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THE POLITICAL RIGHTS OF ANTI-LIBERAL-DEMOCRATIC GROUPS

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ABSTRACT. The purpose of this paper is to consider whether it is permissible for a liberal democratic state to deny anti-liberal-democratic citizens and groups the right to run for parliament. My answer to this question is twofold. On the one hand, I will argue that it is, in principle, *permissible* for liberal democratic states to deny anti-liberal-democratic citizens and groups the right to run for parliament. On the other hand, I will argue that it is rarely *wise* (or prudent) for ripe democracies to exclude anti-liberal-democrats from parliamentary elections. There are at least two reasons for this. The first is related to the inherent stability of just institutions. The second is that exclusion can lead to group polarization and enclave deliberation that can engender political extremism and impair processes of interpersonal and intrapersonal deliberation in liberal democracies.

I. INTRODUCTION

In contemporary constitutional democracies, one can find a number of different anti-liberal-democratic groups, that is, groups who reject fundamental liberal democratic values and rights, and who wish to undermine or destroy liberal democratic institutions. Historical evidence shows that such groups can pose a threat to the stability and survival of liberal democratic institutions. Despite this fact, it is a widely held assumption in liberal political philosophy that all citizens should have equal political rights to participate in and influence democratic processes.¹ In view of

¹ See, e.g., Thomas Christiano, *The Constitution of Equality. Democratic Authority and Its Limits* (Oxford: Oxford University Press, 2008), pp. 12 and 117; Samuel Freeman, 'Constitutional Democracy and the Legitimacy of Judicial Review', *Law and Philosophy* 9(4) (1990): 327–328, 331 and 334; Andrei Marmor, 'Authority, Equality and Democracy', *Ratio Juris* 18(3) (2005): 320–321; John Rawls, *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971), p. 221 and *Political Liberalism* (New York: Columbia University Press, 1993), pp. 291, 295 and 327; and Thomas Scanlon, *The Difficulty of Tolerance* (Cambridge: Cambridge University Press, 2003), pp. 189–190. Jürgen Habermas also appears to share this view. See Habermas, *Between Facts and Norms* (Cambridge, Mass.: MIT Press, 1996), pp. 123–134.

central liberal democratic ideas and values, there is certainly a strong presumption in favour of equal political rights to participate in and determine the outcome of the legislative and constitutional processes which establish the laws with which citizens are to comply.² Nevertheless, I believe that it is important to examine more closely whether it is permissible for a liberal democratic state to deny anti-liberal-democratic citizens and groups certain political rights – both in circumstances where they pose a significant danger to the stability and survival of liberal democratic institutions and in situations where they do not pose such a danger. This issue has gained greater publicity after the emergence of extremist religious groups and neo-fascist groups.

The purpose of this paper is to consider the particular question of whether it is permissible for a liberal democratic state to deny anti-liberal-democratic citizens and groups the right to run for parliament.³ For example, would it be permissible to exclude from participation in parliamentary elections a group of religious fundamentalists who expressly reject the legitimacy of democratic rule and promise that once in power they will establish a theocratic regime? What about a group whose political objective is to establish a one-party system – where all organised political opposition to their own political ideology or platform will be silenced?

My answer to the question addressed in this paper is twofold. On the one hand, I will argue that it is, in principle, *permissible* for liberal democratic states to deny anti-liberal-democratic citizens and groups the right to run for parliament. On the other hand, I will argue that it is rarely *wise* (or prudent) for ripe democracies⁴ to exclude anti-liberal-democrats from parliamentary elections. There are at least two reasons for this. The first is related to the inherent stability of just institutions. The second is that exclusion can lead to group polarization and enclave deliberation that can engender political extremism and impair processes of free and well-informed interpersonal and intrapersonal deliberation in liberal democracies.

My discussion will proceed through the following steps. In Sect. II, I will explain in more detail what I mean by anti-liberal-democratic

² See also Rawls' 'principle of equal participation' in *A Theory of Justice*, p. 221.

³ As an anonymous referee pointed out, it should be noted that strictly speaking this is a right to run for parliament and a right to serve if elected.

⁴ Ripe democracies will refer to stable and well-functioning constitutional democracies with a relatively long democratic tradition and an established constitutional democratic culture. See also Sect. V on my distinction between ripe and unripe democracies.

groups. The aim of Sect. III is to present the case against the permissibility of the exclusion of anti-liberal-democratic citizens and groups from taking part in elections. The purpose of Sect. IV is to put forward the case for the permissibility of the exclusion of such citizens and groups. The arguments I set out here can also provide a basis for the permissibility of other restrictions on the political rights of anti-liberal-democrats – for example, the right to run for state legislatures, the right to run for president (and other executive positions) and the right to form political parties. Finally, in Sect. V, I will consider the following question: to what extent is it wise to restrict the political rights of anti-liberal-democrats in ripe and unripe democracies?

II. ANTI-LIBERAL-DEMOCRATIC GROUPS

In modern liberal democratic states, there are a number of different illiberal and anti-democratic groups. With regard to the operationalization of restrictions on political rights in law, one important problem is to determine with some degree of precision what groups are ‘in’ and what groups are ‘out’ – that is, what does and does not constitute an anti-liberal-democratic group. For present purposes, what I will term *anti-liberal-democratic groups* have the following characteristics:

- (1) They *reject core liberal democratic values, ideas and rights* – such as the following:
 - (a) the idea that the state has a duty to respect and protect fundamental political or democratic rights – that is, rights to political participation, such as the right to vote, the right to run for elective offices in the government, the right to freedom of assembly, and the right to free political speech and discussion⁵; and/or
 - (b) the idea that the state has a duty to respect and protect fundamental civil or liberal rights, such as the right to freedom of thought and conscience, the right to freedom of association, the right to hold personal property, the right to freedom of movement, the right to privacy, rights that protect against unjustified violence,

⁵ Although liberal democrats defend such political or democratic rights, there is disagreement about the specification of some of these rights (e.g. the right to run for elective offices and the right to form and join political parties). The same applies to the civil or liberal rights that will be outlined below.

coercion and enslavement, and the rights covered by the rule of law; and/or

- (c) the value of democratic institutions (such as open and free periodic elections and public discussion) and the value of liberal constitutionalism – that is, institutions the aim of which is to protect individuals from the arbitrary use of power and to safeguard both political or democratic rights and civil or liberal rights – e.g. the rule of law, systems of checks and balances (which presuppose some separation of powers) and special procedures for the amendment of constitutional laws.
- (2) Their *political objective* is to undermine or destroy liberal democratic institutions and rights, and they aim to establish a state or a political regime that is based on their alternative illiberal and anti-democratic doctrines. These goals are central parts of their political platform, regardless of whether this platform has a religious or a secular basis.⁶ Their political objectives are also *unreasonable* in the two following senses:
- (a) Their aim is to use the coercive powers of the state and/or to use violent means to impose their conception of the good on others and to repress their opponents who have alternative doctrines and ideas and lead alternative ways of life.
 - (b) Their objective is to deny their opponents significant procedural opportunities to influence political processes in the political systems they aim to establish.

