes too far.

Even though rights infringement is excused in special instances, it is uncontroversial that liberal societies must be cautious regarding discrimination and even more cautious when the discriminatory act infringes upon political rights. If based on no reason, poor reasons, or irrelevant reasons, that discrimination is unjust. When exercised via governing authorities, it is political injustice. Insofar as liberal politics aim to become more just, they should aim to minimize arbitrary discrimination. This paper focuses on one potential instance of unjust discrimination: youth disenfranchisement.

Section 2 sets the stage by considering criteria for just disenfranchisement. With principles from section 2 in mind, the following 3 sections review arguments against youth suffrage. Section 3 considers whether the young are even capable of voting. Section 4 addresses the argument that the youth vote would

harm society. Section 5 reviews the “complete life defense.” (Advocates claim that because all adults were once children, youth disenfranchisement is acceptable.) After reviewing theory and argument in sections 2–5, we must conclude that liberal societies act unjustly and against their own principles by denying children voting rights. The way to rectify this injustice is to discontinue youth disenfranchisement. The paper then concludes with a consequentialist argument. Not only does youth disenfranchisement unjustly infringe upon fundamental rights, it slows or prevents social progress.

2. DISENFRANCHISING CRITERIA

Some claim that the young should not vote because they would vote foolishly or dangerously, others that they are incapable, and still others that they are too immature. To evaluate these claims, we must agree on grounds that justify disqualification. Disqualifying criteria should minimize the possibility of discriminatory disenfranchisement. With that in mind, let us say that characteristic *C* is grounds for disenfranchising group *G*, if:

- (1) *C* applies to *G* *in virtue* of membership.
- (2) *C* applies to *G* alone; it does not also apply to other enfranchised groups.
- (3) *C* is relevant to voting.

Let us call (1) the *Grounding Criterion*, (2) the *Consistency Criterion*, and (3) the *Relevancy Criterion*. The Grounding Criterion assures that disenfranchisement is not due to stereotype, social injustice, or institutionalized circumstance. Racists might claim that minorities should be disenfranchised in virtue of education level. But even if race *R* had low educational achievement, this could still be unjust grounds for suspending voting rights. Race *R*'s education might have nothing to do with the race itself but rather historical circumstance, social institutions, or other cultural influences. Racist disenfranchisement also sheds light on the Consistency Criterion. Racists might see nothing wrong with poorly educated voters of race *R**; this double standard demonstrates the insincerity behind disenfranchising *R*. If low education were the genuine grounds for disenfranchisement, this criterion would apply across categories. To claim that *C* disqualifies members of *G* but not *G** is to admit *C* is an insincere disqualifier.

Proposed disqualifiers might meet criteria (1) and (2) but fail (3). Imagine that *C* applies to *G* alone in virtue of membership. Notwithstanding, *C* might be irrelevant to voting and a mere guise to hide discrimination. Suppose that there is a movement to disenfranchise all who refrain from pork. This movement's injustice lies in the lack of relationship between pork abstinence and suffrage. Because pork consumption is irrelevant to voting, any attempt to disenfranchise

on these grounds is a grave injustice. We should recognize, however, that attempts to bypass the Relevancy Criterion are often made surreptitiously. Unlike pork consumption, C might appear relevant to voting. Nonetheless, all things considered, the criterion is illegitimate. Consider the past disenfranchisement of non-property owners. One argument went like this:

- (1) Non-property owners pay less tax.
- (2) Those who pay less tax have less stake in government affairs.
- (3) Those who have less stake in government affairs should have less say in government affairs.
- (4) Therefore, non-property owners should have less say in government affairs.
- (5) Therefore, non-property owners should not vote.

The argument above is less ridiculous than the pork argument. Nonetheless, we eventually determined that non-property ownership is an illegitimate basis for disenfranchisement. [Notably, many deemed premises (2) and (3) questionable.] This example is a reminder of our biases. What seems like a legitimate basis for disenfranchisement might be disguised discrimination. To guard against our untoward tendencies, all arguments for voting curtailment ought to be viewed with circumspection. If we might err, we ought to err toward permissiveness and toward expanding the franchise rather than contracting it.

3. CHILDREN SHOULD NOT VOTE BECAUSE THEY CANNOT VOTE

So what constitutes voting capacity? There is the physical process, using your body to mark a ballot. But quick examination suggests this is neither necessary nor sufficient. Consider Ritzy Meckler, a patriotic springer spaniel and registered St. Louis voter.¹² When Meckler's species was discovered, she became a cause celeb for advocates concerned with election fraud; it took no argument to convince the public that Ritzy's "vote" was fraudulent. First off, dogs have no voting rights. But more importantly, dogs will never vote because dogs *cannot* vote. Even if Meckler used her own paws, the apparent vote would fall short of legitimate. Dogs lack the requisite mental capacities without which the physical process is meaningless. There must be another standard that explains voting capacity. This criterion seems like some kind of intellectual ability, but the nature and degree of such ability is disputable. Consider computers, smartphones, and robots. Surely, machines could "vote" in some sense. Yet philosophers of artificial intelligence notwithstanding, most will deny that computers can cast meaningful votes.

This is the point at which philosophers of mind turn to an in-depth discussion on consciousness. For our purposes, what matters is that computers cannot

choose, in the relevant sense of “choose,” one ballot proposition over another. This disinclination to believe that machines can make choices fuels our skepticism. Capacity for autonomous choice is essential to voting. Indeed, disenfranchisement manifests disrespect in part because it disrespects our autonomy. In the words of Joel Feinberg, “respect for a person’s autonomy is respect for his unfettered voluntary choice as the sole rightful determinant of his actions.”¹³ Universal suffrage respects each citizen’s capacity for autonomous choice. Machines lack this basic autonomy; they cannot form their own beliefs or opinions nor make their own choices. Votes must stem from self-initiated abilities. For this reason, we consider voter intimidation and bribery fraudulent. Intimidated votes reflect not the voter’s choice but their intimidator’s, and analogously so with bribery. Given the discussion thus far, here is a working definition of voting capability:

Voting Capability (VC): The ability to vote is the ability to autonomously express preferences for one political initiative over another.