Within the class of anti-liberal-democratic groups one can make a distinction between moderate and aggressive groups. *Moderate groups* are willing to confine themselves to political or democratic means to attain power and formally change the constitution. By contrast, *aggressive groups* are willing to use violence (e.g. terrorism or violent revolution) in order to attain power and bring about a change of the

⁶ There is an important practical problem related to the political objectives of anti-liberal-democratic groups. In many cases, such groups will, for example, not openly call for an outright end to future democratic elections. In the literature on prohibitions of political parties, this issue is discussed in more detail in Gregory H. Fox and Georg Nolte, 'Intolerant Democracies', *Harvard International Law Journal* 36(1) (1995): 66–67 and Samuel Issacharoff, 'Fragile Democracies', *Harvard Law Review* 120(6) (2007): 1459–1464.

constitution.⁷ In current public debates, a number of such moderate and aggressive anti-liberal-democratic groups are referred to as extremists, regardless of whether their doctrines are religious or political.

Condition (1), which refers to the beliefs or views of anti-liberal-democrats, is a necessary condition for a group to be counted as anti-liberal-democratic. Strictly speaking, condition (1) is contained in condition (2) which primarily refers to the political objectives of anti-liberal-democrats, and condition (2) is a necessary and sufficient condition. A number of extremist political groups and movements in the real world will fulfil the outlined conditions – for example, a number of neo-Nazi and fascist groups, communist groups and extremist religious groups with political ambitions.⁸

III. THE CASE AGAINST THE EXCLUSION OF ANTI-LIBERAL-DEMOCRATIC GROUPS

From the point of view of liberal democratic values and ideals, there are several ways to defend an unrestricted right to run for parliament that does not exclude any citizens or groups on the basis of their political platform (i.e. their political doctrines and objectives).⁹ Here I will present two such defences. The first can be termed the argument from political equality, and the second the argument from disagreement and respect for persons.

⁷ It is important to note that my argument will apply to both moderate and aggressive anti-liberal-democratic groups, but not those aggressive groups that actually use illegal violence, since such groups are always subject to state sanction.

⁸ At this point, an anonymous referee raised an interesting question: Is a group anti-liberal-democratic if it champions democracy (i.e. democratic rights and institutions) but not liberal democracy – or liberalism (i.e. liberal rights and institutions) but not democracy? Given the outlined conditions, my answer is this. Groups who champion democracy but not liberal democracy fulfil condition (1b). Groups who champion liberalism but not democracy fulfil condition (1a). None of these groups will, however, fulfil all the aspects of condition (2). It seems clear that groups who champion democracy will not fulfil condition (2b), while groups who champion liberalism will not fulfil condition (2a).

⁹ In what follows, I will assume that even proponents of such an unrestricted right to run for parliament might agree that certain restrictions on this right are both reasonable and justifiable. In this connection, I have in mind bans of individuals and groups that use violence and qualifications of age, residency, and so on. As already mentioned, they will, however, deny that it is permissible to exclude certain individuals or groups on the basis of their political views and objectives.

A. *The argument from political equality*

Political equality is often regarded as a set of requirements that should guide our assessment and design of the institutions that enable citizens to participate in political decision making in a constitutional democracy.¹⁰ Proceeding from the assumptions that every citizen is of equal moral worth and that political institutions must treat citizens as equals or with equal regard, one widely held version of the ideal of political equality requires that democratic institutions should provide citizens with equal procedural opportunities to influence political outcomes.¹¹ From this ideal of political equality, one can argue that all citizens and groups should have equal political rights – such as the right to vote; the right to run for elective office and compete for political power; the right to freedom of association and the right to form political organisations and parties; the right to freedom of assembly; and the right to freedom of expression. The reason for this is that an unequal distribution of such political rights will lead to unequal procedural opportunities to influence political outcomes or unequal power over outcomes.

The preceding considerations seem to make it impermissible to deny certain citizens and groups – e.g. anti-liberal-democrats – the right to run for parliament. Proponents of an unrestricted right to run for parliament can argue that denials of this right will create unequal procedural opportunities to influence agenda-setting, public deliberation and political outcomes, and that this is unfair. First, denials of this right will exclude certain candidates or groups/parties (even candidates and organisations that have significant popular support) from the electoral process, and thereby prevent them from gaining power on the basis of their political platform. Second, exclusions will restrain competition among groups who wish to compete for power. Third, to ban certain groups will affect the capacity of the excluded groups to participate in the working out of political coalitions. Fourth, exclusions will affect public deliberation. For example, selective denials of the right to run for parliament will have effects on the content and diversity of the alternative political programmes presented for public consideration during elections.

¹⁰ See also Charles Beitz, *Political Equality* (Princeton, New Jersey: Princeton University Press, 1989), p. xi.

¹¹ See, e.g., Beitz, *Political Equality* and Steven Wall, 'Democracy and Equality' *Philosophical Quarterly* 57 (2007): 416–438 for interesting discussions of different ideals of political equality.

Fifth, if certain groups are excluded, this will reduce their influence over the political agenda. The distribution of the right to run for parliament will affect the distribution of agenda-setting power – e.g. to place issues on the formal voting agenda in the legislature.¹²

Although something can be said for the argument from political equality, it raises some important questions or problems that are partly related. First of all, even if one accepts that citizens have equal moral standing and that they should be treated as equals or with equal regard, it is far from clear that it directly follows that each person and group must be treated the same way as every other person and group. For example, there might be ethically relevant differences between different citizens and groups who pursue different political objectives that can serve as a cogent justification for differential treatment. I will return to this issue in Sect. IV. Secondly, there is a difference between treating persons as equals (e.g. with equal concern and regard) and treating persons equally in the distribution of some resource or opportunity,¹³ and one can question whether treating persons as equals requires an equal distribution of all the outlined political rights, regardless of their political objectives. It is widely acknowledged that fair institutions should treat people as equals, but it is not clear that this abstract ideal implies that any particular political rights (such as the right to run for parliament) should be distributed equally among all citizens and groups, regardless of their political goals.¹⁴ This link between the abstract ideal and an equal distribution of political rights must be justified. The argument I will present in the next section is an attempt to provide such a justification.

¹² If the outlined argument from political equality provides the basis for the position that it is impermissible to deny citizens and groups the right to run for parliament and serve if elected, this is compatible with the assumption that it is permissible to introduce constitutional restrictions on majority rule – i.e. the power of the legislative assembly – in order to prevent majorities from making decisions that undermine or threaten (the preconditions for protecting) the requirements of the ideal of political equality itself (i.e. equal procedural opportunities).

¹³ See, e.g., Ronald Dworkin, *Sovereign Virtue. The Theory and Practice of Equality* (Cambridge, Mass.: Harvard University Press, 2000), p. 11 and *A Matter of Principle* (Cambridge, Mass.: Harvard University Press, 1985), p. 190. According to Dworkin, 'the first principle [i.e. treating citizens as equals] is more fundamental because I assume that, for liberals ..., the first is constitutive and the second [i.e. treating citizens equally] derivative. Sometimes treating people equally [e.g. with respect to certain rights and opportunities] is the only way to treat them as equals; but sometimes not' (Dworkin, *A Matter of Principle*, p. 190).

¹⁴ See also Beitz, *Political Equality*, pp. xii and 6.

B. The argument from disagreement and respect for persons

The next argument against the exclusion of anti-liberal-democratic citizens and groups can be termed the argument from disagreement and respect for persons. The starting point of this argument is twofold.¹⁵ First, disagreement about the common good, justice and rights is a permanent feature of liberal democratic societies. Such disagreements are, for instance, reflected in debates between liberal democrats, communists, fascists and various groups of religious fundamentalists. Second is what can be called *the principle of equal respect for persons and their judgements*. According to this principle, (fair) political institutions should show equal respect for persons (or citizens) as moral agents and their judgements – that is, their deliberative rational capacity as moral agents. From this principle it seems to follow that fair political institutions must show respect for disagreement and accommodate the fact of disagreement.

The argument from disagreement and respect for persons can be formulated as a further development of the argument from political equality that attempts to specify what it means to treat citizens who disagree as equals in a political context. One way to develop such an argument goes like this: (1) The political institutions of a liberal democratic state must treat citizens as equals, that is, with equal regard. (2) Treating citizens as equals means that political institutions should show equal respect for persons or citizens as moral agents and their judgements – that is, their rational deliberative capacity to make up their own minds about what to believe and what reasons to act on. (3) In the face of disagreement, equal respect for persons and their judgements requires that a liberal democratic state grants all citizens and groups equal (or the same) political rights, regardless of their political platform (i.e. their political doctrines and objectives). Therefore, political institutions fail to show equal respect for citizens who disagree if certain persons and groups are denied the political right to run for parliament on the basis of their political platform.

¹⁵ Some aspects of what I call the argument from disagreement and respect for persons are inspired by Jeremy Waldron, but this is not to say that he would accept this case against the exclusion of anti-liberal-democrats. See Waldron, *Law and Disagreement* (Oxford: Oxford University Press, 1999).

Now, assuming for the moment that we accept assumptions (1) and (2),¹⁶ an important challenge for a proponent of this position is to explain why equal respect for persons and their judgements requires a system that grants citizens equal political rights regardless of their political platform. First, one can argue that political institutions fail to show respect for citizens who are bound by collective decisions, if those citizens are not granted equal political rights to influence the decisions to which they are subject. One way to defend this view is based on the following considerations. Despite the fact that individuals and groups in a democracy disagree on what the best and just legislation is, minorities (or those individuals and groups who lose an election campaign or a vote in parliament) are bound by the decisions made by the majority, even though they think these decisions are unjust. Under such circumstances, one can argue that adult citizens and groups should, as a minimum, have equal political rights to influence the political process and to compete for power to turn their political views and objectives into law. This seems to be a plausible assumption if the starting point is that all citizens (both the winners and the losers) and their judgements and views should be respected in a political context.

Second, in view of the fact of fundamental disagreement about how the political society should be organised and distribute benefits and burdens, one can argue that a system of equal political rights expresses equal respect for citizens and their judgements, because such a system accords equal weight and importance to the judgements and views of all sides in the disagreement. If citizens and groups have unequal political rights, then they will have unequal procedural opportunities both to influence political processes and to compete for power to advance their views (cp. Sect. III.A). The judgements and views of those who are denied equal political rights (e.g. denied the right to run for parliament) are disadvantaged (or disfavoured), and their judgements and views are, in this sense, not accorded the same importance and weight as the judgements and views of their opponents. This can be regarded as disrespectful and insulting to the first group of moral agents. On the other hand, a system of equal political rights treats citizens who disagree with

¹⁶ In Sect. IV, I will return to assumption (2) and consider more closely (a) whether respect for persons and their judgements (in a political context) requires *equal* respect, and (b) whether political institutions should show respect for *all* of each person's judgements, views and preferences.

equal respect, in the sense that it does not confer procedural advantages on some individuals and groups along with procedural disadvantages on others. In Sect. IV, I will return to the issue of what respect for persons requires in a political context.

IV. THE CASE FOR THE EXCLUSION OF ANTI-LIBERAL-DEMOCRATIC GROUPS

In view of central liberal democratic values, a heavy burden of justification rests on those who wish to deny certain citizens or groups of citizens equal political rights on the basis of their political platform. Nevertheless, I will argue that there are, as a matter of principle, weighty reasons for withholding from anti-liberal-democratic citizens and groups the right to run for parliament. In this section, I will present what I take to be the most important arguments in favour of denying anti-liberal-democrats the right to run for parliament.