Let me briefly compare what I have defined as “voting capability” with what López-Guerra (who also offers arguments in support of youth suffrage) calls the “franchise capacity.” His franchise capacity can be understood as “the ability to experience the benefits of enfranchisement and the harms of disenfranchisement.”¹⁴ While I am not arguing against his criteria, I will note that my voting capability is weaker. As long as persons are capable of a minimal understanding of ballot initiatives and can express preferences for one over the other, they are capable of voting and have a *prima facie* right to do so. They need not be capable of benefiting from this capacity, nor need they be capable of experiencing harm if they are barred from it. Harms and benefits aside, one who has the capacity to vote has the *prima facie* right to vote. Now it may be that in practice, all who have the capacity can also experience harms from disenfranchisement and benefits from enfranchisement (and vice versa). If so, then in practice, our criteria are extensionally equivalent. However, they are not necessarily and logically equivalent.

How does VC fare with youth voting? Some argue that childhood constitution makes voting impossible specifically because children lack autonomy. In other words, children cannot vote because children cannot choose. In their paper on rights of the young and old, Robert Goodin and Diane Gibson consider problems for children’s rights. Although the paper concerns rights more broadly, the argument below describes many of the same concerns of those against youth suffrage.

What makes the rights of the immature young problematic . . . is the inability of such people to articulate a “choice” in any meaningful sense at all. They lack the requisite autonomy, in the moral much more importantly than in the merely physical sense of the term. Their will is unformed or deformed, their judgment deficient or impaired.¹⁵

The argument delineated above mirrors the reasoning of those who believe children should not vote because they *cannot* vote. This “anti-capacity” position has

some merit. Two-year-olds cannot discriminate between various legislative acts and so cannot choose among them. But then again, this is far from obvious with 11-year-olds and almost certainly false for 17-year-olds. Goodin and Gibson recognize this important distinction between young children and older ones, noting that “most juveniles, particularly as they approach adulthood, display moral capacities well above those that constitute mental competence for an adult in courts of law.”¹⁶ Goodin and Gibson are onto something. Children possess not only legal competencies but also political ones. *Prima facie*, it seems that many or most teenagers can understand political initiatives and express relevant preferences. Most middle school kids, if schooled, can understand taxes, contrasting policies, and the pros and cons of various regulations. This is evident in liberal education. The United States Common Core Curriculum, for instance, includes the following objectives for middle school children:

- Identify key steps in a text’s description of a process related to history/ social studies (e.g., how a bill becomes law, how interest rates are raised or lowered).
- Identify aspects of a text that reveal an author’s point of view or purpose (e.g., loaded language, inclusion or avoidance of particular facts).
- Distinguish among fact, opinion, and reasoned judgment in a text.¹⁷

We see that children as young as 11 are expected to understand how bills become laws and changing interest rates. They are asked to identify loaded language and distinguish fact from opinion. Such standards describe critical skills not only for capable voting but good voting. While there is disagreement over good voting qualities, some characteristics are uncontroversial. Good voters understand basic governmental structure and economic principles. Good voters see through political spin; they understand the difference between persuasion and argument. We expect these skills from those as young as 11. If children are instructed and tested in voting skills, they are presumed capable of possessing them—at least to some significant degree. If so, we cannot justify youth disenfranchisement on the grounds that children lack the required capacities.

This is an apt time to discuss the precise age at which enfranchisement becomes unjust. If 2-year-olds lack voting capacities, but before 18 they acquire them, then at what age does youth disenfranchisement become unjust? Before answering this question, I want to point out some reasons for doing away with a minimum voting age entirely. I think that fairness speaks in favor of this absolute abolishment. Along these lines, López-Guerra has argued that to ensure that the distribution of voting rights is just, we should give “an equal vote to all persons who have the franchise capacity. And since age and mental conditions are imperfect indicators of this capacity . . . justice would be best served by abolishing all requirements for voting based on age.”¹⁸ We can replace López-

Guerra's "franchise capacity" with my "voting capability" and reformulate as follows:

1. We should avoid, if at all possible, denying voting rights to anyone who is capable of voting.
2. A minimum voting age runs the risk of unfairly denying capable voters their rights.
3. Hence, we should have no minimum voting age.

Liberal governments that unjustly deny voting rights commit a serious democratic wrong. Even running the *risk* of doing so should be taken very seriously, and no risk should be taken without strong overriding cause. There are two main lines of argument that such cause exists. One argument is consequential and consists of two basic claims. First, incapable voters are, by definition, not good voters; therefore, it is best that they not be permitted to vote at all. The other concern is that children who are incapable of voting might cast apparent "votes" expressing the preferences of adult caretakers.

I suspect that both consequential worries are overwrought. Suppose we do away with voting age minimums. This hardly means that two-year-olds would show up at the next presidential primary. While there is no legal age minimum to read the *New York Times*, I suspect that few children under the age of 10 ever do so. Likewise, even if there were no voting age at all, it is likely that few young children would turn out to vote. Hence, the number of children who (1) lack voting capabilities, and (2) would nevertheless show up at the polls is bound to be insignificant. The total number of children who lack voting capabilities is small to begin with.¹⁹ From this total, only a portion of their caretakers would manipulatively force electoral participation. And from that class of caretakers who do manipulate young children, they will manipulate according to differing political preferences. Some caretakers will try to force children to vote for Candidate Smith, and other caretakers will encourage their children to vote for Candidate Jones. The manipulated votes will, at least to an extent, cancel out. There will be a similar canceling effect for those incapable voters who are not manipulated but "vote" according to their own immature whim.