A. The argument from precautionary self-defence

The first argument can be termed the argument from precautionary self-defence, and it proceeds from the following assumptions. The first is that a liberal state has a duty to maintain the conditions necessary for peaceful coexistence between individuals and groups who choose to live their lives in different ways and choose to pursue different objectives. One important aspect of the justification of this duty is respect for individual autonomy, and the interest persons have in leading lives as they see fit in accordance with their own conception of the good (i.e. their own understanding of what gives meaning and value to life) without fear of discrimination and punishment. The second is that a liberal democratic state has a duty to sustain and protect liberal democratic institutions, and this includes the protection of basic political and civil rights. This assumption is based on the idea that persons regarded as free and equal citizens have certain fundamental interests, and that liberal democratic institutions and basic political and civil rights aim to protect such interests (I will present these fundamental interests in the next section). In the liberal democratic tradition of political philosophy, it is widely acknowledged that the protection of basic political and civil

rights is crucial in order to respect the freedom (e.g. individual autonomy) and equal moral status of persons.

On the basis of these assumptions about the duties of liberal democratic states, one can argue that such states should not place the political means of their own destruction in the hands of those who wish to undermine or destroy liberal democratic institutions and repress people with competing political doctrines and other conceptions of the good by means of the coercive powers of the state or violence. The liberal democratic state is not a suicide pact, and it should introduce certain precautionary measures of self-defence the aim of which is to sustain a liberal democratic order that respects the freedom and equal moral status of persons. Since anti-liberal-democrats reject the fundamental rules of a liberal democratic order and intend to repress others once they have attained power, the preceding considerations can provide good reasons for denying anti-liberal-democratic citizens and groups the right to run for parliament. In the wake of these considerations, one can also argue that the political and legal institutions of a liberal democratic state fail to treat persons with respect, if they do not guard against political outcomes that would place those persons' rights and liberties in jeopardy. To deny anti-liberal-democratic citizens and groups the right to run for parliament and compete for power can be regarded as an institutional precautionary safeguard, or an institutional 'input filter' in the political process, that will make it impossible from the start for such citizens and groups to attain the power to turn their unreasonable political objectives into law. The preceding considerations can also support other restrictions on the political rights of anti-liberal-democrats – for example, the right to form political parties, the right to run for state legislatures (in federal systems) and the right to run for elective executive positions, such as the right to run for president in presidential democracies (see also Sect. IV.C).

One objection to the argument from precautionary self-defence comes from proponents of what I will term *the clear and imminent danger approach* to restrictions or denials of political and civil rights in general and the right to run for parliament in particular. According to this approach, restrictions or denials of political and civil rights should *only* be permissible for a liberal democratic state if citizens or groups pursue objectives or activities that pose a clear and imminent

danger to security and/or to the stability of liberal democratic institutions. This approach requires that the danger is both likely and imminent. The requirements of likelihood and imminence reject the precautionary thinking that I have defended. Rather, the government must wait until the harm is both likely to occur and about to occur.

I believe that an approach of precautionary self-defence is called for in many circumstances, and one can object that the clear and imminent danger approach limits the scope of permissible state intervention too much with regard to curbing the political influence and power of anti-liberal-democratic groups. Although something can be said in favour of the clear and imminent danger approach,¹⁷ it faces some serious problems. One problem is that it might be too late and/or extremely costly to restrict the political influence and power of anti-liberal-democratic groups in an effective way when the danger to the stability and/or survival of liberal democratic institutions is clear and imminent. This problem has several dimensions. First of all, it might be waiting until it is too late, if one does not take precautionary steps before the stability danger is *both* likely and imminent. For example, when the danger is both likely and imminent, one or more anti-liberal-democratic groups may be so politically powerful and be growing so fast that it would be extremely difficult, if not impossible, to sustain and protect a liberal democratic order. More generally, anti-liberal-democratic groups can pose a serious stability problem for a liberal democratic regime a long time before they pose an *imminent danger* to the stability and survival of liberal democratic institutions. Secondly, one can imagine situations where it is very difficult to determine when a given anti-liberal-democratic group poses a likely and imminent danger to the stability and/or survival of liberal democratic institutions. The situation during the Weimar Republic where Hitler and the Nazis gained increasing popular and political support might serve as an historical illustration of this problem. At what point did the Nazis pose a clear and imminent danger to the stability and survival of the democratic institutions of the Weimar Republic? Thirdly, and with regard to costs, effective state intervention at the point where a danger is imminent may result in harming liberal democratic institutions

¹⁷ I have discussed the pros and cons of the clear and imminent danger approach in more detail elsewhere. See Kristian Skagen Ekeli, 'Liberalism and Permissible Suppression of Illiberal Ideas', *Inquiry* (2012), forthcoming.

themselves, because it might be necessary to introduce very ‘tough’ liberty-limiting measures in order to prevent the stability threats.

B. The argument from the foundation of liberal democratic rights

One important starting point of liberal political philosophy is that all persons (or moral agents) should be regarded as free and equal and that everyone should have equal basic rights and liberties. Thus, in the liberal tradition, there is a strong presumption against departures from this equality, and some might claim that the argument from precautionary self-defence does not provide a sufficiently strong justification for denying anti-liberal-democratic citizens and groups the right to run for parliament. Some might argue that the strength of this argument depends on empirical circumstances – for example, to what extent anti-liberal-democratic groups pose a sufficiently significant danger to the stability and the survival of liberal democratic institutions.¹⁸ Others might argue that the risk or danger involved in granting anti-liberal-democratic citizens and groups the right to run for parliament is the price we have to pay in order to recognize one’s fellow citizens as equal members of society that should have equal rights and procedural opportunities to define and shape the political society (see also Sect. III).

There is, however, an alternative way to justify the position that it is permissible for a liberal democratic state to deny anti-liberal-democratic citizens and groups this political right. The argument I will develop can be called the argument from the foundation of liberal democratic rights and institutions. According to this argument, anti-liberal-democratic citizens and groups can be denied the right to run for parliament and serve if elected, if they use or attempt to use this political right in a way that is clearly in conflict with (or incompatible with) the core foundation of liberal democratic rights and institutions. The idea here is that this core foundation plays a crucial role in the specification of both (1) limits on the scope of the right and (2) limits on the class of persons and groups who possess the right (i.e. who have the right).