When all is said and done, the "incapable voting bloc" (children who are too young to possess basic voting capacities) is unlikely to swing elections. Another problem: even if it were true that children would vote as their caretakers do, this would not justify their disenfranchisement. Eric Wiland has made this argument, asking: "Even if children were to vote exactly how their parents did, how would this justify disenfranchising them? Would you support disenfranchising wives if it *were* true that they vote the same way their husbands do?" (emphasis in original).²⁰ That one voter is highly susceptible to the influence of another is not enough to justify the former's disenfranchisement. After all, as the voting laws

currently stand, this sort of occurrence is commonplace. Spouses influence one another (and it goes both ways!), religious leaders influence religious adherents, professors influence students, and so on. Perhaps the most influential voting relationship is indeed parent to child. Even so, this relationship also holds between parents and *adult* children.

While the consequentialist case for a minimum voting age has no teeth, a much stronger argument is grounded in principle. The principled argument goes something like this: a single unqualified vote cancels out a qualified one. Respect for all qualified voters, then, requires that we ensure only the qualified are allowed to cast ballots. One problem with this integrity argument, however, is that it is impossible to ensure that all ballots cast will be legitimate. While this is unfortunate, little can be done. The time, energy, and resources required in any attempt to secure complete integrity are just too costly. If voting is to be convenient and accessible, we must accept some illegitimate votes as the cost of doing business. A minimum voting age may prevent some harm (the sham votes of those who lack basic voting capabilities), however, we risk the (arguably) greater harm of disenfranchising qualified voters.

For all the reasons above, I think it is best to abolish all age requirements for voting. Yet in spite of my ideal preference, I would be happy enough with a new, much lower, minimum enfranchisement age. I suspect that the chance of political success is higher if one aims for lowering the voting age compared to aiming for complete abolition, and it is better to succeed in lowering the voting age than to fail in abolishing a minimum age altogether. More importantly, no *injustice* is done in denying the vote to those who lack basic voting capabilities. Because three-year-olds lack voting capabilities, denying them the vote is not unjust. On the other hand, I *do* think it is unjust to deny the vote to 13-year-olds. Since this paper is primarily concerned with the *injustice* of disenfranchisement, it would do well to suggest the approximate age at which this injustice begins.

Of course, any numerical age will be somewhat arbitrary. Most numerical standards that make their way into law are somewhat arbitrary. Consider speed limits, drunk driving laws, prison sentences, tax rates, punitive fines, pension payments, and so on. All are somewhat arbitrary numerical standards. Notwithstanding, there is little tension in claiming that any given number is unjust while refraining from settling on a cutoff. Many would agree that 25 is too old an age of consent, but disagreement might remain over whether the right age is 16 or 18. Advocates can insist that a life sentence for auto theft is unjust without claiming they know the exact sentence that would be just. We do not and should not let the sorites fallacy stymie numerical legislation. With that in mind, the minimum voting age (if we must have one) should approximate the time the young begin to possess what I have described as basic voting capabilities. In other words, the voting age should approximate the time the young become capable of understanding political initiatives, abstractly evaluating their consequences, and meaningfully expressing

a preference for one initiative over another. Education requirements, cognitive science, and common sense suggest that this occurs somewhere between the ages of 11–15. These are the years that Jean Piaget famously called the “formal operations” stage of cognitive development.

The formal operations stage is characterized by the child’s newfound abilities to reason abstractly and evaluate counterfactual possibilities, thus completing the development of analytic cognition. Although Piaget has been criticized in various respects, it is relatively uncontroversial that intellectual reasoning capacities are advanced if not fully developed by 15.²¹ (Logical reasoning, or intellectual development, must be distinguished from emotional and social development.) Formal operational skills directly relate to those needed in the voting booth. Counterfactual thinking allows us to consider what happens if initiatives are enacted or, alternatively, rejected. Abstract thinking makes it possible to consider policy implications for society at large. Once children embark upon this developmental milestone, what you might call their “voting cognitive capacities” are on a par with those of adults.

Given liberalism and our knowledge of youth psychology, if the voting age was reduced to 11, 12, 13, 14, or 15, this would be a moral improvement. Hence, society improves, becomes more just, if the voting age is lowered. However, all things considered, we have reason to completely abolish any voting age minimum. Doing away with an age minimum guarantees that no capable voters are unfairly disenfranchised because of their age. We should keep in mind the following distinction. Liberal governments commit an *injustice* when they disenfranchise capable voters merely because of age. This means liberal governments commit *injustices* against most disenfranchised children 11 and older. Hence, to avoid *the most serious* wrongs, liberal democracies should lower the minimum voting age. To avoid the risk of unfairly disenfranchising *any* qualified voters, governments should completely abolish minimum voting ages. (There might be a few 9-year-olds who have developed voting capacities early. Complete elimination of voting age requirement assures that these “early-bloomers” are not unfairly disenfranchised.)

4. SOCIETAL HARM JUSTIFIES YOUTH DISENFRANCHISEMENT

Suppose we agree that children can understand political initiatives and meaningfully express preferences for or against them. Some might still argue children vote unskillfully. Adolescents, after all, are just learning the political process. Most of the time, in most domains, the inexperienced are less skilled than the experienced. Maybe children’s inexperience impairs skillful voting. They might vote unreasonably or irrationally. If unreasonable and irrational votes harm society, youth disenfranchisement might be justified. To address the merits of this argument, let us consider the claims in relation to the Grounding, Consistency,

and Relevancy Criteria. Even if youth voting causes harm, disenfranchisement is only justified if:

- (1) The probable harm is severe enough to justify infringing a fundamental right (Relevancy Criterion).
- (2) The probable harm is in virtue of childhood itself (Grounding Criterion).
- (3) Risk of harm is greater than risks posed by other groups who retain the right to vote (Consistency Criterion).