The ‘*core foundation*’ that I refer to here can be set out in terms of the fundamental interests and values that liberal democratic rights

¹⁸ See also Rawls, *A Theory of Justice*, p. 219.

and institutions aim to promote and protect in order to respect the freedom (e.g. individual autonomy) and equal moral status of persons, and that serve as the ground of such rights and institutions. The relative importance or weight of these interests and values depends on how significant they are in order to respect the freedom and equal moral status of persons (e.g. how important is the interest at issue as a condition for the exercise of autonomy). It should be noted that some aspects of the core foundation (i.e. certain interests and values) will be more important and relevant for the justification of some liberal democratic rights (e.g. political rights) than for other rights, and this means that different rights can be grounded in different reasons (e.g. interests and values). On the other hand, a single right can find a foundation in several reasons, that is, it can be grounded in several different interests and values. For present purposes, I will assume that this core foundation of liberal democratic rights and institutions includes the following interests and values:¹⁹

- (i) The interest in security from private and public violence.
- (ii) The interest persons have in leading lives as they see fit in accordance with their own conception of the good life (or their own understanding of what gives meaning and value to life), and the value of living under social conditions where they can freely form, revise and rationally pursue a conception of the good.
- (iii) The communicative interest in being able to bring, for example, political and religious doctrines and ideas to the attention of a wider audience and influence the thought and conduct of others or one's fellow citizens.
- (iv) The deliberative interest in having conditions favourable to free and well-informed interpersonal and intrapersonal deliberation²⁰ – that is, the interest in being exposed to a wide range of ideas and views and having the opportunity to consider and discuss their strengths and

¹⁹ This list of interests and values is not meant to be exhaustive, but I believe that it is adequate for the purposes of my argument in this section.

²⁰ *Interpersonal deliberation* refers to the process of discussion with others or interpersonal communications – e.g. a debate in parliament or other public fora. *Intrapersonal deliberation* refers to an individual's internal reflections (or considerations), for instance, on political issues – e.g. when we read a newspaper or watch a political discussion on TV and deliberate about the pros and cons of alternative policies. See also Kristian Skagen Ekeli, 'Constitutional Experiments: Representing Future Generations Through Submajority Rules', *Journal of Political Philosophy* 17(4) (2009): 440–461 and Robert Goodin, *Reflective Democracy*, (Oxford: Oxford University Press, 2003), Chap. 9.

weaknesses in order to make up one's own mind about what to believe and what reasons to act on.

- (v) The value of being able to influence and control factors (e.g. political processes and decisions) that have a significant impact on one's life prospects and life conditions.
- (vi) The interest in institutional safeguards against arbitrary and oppressive use of power. This last includes the interest persons have in being protected against political decisions that would place their basic political and civil rights and liberties in jeopardy, and their interest in independence from arbitrary power – i.e. not being subject to the arbitrary power of other persons, groups or the state.

Since the right to run for parliament is part of a system of liberal democratic rights and institutions, this right cannot and should not be justified and specified²¹ in isolation from this system and the interests and values this framework aims to protect and that serve as its ground. Rather, the justification of the right to run for parliament and the determination of its contours and scope must be guided and constrained by the general aims of the whole system of liberal democratic rights and institutions – that is, the core foundation.

In view of the outlined account of the core foundation and its relation to the justification and specification of the right to run for parliament, I will propose that the two following clauses should apply to the right to run for parliament and serve if elected. The first is an *exceptive clause* – i.e. a foundational exceptive clause – that limits the *scope* of this right. This implies that P has a right to run for parliament and serve if elected except in cases where P uses or attempts to use this right in a way that is clearly in conflict with the core foundation of liberal democratic rights and institutions.²²

The second clause is the most important for present purposes, because it provides a basis for denying anti-liberal-democrats the right to run for parliament. This is a *possession clause* – i.e. a foundational condition of possession – that limits the class of persons and

²¹ Here I have in mind the specification of its scope (i.e. what it is a right *to*), status (i.e. weight) and conditions of possession (who has the right).

²² It should be noted that the exceptive clause does not necessarily lead to the conclusion that it is permissible to deny anti-liberal-democrats the right to run for parliament and serve if elected. Even if one accepts the exceptive clause, one can argue that anti-liberal-democrats have the right to run for parliament and serve if elected, but that they should not be allowed to participate on certain matters – that is, when they use or attempt to use the right to serve in parliament in a way that is clearly in conflict with the core foundation.

groups who possess the right.²³ This condition of possession implies that if P has political objectives that are in clear conflict with the core foundation and P attempts to use the right to run for parliament and serve if elected to promote these objectives, then the justificatory basis for P's possession of this right disappears. The idea here is that if P attempts to use the right to run for parliament to pursue objectives that are in clear conflict with the core foundation that provides the deeper motivation and basis for establishing and protecting liberal democratic institutions and rights in the first place, then the justificatory basis for P's possession of (or claim to) this right is absent. The outlined idea underlying the possession clause rests on two assumptions. The first is that the *justifying purpose* of the right to run for parliament (i.e. the interests and values that this right aims to protect and promote, and that serve as its ground) cannot be isolated from the justifying purpose of the whole system of liberal democratic rights and institutions. The justifying purpose of the right to run for parliament is part of (or closely linked to) the core foundation of liberal democratic rights and institutions in general. The second is that the case for ascribing the right to run for parliament to P is absent if P attempts to use this right in a way that is in clear conflict with the justifying purpose of the right.

In view of the political objectives of anti-liberal-democratic citizens and groups, the way they attempt to use the right to run for parliament and serve if elected is in clear conflict with the core foundation of liberal democratic rights and institutions in several respects. First and more generally, such citizens and groups attempt to use this political right in the pursuit of the objective of achieving power to destroy a liberal democratic order that aims to protect the outlined interests and values in order to respect the freedom and equal moral status of persons. Their objective is to use the rules of the game (i.e. liberal democratic rights or liberties) as a means to undermine or destroy the game, while still claiming the rights of players and the protection of the rules of the game. Anti-liberal-democratic citizens and groups attempt to use the right to run for parliament as a vehicle to deny their opponents basic political and civil rights in the future. They want to participate on equal terms in

²³ *Conditions of possession* specify, among other things, who has or can have a right and who can or should be denied a right. For an interesting discussion of conditions of possession see James W. Nickel, 'Are Human Rights Utopian?', *Philosophy and Public Affairs* 11(3) (1982): 248 and 251–254.

democratic elections until they gain the power to change the rules of the game – so that they do not have to allow their opponents to participate on equal terms. If citizens attempt to exercise the right to run for parliament with the aim of making it impossible for their opponents to become a majority in the future, then they attempt to use this right in a way that is clearly incompatible with the core foundation of this right and the system of liberal democratic rights and institutions.