Let us address (2) first, since this qualifying bar is easily met. If children's inexperience explains their harmful voting, then the Grounding Criterion is satisfied. Children, in virtue of being children, are inexperienced in a way that adults are not. Now to the Relevancy Criterion: How might inexperience contribute to harmful voting? Inexperience deficiencies can be subsumed under two broad categories; *epistemic deficiencies* and *maturity deficiencies*. The former are shortcomings in knowledge and understanding and can be further bifurcated into informational and analytic domains. Maturity deficiencies are harder to describe, because "maturity" can refer to various characteristics. Let us say that a lack of maturity reflects (1) an inability to appreciate the world and its inhabitants for what and who they are; and (2) a tendency to make rash, uninformed, and shortsighted decisions. The immature make mistakes because (1) they do not recognize the way persons tend to behave and events tend to unfold; and (2) they decide quickly and foolishly, ignoring long-term consequences. Like epistemic deficiencies, maturity deficiencies can be subsumed under two categories. One concerns how the immature are prone to manipulative influences; another shows how their immaturity contributes to unwise (or immature) choices.

A. *Informational Deficiencies*

We should discuss each of the epistemic and maturity deficiencies and show why these worries cannot justify youth disenfranchisement. Let us begin with the informational domain of epistemic deficiencies. To start us off are some fun statistics from a 2007 Pew Research poll.

Over 30 percent of the US populace cannot name the current vice president.

Over 60 percent do not know that the Supreme Court's Chief Justice is considered conservative.

Over 30 percent of the US populace cannot name their own state governor.²²

All those surveyed could vote. It is hard to argue that children are worse than that. Indeed, many children are probably more knowledgeable. Kids, after all, are in school—in the midst of receiving lessons about government. Wise gamblers would bet that the average seventh grader knows more geometry than the average 40-year-

old. The same is likely true with political knowledge. Of course, good betting is far from proof. An omniscient being might know, or empirical evidence might eventually demonstrate, that adults have more political knowledge than children do. But with voting rights, the burden is on those who want to take them away.

We should also note that in the United States and elsewhere, suffrage expansion has often resulted in an electorate comparatively less informed than the one before. In the words of a Harvard government professor, Jennifer Hochschild:

Most moves to enfranchise previously-excluded residents of the United States have been appropriately understood as increasing the democratic nature of the polity. But they have also lowered the average socioeconomic status and level of education of the population eligible to vote. That is, democratization has been operationalized largely as giving the vote to some subset of the disadvantaged or of others likely to know fewer social and political facts or concepts than current voters.²³

Needless to say, enfranchisement was the right democratic move, in spite of any decrease in the average political acumen of the American voter. So even if children were less informed, this is insufficient to deny them voting rights. Moreover, if enfranchised, child voters are likely to acquire additional political knowledge. A paradox of minority disenfranchisement is that the practice itself creates conditions that justify the injustice. The disenfranchised waste time in acquiring voting skills.²⁴ This, in turn, allows the majority to point to the minority's underdeveloped skills as grounds for denying suffrage rights. The vicious cycle is described by Cohen:

In restricting the public experience of some minority the education of that minority is damaged. Informal education is narrowed by the very fact of exclusion from political life. . . . The upshot is a minority whose members are far less able to contribute what potentially they might. The inferiority of their contribution to the public process, itself a consequence of exclusion from that process, thus appears to justify their continued or extended exclusion.²⁵

Because children cannot vote, they have little incentive to improve. But if they could vote, they would have this incentive and are more likely to acquire such skills. Schooling, moreover, provides an epistemic advantage. If the franchise was expanded, those under 18 might end up the most informed of all. The time and means to acquire political knowledge is at their fingertips. Youth disenfranchisement is a missed opportunity to utilize education. Children might, of course, acquire these skills anyway. But to children, several years is a long time. Knowing that they can vote in the future provides less motivational force than the immediate. There are no grounds for delay.

Let us again remember that true liberal democracies demand universal respect. "It bears repeating that in a democracy the presumption must always be against exclusion; upon those who propose to disenfranchise must rest the burden of

proof.”²⁶ This is often forgotten or denied. Many think that we need positive reasons to “give” children rights. This is just one example of the political tendency to assume what has been should be.²⁷ It was assumed by many for many years that the natural state of affairs was one of enslavement and patriarchy. But women and minorities should have been full political members from the start. Anything short of equality was what needed justification. Admittedly, youth disenfranchisement is not completely analogous. Differences are considered in the next sections. But it does involve denying an essential political right to free and equal persons. The unequal treatment of moral equals must be justified, and the evidential burden is high. Children’s comparative information paucity is insufficient to meet this burden.

B. Analytic Deficiencies

López-Guerra has helpfully appealed to Carl Cohen’s distinction between rational capacities and intellectual abilities. The former refer to hardwired intellectual talents, regardless of whether they have or will ever be actualized. The latter refer to actualized intellectual accomplishments. In López-Guerra’s words, rational capacities can be compared to “intellectual hardware,” and intellectual abilities to “software.”²⁸ With this analogy in mind, there is little reason to think children’s hardware or software is impaired in any way that would disqualify them from voting. As has already been discussed, youths’ analytical abilities (hardware) develop early, and by the time children reach double digits in years, they are capable of complex counterfactual thinking. There is little reason to think that children, as a group, have intellectual hardware that is somehow impoverished when compared to adults. Children are capable of advanced mathematics and understanding great works of literature. Common Core educational standards demand that middle schoolers analyze public policy. At the very least, most middle schoolers have intellectual hardware developed to the degree that allows them to possess basic voting capacities: they can understand ballot initiatives and choose between them.

The software capability of children (the extent to which they have developed their innate cognitive abilities) will vary greatly, according to the quality of their school, the security of their home life, and their general interest in political affairs. Yet, all of this is surely true for adults as well. Many adults have very little political knowledge and very little interest in political affairs. In other words, many adults have deeply impoverished intellectual software that is probably inferior to the software of many intellectually advanced children.

To conclude the computer analogy, the available psychoanalytical evidence suggests that children have adequately functioning intellectual hardware by around age 11. (Adequate = good enough to possess basic voting capability.) Intellectual software, on the other hand, varies greatly between persons, adults and children alike.

C. Summary of Epistemic Deficiencies

We see that epistemic voting standards can be loose or strict. With loose standards, older children meet the bar. Strict standards, however, disqualify children but also many adults. Consistency demands extending the vote to children or disenfranchising much of the adult populace. Disenfranchising a class because, *on average*, members lack certain competencies cannot be justified; this would leave room for the most objectionable discrimination. Appeal to averages was considered by the Supreme Court in *United States v. Virginia*. The Virginia Military Institute (VMI) had a male-only admission policy. To defend their exclusion of women, the VMI argued that female admission interferes with their “Adversative Method” of training. The Adversative Method is “characterized by physical rigor, mental stress, absolute equality of treatment, absence of privacy, etc.”²⁹ In a 7-to-1 decision, the Court ruled against the VMI, concluding that the government unjustly appealed to an “overbroad generalization about the different talents practices or preferences of males and females.”³⁰ In other words, even if there was a correlation between gender and the Adversative Method, using this to justify the exclusion of women was overly broad.³¹ Similar reasoning is applicable to the youth franchise debate. Even if there is a correlation between childhood and epistemic capabilities, excluding children from the franchise on such grounds is an unjust appeal to an overbroad generalization.

That sums up the epistemic dimensions. Let’s move on to maturity deficiencies, first considering the paternalistic concern that children are especially susceptible to manipulation, and then addressing the worry that children lack political maturity.

D. Manipulability

Some argue that even if adults’ cognitive capacities erode with age, grown-ups have still “been around the block a few times.” Adults, in other words, are less naïve than children and less susceptible to manipulative persuasion. This bears particular relevance to political advertising. Do we want candidates catering to youth voters? Politicians might take advantage of naïveté, appealing to childish dispositions that favor short-term pleasure over long-run benefits. López-Guerra brings up just this possibility:

It could be suggested that members of these groups would systematically react to extraneous or dangerous electoral offers, such as candy subsidies or less school. Here again, however, the claim has several problems. First, we have no conclusive reason to believe that these potential voters would be motivated to satisfy their immediate wants, whichever they are . . . not to mention the fact that, most likely, sane adult voters would seriously punish at the polls anyone daring to make such proposals.³²

López-Guerra hits on a point that is not only relevant to the matter at hand, but to special voting groups more generally. There is always the worrisome possibility

that a significant minority might attempt to push its will onto the majority. If the will of this special interest group is harmful to everyone else, the possibility of trouble ensues. This potential harm, though, is usually tempered by opposing forces. If the threat of harm is severe, the majority will punish elected officials who cave to the special interest. Children are not much different from other special interest groups. While some argue that children's immaturity makes them especially susceptible to external influence and manipulation, it is not clear this plays out in practice. First off, it is not obvious that children are more susceptible to manipulation than adults are, particularly older adults and particularly in today's technologically advanced society. Criminals prey on the elderly in virtue of their impaired cognitive faculties and their inability to distinguish trustworthy sources from dishonest ones. Most are now familiar with swindlers who feign the identity of a victim's relative, fabricating distress and need for immediate cash. Such criminals will plausibly be more successful in defrauding the old than in deceiving the young. Along these lines, politicians can easily mislead older voters. Older persons are often oblivious or even ignorant of modern technologies, norms, and institutions. This makes them susceptible to ads that misrepresent the aforementioned, and hence, what legislation is and is not for the public good.

We can see that it is unlikely that children are especially vulnerable to manipulation. But even if they were especially vulnerable, disenfranchisement would not get off the ground if certain *benefits* outweighed certain *costs*. Consider this: if politicians have incentive to manipulate children, they also have incentive to appeal to their interests. Democracy is far from perfectly honest, but legislators who ignore constituents face trouble. If children can vote, the ruling class has incentive to look out for youth interests that might otherwise be forgotten.

E. Immaturity and Impulsivity

We can suppose children's manipulative susceptibility is not threatening enough to strip the young of their voting rights. We still might worry, however, that children's *immaturity* would lead to youth voting patterns that threaten significant harm to greater society. I tend to think that this worry overlooks the ways in which many children know more about the world and how it works than many adults do. Children are inexperienced in some respects, but have experience with aspects of modern life that older generations lack. Nonetheless, maybe there remains a cognitive component—the fact that the developmental process makes youths' decisions particularly impulsive. We discussed analytic comparisons with aging brains, but developing brains are perhaps problematic in another respect. Older persons, even in late life, are not prone to adolescent rashness. Because impulsive decisions are often unwise ones, we might worry that the young will carry this to the voting booth. If youthful impulsivity leads to unwise voting, this might provide grounds to disenfranchise the young but not the old.

Although the above argument is *prima facie* plausible, a close look at youth development will not provide reason for disenfranchisement. While children are impulsive in certain respects, in other respects, they are as rational as adults. Psychiatrists and parents have long recognized that teenagers can be reckless regarding their own well-being. This is not the case, however, regarding abstract choices without immediate consequences. As noted by Dr. Frances Jensen:

No matter the evidence of their peculiar, sometimes infuriating behavior, teenagers are not irrational. . . . This is why teens can, in fact, get very high scores on aptitude tests, such as the SAT, which relies wholly on logic and rational deduction. . . . But because the frontal lobes are still only loosely connected to other parts of the teen brain, adolescents have a harder time exerting cognitive control over potentially dangerous situations.³³

Voting is more like a test than a “dangerous situation.” It comes as no surprise, and it does not immediately affect the voter. Adolescents’ impulsive behavior revolves around personal risks and rewards: they stay out too late, drink too much, and place themselves in risky environments. But none of this bears much relevance to voting. To vote well, one should be able to understand political policies and their consequences. We have little reason to think that adolescents face unique difficulties with this type of decision making.³⁴ Youthful impulsivity fails to justify disenfranchisement because the worrisome cognitive trait is unlikely to manifest at the polls.³⁵