Second, the political objectives of anti-liberal-democrats are also in conflict with an important idea or requirement of reciprocity that calls for reciprocal respect (between participants (both winners and losers) in democratic processes) for each others' basic political and civil rights or liberties. In a liberal democratic state, citizens and groups who wish to run for parliament and gain power to implement their ideas through legislation must recognise that the political and civil rights of their opponents should be respected and protected both now and in the future. This idea or requirement of reciprocity means that it is impermissible to attempt to use the right to run for parliament and serve if elected with the aim of making it constitutionally or procedurally impossible for one's opponents to influence political processes and to become a majority in the future.²⁴ Given the core foundation of a liberal democratic regime, one cannot expect such a regime to grant citizens and groups the right to run for parliament and compete for power to exercise significant power over the lives of other people if they are not, as a minimum, willing to respect the political and civil rights of their opponents. This attitude towards one's political opponents fails to show respect for them – that is, it fails to respect their status as free and equal citizens and rulers in a liberal democracy.²⁵

This brings us back to the issue of what respect for persons requires in a political context (see Sect. III.B). In view of the preceding argument, one can question whether a liberal democratic state fails to show respect for anti-liberal-democratic citizens and groups if they are denied the right to run for parliament in order to

²⁴ If individuals and groups who want to run for parliament do not accept this requirement of reciprocity, this can also significantly undermine mutual trust between those who compete for power.

²⁵ For an interesting discussion of respect for citizens' status as rulers see Corey Brettschneider, *Democratic Rights. The Substance of Self-Government* (Princeton: Princeton University Press, 2007), Chaps. 1–2.

prevent them from using this right to pursue objectives that are clearly in conflict with the core foundation of liberal democratic institutions and rights. In order to consider the issue of what respect for persons requires in a political context, my point of departure is to analyse the link between liberal democrats' commitment to respect persons (or the rational deliberative capacities of persons) and their commitment to a responsive form of democracy. This is an interesting starting point because some might claim that the link between these commitments means that it is impermissible for a liberal democratic state to deny anti-liberal-democratic citizens and groups the right to run for parliament. I believe that there are several good reasons to reject this claim.

The liberal democratic commitment to a responsive form of democracy implies that political institutions should be designed in a way that respects persons and their rational deliberative capacity to make up their own minds about what to believe and what reasons to act on. This means that political institutions and processes should give appropriate weight or consideration to the judgements, views and preferences of persons who are subject to the basic institutions of a liberal democratic state. As pointed out by Robert Goodin, people's judgements, views and preferences should carry a substantial measure of authority in a liberal democracy. If people's judgements, views and preferences were devoid of authority, 'there would be no grounds for the liberal democratic project of ensuring systematic responsiveness of public policy to the expressed will of the people'.²⁶

The liberal democratic commitment to respect the rational deliberative capacity of persons and to ensure systematic responsiveness does, however, not mean that all of each person's judgements and preferences deserve equal respect or any respect at all. Each person's judgements and preferences should count and be respected, but not necessarily *all* of each person's judgements and preferences.²⁷ On the one hand, this means that it would be impermissible to exclude certain citizens or groups from the political arena – for example, deny them the right to vote or the right and opportunity to express and discuss their views and preferences. On the

²⁶ Goodin, *Reflective Democracy*, p. 15.

²⁷ See also Robert Goodin, 'Laundering Preferences', in J. Elster and A. Hylland (eds.), *Foundations of Social Choice Theory* (Cambridge: Cambridge University Press, 1986), p. 86, note 13.

other hand, a liberal democratic state does not show wrongful disrespect to persons if some of their judgements, preferences and political objectives are not respected – for example, if they are prevented from pursuing political objectives that threaten the rights of others or inflict certain serious harms on others. Certain unreasonable political objectives should not count at all – for example, if a group of persons wants to enslave another ethnic or religious group in a society or if they want to establish a terrorist organisation that aims to kill their political opponents. Apart from these extreme examples, I also believe that a liberal democratic state is not obligated to respect certain other unreasonable preferences or objectives. Here I have in mind, for example, the objective of imposing one's conception of the good on others and repressing alternative ideas and ways of life, and the objective of denying one's political opponents important procedural opportunities to influence political processes. Given the outlined liberal democratic commitments, I do not believe that a liberal democratic state shows wrongful disrespect to persons who pursue such objectives if they are denied the right to run for parliament and compete for political power to turn their unreasonable preferences and objectives into law. As I have already pointed out, one can justify ignoring such preferences and objectives by appealing to the deeper motivation and normative basis for establishing and protecting liberal democratic institutions and rights in the first place.

One can also argue that even if the most important respect-warranting characteristic of persons or citizens (in the outlined political setting) is their deliberative rational capacity, it does not follow that liberal democratic states should organise political institutions so that they respect all their clearly irrational and unreasonable judgements and views (i.e. judgements and views that are based on logical errors, prejudice and bias, self- or group interest, blindness and wilfulness) that can lead individuals and groups to pursue unreasonable objectives. Rather, respect for the rational deliberative capacity of persons to make up their own minds about what to believe and what reasons to act on seems to require that political institutions are designed to protect and promote conditions favourable to free and well-informed deliberation and decision-making,²⁸ and the pursuit of the outlined unreasonable objectives is clearly in conflict with this requirement.

²⁸ See also Wall, 'Democracy and Equality', p. 435.

C. *The scope of permissible restrictions on political rights*

So far I have argued that it is, in principle, permissible for liberal democratic states to deny anti-liberal-democrats the right to run for parliament. At this point, the following question emerges: In view of the preceding arguments (and the considerations underlying these arguments), is it permissible for liberal democratic states to restrict other political rights as well? The *argument from precautionary self-defence* can, as I argued in Sect. IV.A, support restrictions on political rights such as the right to run for state legislatures (in federal systems)²⁹; the right to run for elective executive positions, such as the right to run for president in presidential democracies; and the right to form political parties. One can (as I did in the case of the right to run for parliament) argue that to deny anti-liberal-democrats such rights can be regarded as institutional precautionary safeguards – that is, as institutional input filters in the political process, that will make it impossible from the start for anti-liberal-democrats to attain power and turn their unreasonable political doctrines into law.