5. THE COMPLETE LIFE ARGUMENT

Unlike the analogue for women and minorities, youth disenfranchisement is universal; all adults were once children. We might then infer that no real rights violation occurs. We do not deny children the right to vote, some will argue, just postpone it. If so, appeals to a high burden of proof are less compelling than suggested. Even if the infringement of a fundamental right requires meeting stringent justificatory demands, youth disenfranchisement is unique. Rights are never infringed; they are simply not acquired until citizens become of age. There are many problems with this suggestion. For instance, López Guerra notes that “if it were correct, it would not be unjust to establish the voting age at, say, forty years since people will eventually become enfranchised and the requirement would apply to all.”³⁶ As outlandish as this might sound, I have run into many who are fine with raising the voting age to 40. In fact, they even suggest it. “You think we should lower the voting age?,” they exclaim. “I think we should raise it to 40!” I would then ask whether these same individuals approve of disenfranchising those between the ages of 50–55. Of course, disenfranchising the 50–55 age group is an absurd and unjust suggestion. Absurd because there is no reason to do so; unjust because arbitrary disenfranchisement violates the fundamental

political rights of free and equal persons. In this case, it is much easier to see why the universality and temporality of the proposed disenfranchisement is no defense against injustice. If one wishes to defend youth disenfranchisement by appealing to its temporary and universal nature *alone*, one must admit that the universal and temporary disenfranchisement of those in their fifties is similarly justified.

I suspect that many who propose the complete life defense are unwilling to defend middle-age disenfranchisement. This suggests that their appeal to universality and temporality is really a disguise for some other reason they wish to ban youth voting. Wanting to justify the continued enfranchisement of the middle-aged, many critics will quickly turn back to the argument that the youth vote subjects society to extreme risk. We have already seen, however, that this is a hard case to make. There is little evidence that youth votes are any riskier than adult votes. We already learned that children are relatively informed, able to engage in complex reasoning, and that their immaturity will not poison the voting booth. Even if we did suppose that children vote irrationally, they would have to do so systematically for any argument to get off the ground. There is little to suggest that children are prone to bad voting; it is even harder to establish systematic problems. The first difficulty is defining bad voting. As Rawls has reminded us, free persons inevitably disagree. This is reasonable pluralism.³⁷ Perhaps nothing better illustrates reasonable pluralism than the voting booth. No ballot proposition wins unanimously. Much of the time, the spilt is nearly even. We tend to think our votes are good votes and that those who do not vote as we do vote badly.

Imagine that we track young voters to evaluate ballot box talent. The options are senatorial candidates *A*, *B*, and *C*. We quickly hit an impasse because diverse societal members will disagree over whether children vote well. Reasonable pluralism ensures that some think a vote for *A* is good, others *B*, and still others, *C*. We cannot, then, establish that children are bad voters via tracking. An alternative is to elect officials qualified to assess childhood competency. This option, however, faces a challenge David Estlund has referred to as “The Second-Order Epistemic Tenet.”

The Second-Order Epistemic Tenet: The knowers can be known by sufficiently many nonknowers to empower them, and to practically and morally legitimate their power.³⁸

Estlund admits that an elite governing body might better legislate than a more inclusive one. He also admits that some can identify those who qualify as elites. Yet, there remains an epistemic lapse. Those who can identify the wise ruling class are themselves unidentifiable. The same holds for identifying those who might assess childhood competence. Most cannot identify the proper experts, and we cannot identify those who can identify these experts. Irresolvable disagreement is inevitable. As explained by Christiano:

If there is controversy on the nature of interests and values, there is controversy on the various measures that rely on them. In a pluralistic society where individuals disagree sharply on conceptions of the good and of the many elements of justice, there are likely to be many incompatible standards for assessing moral competence.³⁹

Indeed, there are many incompatible standards. I am not sure if Christiano would agree, but these differences in how we assess moral competence apply to the assessment of children. There is ongoing debate, for instance, on whether childhood is best described under a continuous or discontinuous model. The latter views stages of development as discrete. With such sharp divides, we might identify the stage when children acquire the competence necessary for voting. Under the continuous model, however, there are no sharp developmental borders; identifying an appropriate voting age faces greater difficulties. And there are many other stringent disagreements within the field of developmental psychology. When push comes to shove, we lack access to the moral and cognitive competencies of both children and adults.⁴⁰ Disenfranchisement should never rest on such shaky epistemic grounds.

6. CONSEQUENTIAL CONSIDERATIONS THAT SUPPORT YOUTH SUFFRAGE

Children are persons, and as such, are entitled to fundamental political rights. Hence, denying youth suffrage is a *prima facie* injustice. Thus far, this paper has aimed to show that the *prima facie* injustice is an all-things-considered injustice. Children reside in a political community in which they are excluded from the most universal and public method of shaping their government. They are subject to the same laws as adults, and additional laws from which adults are exempt. Nonetheless, they have no vote concerning any of it. Children are treated as second-class members of the political community: members who must abide by its laws and yet are denied any say in their making. It is hard to think of a more straightforward example of a democratic injustice. So why not at least give the kids a shot? As López-Guerra pointed out, even if we have some concerns about the consequences of youth voting, there is no justifiable reason to not at least give things a try. After all, if horrible effects ensue, we can once again retract the youth vote. In López-Guerra's words: "If the balance of effects became visibly negative in the long run, these groups could then be disenfranchised."⁴¹

In contrast to López-Guerra, I will once again appeal to the liberal fundamental right of universal suffrage. Voting is not an insignificant part of membership in a liberal social order; it is a basic condition of the fundamental rights of persons who all have an equal say in shaping the laws by which they are governed. Infringing upon this right ought to be difficult, and done only with compelling reason. Perhaps a trial run with youth voting will provide such compelling empirical

support to justify youth disenfranchisement. Without this attempt, however, we lack this justification.

Not only do we lack sufficient reason to believe that the youth vote will be harmful, but we have good reason to believe just the opposite. One consequential threat of youth disenfranchisement is that which comes when denying any minority group suffrage rights: minority experience can never be replicated. As hard as benevolent bystanders try, they cannot see the world as those do who live the life that the other only imagines. This is one of the most compelling motivations behind universal suffrage. Because each minority group has special insight into its own interests, the interests of all are best represented when all have equal political opportunity. Christiano makes an argument along these lines:

Persons understand their own interests better than the interests of others. And so they tend quite reasonably to interpret the interests of others in light of their understanding of their own interests. . . . But this implies that conceptions of equality and the common good will reflect the interests of the persons who advance them. . . . Individuals are more sensitive to the harms they undergo than to those of others, so they may inadvertently unduly downplay harm to others. This holds especially when they do not fully understand those interests.⁴²

Christiano's point is not just that we cannot understand the interests of others as our own. We also minimize harm that befalls groups of which we are non-members. Regarding the young, however crisp our memory, we cannot understand children in the same light as they understand themselves. Having gone through *X* in the past is a step removed from going through *X* in the present. Even if we had access to a time machine and could immediately relive the experiences of our youth, such would greatly diverge from what children go through in the here and now. The youths of today live in a different world from the world of yesterday's youths. Few adults can relate to the hurt of cyberbullying or the embarrassment of going through school as the only kid without an iPad. Lack of direct insight is a troublesome barrier for even the most well-meaning adults.

The unconscious bias that Christiano describes is generationally applicable. Perhaps without intention, older generations overplay their own interests. Legislation, from the fiscal to the environmental, demonstrates this bias.⁴³ Social institutions better reflect the values of grandparents than grandchildren. In the nineteenth century, Mill noted that "the existing generation is master both of the training and the entire circumstances of the generation to come."⁴⁴ Mill's claim is plausible. But maybe this is so only contingently. If the younger generation is given full rights to political participation, societal changes may come more quickly. Admittedly, the youth vote, even assuming high participation, will be too small to spark revolution. This limited power can assuage concerns that children will initiate silly legislation. Youth voters hit middle ground between unilateral and insignificant influence. There is a critical distinction between generating progressive policy and having just enough power to

make changes at the margin. Consider California's Proposition 8, the 2008 measure to ban same-sex marriage passed with a win of just over 3 percent.⁴⁵ Margins like this are small enough that the youth vote could have made the essential difference. Youth disenfranchisement has stymied these types of social changes.

One last consequential concern is that children have the longest to live with legislative consequences. The full effects of policy enacted today can remain latent for decades. This places painful burdens on adults too young to have had a say in enacting disastrous policies. It is a serious injustice, for instance, that the young have no say regarding the wars that they will soon be of age to fight. Consider that as the United States withdraws its last troops from Afghanistan in 2015, the 22-year-old soldiers were 11 at the war's onset. Those who are to fight and die should, insofar as they are able, have a say in a war's enactment and continuation. There are also economic worries. The adult generation tends to spend extravagantly and maintain low taxes. Most, after all, will not be around to face the economic collapse—although their children and grandchildren will. Luckily, there is a way we can control this hazard and eradicate the corresponding injustice: abolish youth disenfranchisement.

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NOTES

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1. "The history of the American suffrage has been one of steady and irresistible expansion. . . . One limitation after another has been swept away by constitutional amendments and laws—religious tests, property qualifications, race discriminations, and finally exclusion on grounds of sex" (William B. Munro, quoted in Keyssar, *Right to Vote*, xxi).

2. In the words of former chief justice Earl Warren: "The right to vote freely for the candidate of one's choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government" (ACLU of Tennessee, "Voting Rights").

3. Cohen, *Democracy*, 50.

4. López-Guerra, *Democracy and Disenfranchisement*, 1–4.

5. *Ibid.*, 3.

6. López-Guerra agrees that *if* there is universal suffrage, *then* excluding children is unjustified (*Democracy and Disenfranchisement*, 6). However, he himself rejects the presumption in favor of universal suffrage. So while he and I agree that universal suffrage implies that youth disenfranchisement is unjust, we strongly disagree about the presumption in favor of universal suffrage. Nonetheless, I am on board with many of López-Guerra's insights about youth enfranchisement, and his ideas will be addressed throughout the paper.

7. “The basic liberties of citizens are, roughly speaking, political liberty (*the right to vote* and to be eligible for public office) together with freedom of speech and assembly; liberty of conscience and freedom of thought; freedom of the person along with the right to hold (personal) property; and freedom from arbitrary arrest and seizure as defined by the concept of the rule of law. These liberties are all required to be equal by the first principle, since citizens of a just society are to have the same basic rights” (Rawls, *Theory of Justice*, 53; emphasis added).

8. According to Rawls, deliberators in the original position must be rational. Children, however, are not rational and so can play no such role. In his own words:

In the original position the parties assume that in society they are rational and able to manage their own affairs. . . . But once the ideal conception is chosen, they will want to insure themselves against the possibility that their powers are undeveloped and they cannot rationally advance their interests, as in the case of children; or that through some misfortune or accident they are unable to make decisions for their good, as in the case of those seriously injured or mentally disturbed. (*Theory of Justice*, 248–49)

9. Christiano, “Knowledge and Power,” 204.

10. *Ibid.*, 207.

11. There is a moralized conception of “discrimination,” in which injustice is built into the concept itself. When I say that discrimination is potentially justified, I refer to a non-moralized conception.