The *argument from the foundation of liberal democratic rights* can also be extended to cover the above mentioned political rights. I assume that these rights are relevantly similar to the right to run for parliament. If one accepts this assumption, the exceptive clause should also limit the scope of these rights, and the possession clause should limit the class of persons and groups who possess these rights. Thus, anti-liberal-democratic citizens and groups can be denied the outlined political rights since they attempt to use them in a way that is clearly in conflict with the core foundation of liberal democratic rights and institutions.

Anti-liberal-democrats should not be denied other rights to participate in the political life of a liberal democratic regime – for example, they should have the right to vote³⁰; the right to freedom of assembly; and the right to express, spread and discuss their political ideas and doctrines.³¹ This is not to say that certain limitations on the scope of these political rights are not justifiable. However, I do not think that the exceptive clause and the possession clause should apply to, for example, the right to vote and the right to

²⁹ Here one could also add the right to run for supranational legislatures such as the EU parliament.

³⁰ In this connection, it is worth bearing in mind that exclusion from elections to legislatures or executive positions does not restrict the right to vote or reduce the weight of the votes of those (i.e. anti-liberal-democratic citizens) who would have supported the excluded candidates.

³¹ Neither should anti-liberal-democrats be denied civil or liberal rights.

freedom of expression. This does not seem to be a desirable or permissible limitation on these rights in a liberal democracy. With respect to the right to freedom of expression, I believe that such a limitation on free political speech is incompatible with central liberal democratic ideas and values – such as political toleration and the value of open and free interpersonal and intrapersonal deliberation on political ideas and issues. Political toleration in a liberal democracy requires that people are allowed to express their ideas and values, even when we (i.e. liberal democrats) strongly disapprove of their ideas. As John Stuart Mill points out, ‘there ought to exist the fullest liberty of professing and discussing, as a matter of ethical conviction, any doctrine, however immoral it may be considered’.³² All other things being equal, a liberal democratic state should tolerate dissent by individuals and groups who advocate illiberal and anti-democratic doctrines and ideas, even if those dissenters express a desire to replace or overturn the liberal democratic state.

There are other reasons for not using the exceptive clause to limit the scope of the right to vote. First, this seems to be impracticable. I cannot see how such a limitation can be carried out in practice or operationalized in law. Second, this seems to be pointless in the liberal democratic system that I have defended. Even if anti-liberal-democrats have the right to vote on the basis of their political platform (i.e. their political ideas and objectives), they do not have the opportunity to elect anti-liberal-democratic candidates who can gain power. In this sense, it is no problem that they can vote on the basis of their political platform. This point also implies that it is pointless to apply the possession clause to the right to vote.

V. THE SCOPE OF WISE RESTRICTIONS ON POLITICAL RIGHTS IN RIPE AND UNRIPE DEMOCRACIES

Although I believe that it is, in principle, *permissible* for liberal democratic states to restrict the political rights of anti-liberal-democrats, this does not mean that it is *wise* or *prudent* to introduce such restrictions in all circumstances. In this section, I will consider the following question: to what extent is it wise to restrict the political

³² J.S. Mill, *On Liberty* (London: Penguin Books, 1985/1859), p. 75.

rights of anti-liberal-democrats in ripe and unripe democracies?³³ My answer to this question is twofold. On the one hand, I will argue that such restrictions can be wise in *unripe* democracies. On the other hand, I will argue that the restrictions in question are rarely wise in *ripe* democracies.

A. Ripe and unripe democracies

The starting point of the forthcoming discussion is the following distinction between ripe and unripe democracies. *Ripe democracies* will refer to stable and well-functioning constitutional democracies with a relatively long democratic tradition and an established constitutional democratic culture (i.e. government officials from the various branches of government (e.g. politicians and judges) and citizens have a tradition of following the rules of the game of a constitutional democratic order). Examples are the constitutional democracies found in Western Europe and North America. These political systems can be regarded as consolidated³⁴ liberal democracies, in which anti-liberal-democratic groups do not play a significant political role, in the sense that they do not pose a real and serious danger to the stability and survival of liberal democratic institutions at least in the near future.

By contrast, *unripe democracies* will refer to more unstable and (often far) less well-functioning constitutional democracies with a relatively short democratic tradition that lack an established constitutional democratic culture. Here I have in mind, for instance, many recently established democracies in Africa, Asia, Eastern Europe, the former

³³ Hereafter the term 'restrictions on the political rights of anti-liberal-democrats' will refer to restrictions on the right to run for parliament and restrictions on the following political rights discussed in Sect. IV.C: the right to run for state legislatures or supranational legislatures (such as the EU parliament), the right to run for president (and other elective executive positions) and the right to form political parties.

³⁴ According to Juan Linz and Alfred Stepan, a *consolidated democracy* has the following characteristics: '*Behaviorally*, a democratic regime in a territory is consolidated when no significant national, social, economic, political, or institutional actors spend significant resources attempting to achieve their objectives by creating a nondemocratic regime or by seceding from the state. *Attitudinally*, a democratic regime is consolidated when a strong majority of public opinion, even in the midst of major economic problems and deep dissatisfaction with incumbents, holds the belief that democratic procedures and institutions are the most appropriate way to govern collective life, and when support of antisystem alternatives is quite small. *Constitutionally*, a democratic regime is consolidated when governmental and nongovernmental forces alike become subject to, and habituated to, the resolution of conflict within the bounds of specific laws [i.e. the rule of law]' (Linz and Stepan, 'Toward Consolidated Democracies', *Journal of Democracy* 7(1) (1996): 16.

Soviet republics and Latin America. Many new or unripe democracies are in a process of transition from an authoritarian regime toward a consolidated liberal constitutional democracy. Democratic institutions are established – but it is often uncertain whether the process of transition will end in a consolidated or well-functioning liberal constitutional democracy. For example, it is uncertain whether the liberal democratic or the anti-liberal-democratic forces (e.g. from the old authoritarian regime or from the opposition) will win over time. In many real world examples of unripe democracies, anti-liberal-democratic groups play a significant political role.