12. Will, “20,000 Rollicking Mourners.”

13. Feinberg, *Harm to Self*, 68. This is a simplistic representation of Feinberg’s view. In his complete theory of autonomy, Feinberg (*Harm to Self*) delineates four conceptual variations. (1) Capacity for self-governance, (2) the actualization of (1), (3) rights that express self-sovereignty, and (4) a personal ideal. We might say that an overlapping feature of (1)–(4) is acting according to one’s own voluntary choice.

14. López-Guerra, *Democracy and Disenfranchisement*, 6.

15. Goodin and Gibson, “Rights, Young and Old,” 187.

16. *Ibid.*

17. See Common Core, “Preparing America’s Students.”

18. López-Guerra, *Democracy and Disenfranchisement*, 78.

19. According to recent statistical data (<http://data.worldbank.org/indicator/SP.POP.0014.TO.ZS>), youth ages 0–14 make up 20 percent of the US population. As I argue below, there is reason to believe voting capability begins as early as 11. There is no data on the population under age 11, but we can assume it is less than 20 percent.

20. Wiland, “One Citizen, One Vote.”

21. Some of these criticisms speak in favor of youth enfranchisement. For instance, López-Guerra noted that there is a broad consensus that Piaget and his contemporary scholar Lawrence Kohlberg underestimated children’s mental and moral capabilities (López-Guerra, *Democracy and Disenfranchisement*, 80). Many studies back up this

claim, suggesting that cognitive reasoning becomes quite advanced during adolescent years. See Bornstein and Lamb (*Cognitive Development*); Jetha and Segalowitz (*Adolescent Brain Development*); Oakley (*Cognitive Development*); Mitchell and Ziegler (*Fundamentals of Developmental Psychology*); and Jensen and Nutt (*Teenage Brain*). In the words of Jensen: “Contrary to that popular misconception, a person’s reasoning abilities are more or less fully developed by the age of fifteen.” It is also interesting to compare our discussion with the medical literature on informed consent. Most think children become capable of making decisions regarding their own medical care before 18. In *Deciding for Others*, Allen Buchanan and Dan Brock suggest this occurs around ages 14–15. They explain that “as a very broad generalization, the developmental evidence briefly summarized here supports the conclusion that children by age fourteen or fifteen usually have developed the various capacities necessary for competence in health care decision making to a level roughly comparable to that of most adults” (*Deciding for Others*, 222–23).

22. Pew Research Center, “Public Knowledge of Current Affairs.”

23. Hochschild, “If Democracies Need Informed Voters,” 122.

24. “Rational ignorance” occurs when voters choose to remain uninformed because the cost of acquiring information is higher than the reward. The reward, in effect, is nothing, because a single vote will never make a difference in a public election. If it is rational to remain ignorant under these conditions, then it is all the more so when one does not have the option of voting at all. In this case, one cannot even use one’s knowledge to make a symbolic gesture.

25. Cohen, *Democracy*, 49.

26. *Ibid.*, 50.

27. As Cohen has recognized: “As exclusion becomes more deeply embedded in the structure of a society, part of the social habits of excluded and non-excluded alike, it comes to be accepted by all as the natural and proper state of affairs” (*Democracy*, 49).

28. López-Guerra, *Democracy and Disenfranchisement*, 64.

29. Long, *United States v. Virginia*.

30. *Ibid.*

31. *Ibid.*

32. López-Guerra, *Democracy and Disenfranchisement*, 66.

33. Jensen and Nutt, *Teenage Brain*, 105.

34. See *ibid.* (chap. 6).

35. Jason Brennan (“Right to a Competent Electorate”) recently argued in favor of an epistocracy. Some might argue that if Brennan is right, we bypass the Consistency Criterion. Rather than granting voting rights to children and incompetent adults, we should disenfranchise both. For the sake of argument, assume that Brennan is right; voting is a privilege that supervenes on certain competencies. Even with these assumptions, it is still a glaring violation of children’s rights to completely ban youth suffrage. The likely way to identify qualified voters is via a competency test. If so, children should be part of the common pool.

36. López Guerra, *Democracy and Disenfranchisement*, 70.
37. Reasonable Pluralism was first introduced by Joshua Cohen ("Reflections") and later used by John Rawls (*Political Liberalism*) as a critical foundation for his political theory. Here are some words from Rawls: "Political liberalism assumes the fact of reasonable pluralism as a pluralism of comprehensive doctrines. . . . This pluralism is not seen as a disaster but rather the natural outcome of the activities of human reason under enduring free institutions" (*Political Liberalism*, xxiv).
38. Estlund, "Making Truth Safe," 84.
39. Christiano, "Knowledge and Power," 209.
40. For a summary of the continuous/discontinuous debate, see Mitchell and Ziegler (*Fundamentals of Developmental Psychology*). This debate is not, of course, the only point of controversy amongst developmental psychologists. Several variations of the nature/nurture debate, for instance, are still going strong. The point is that experts will surely disagree about when and if children become capable of voting. We cannot, therefore, solve the problem of youth voting by turning to such expert opinions.
41. López-Guerra, *Democracy and Disenfranchisement*, 69.
42. Christiano, "Knowledge and Power," 205.
43. Van Parijs ("Disfranchisement of the Elderly") offers an in-depth discussion on the many problems and potential solutions of generational bias. Here are a few pertinent words from his article: "The concern that the elderly are becoming politically too powerful has taken, in a number of countries, unprecedented proportions. The main fear is . . . that they may use it (their power) in an excessive manner to benefit their unavoidably short-term self-interest" ("Disfranchisement of the Elderly," 293). Since the time Van Parijs wrote this article, in the United States, more of the "baby boomer" generation has retired and the potential for excessive and biased power has likely increased.
44. Mill and Collini, *On Liberty*, 82. For some interesting and relevant discussion, see Mannheim ("Sociological Problem"); and Pilcher ("Mannheim's Sociology").
45. The California Supreme Court later ruled that Proposition 8 violated the due process and equal protection clause of the California Constitution. Same-sex marriage is now legal in California (Winter and Weise, "Same-Sex Marriages").

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