Given the outlined distinction between ripe and unripe democracies, it is, all other things being equal, reasonable to assume (1) that in unripe democracies anti-liberal-democratic groups pose a much more significant danger to the stability and survival of liberal democratic institutions and rights than in ripe democracies, and (2) that this calls for a higher degree of precaution with regard to such groups in unripe democracies as compared with ripe democracies. In other words, it is more dangerous, in many situations much more dangerous, to let anti-liberal-democratic citizens and groups compete for power in unripe than in ripe democracies, because the former democracies are more vulnerable or fragile.

Against this background, prudential considerations can support restrictions on the political rights of anti-liberal-democrats in unripe democracies as a precautionary institutional safeguard. Restrictions on political rights – such as the right to form political parties and the rights to run for parliament, state legislatures and executive positions – can contribute to the political stabilisation of unripe democracies in the uncertain conditions of transition toward a consolidated liberal constitutional democracy.³⁵

B. The case against restrictions in ripe democracies

In what follows, I will first set out two arguments for the position that it is rarely wise for *ripe* democracies to restrict the rights of anti-liberal-democrats. The first is related to the inherent stability of just liberal democratic institutions. The second is that restrictions can lead to group polarization and enclave deliberation that can engen-

³⁵ As Adam Przeworski points out, the path to a consolidated liberal democracy is mined. See Przeworski, *Democracy and the Market* (Cambridge: Cambridge University Press, 1991), p. 51.

der political extremism and impair processes of interpersonal and intrapersonal deliberation in liberal democracies. Here I will mainly focus on the right to run for parliament, but I believe that these arguments also apply to the other political rights at issue – the right to form political parties, the right to run for state legislatures and the right to run for elective executive positions. Thereafter, I will finally briefly consider the complex question of when it can be wise for ripe democracies to restrict the political rights of anti-liberal-democratic citizens and groups.

1. *The argument from the inherent stability of just institutions*

In the case of ripe liberal democracies in which anti-liberal-democratic groups do not pose a serious danger to the stability and survival of liberal democratic institutions in the near future, one can argue that it is important to take into account what Rawls has called the inherent stability of a just constitution – that is, a liberal democratic regime where all citizens, for example, are granted equal basic rights and liberties. According to Rawls, such just and free institutions have a ‘natural strength’, because people who are subject to them will tend to acquire an allegiance to a just constitutional democracy over time:

If an intolerant sect appears in a well-ordered society, the others should keep in mind the inherent stability of their institutions. The liberties of the intolerant may persuade them into freedom. This persuasion works on the psychological principle that those whose liberties are protected by and who benefit from a just constitution will, other things being equal, acquire an allegiance to it over a period of time. So even if an intolerant sect should arise, provided that it is not so strong initially that it can impose its will straightaway, or does not grow so rapidly that the psychological principle has no time to take hold, it will tend to lose its intolerance and accept liberty of conscience. This is the consequence of the stability of just institutions, for stability means that when tendencies to injustice arise other forces will be called into play that work to preserve the justice of the whole arrangement.³⁶

On the basis of Rawls’ reflections on the inherent stability of just institutions, the worry arises that the exclusion of anti-liberal-

³⁶ Rawls, *A Theory of Justice*, p. 219. It is important to underline that Rawls’ argument does not lead to the conclusion that restrictions or denials of rights are never permissible. In this connection, Rawls points out that ‘the natural strength of free institutions must not be forgotten. ... Knowing the inherent stability of a just constitution, members of a well-ordered society have the confidence to limit the freedom of the intolerant only in the special cases when it is necessary for preserving equal liberty itself (Rawls, *A Theory of Justice*, pp. 219–220).

democratic citizens and groups can be counterproductive.³⁷ For example, one can argue that if one excludes anti-liberal-democratic groups from taking part in parliamentary elections and competing for power, such groups and their members might regard this as a provocation, and the exclusion can undermine their support of and allegiance to liberal democratic institutions.³⁸ Moreover, exclusion can escalate political conflicts and create political martyrs, and in some segments of a society this can induce greater anti-liberal-democratic mobilisation than in a system that does not exclude anti-liberal-democrats. The next argument for rejecting the exclusion of anti-liberal-democratic citizens and groups in ripe democracies is also partly related to the issue of whether such exclusions can be counterproductive.

2. *Group polarization, enclave deliberation and political extremism*

In ripe liberal democracies (such as those in contemporary Western Europe), anti-liberal-democratic groups do not play a significant political role, and they do not pose a significant danger to the stability and survival of liberal democratic institutions and rights in the near future. However, one can argue that if such groups are excluded from taking part in parliamentary elections, this can give rise to more political extremism and fuel more extremist views within such groups. The point here is that exclusion can create isolated enclaves of like-minded political extremists who wall themselves off from alternative or competing perspectives. Exclusion can drive anti-liberal-democratic groups and their ideas underground where they cannot be effectively opposed or criticized, and this can produce new breeding grounds for political extremism. An important assumption underlying these considerations is that exclusion can lead to group polarization and enclave deliberation, and this can impair processes of free and well-informed interpersonal and intra-personal deliberation in liberal democracies.

The phenomenon of group polarization has recently been extensively discussed by Cass Sunstein. According to Sunstein, *group*

³⁷ Although I believe that Rawls' reflections are relevant here, it should be noted that a ripe democracy is not the same as Rawls' ideal (i.e. well-ordered) liberal democracy.

³⁸ Rawls also points out that 'equal political liberty is not solely a means. These freedoms strengthen men's sense of their own worth, enlarge their intellectual and moral sensibilities, and lay the basis for a sense of duty and obligation upon which the stability of just institutions depend' (Rawls, *A Theory of Justice*, p. 234).

polarization occurs when like-minded people (e.g. members of a given social group or movement) who are engaged in deliberation with one another end up taking a more extreme position in line with their pre-deliberation views or tendencies.³⁹ In other words, after discussions with their peers, they end up accepting or thinking a more extreme version of what they thought before they started to talk. For example, this means that if a group of Islamists, who are outraged about the Muhammad cartoons and liberal views on free speech, is engaged in discussion about the publication of such cartoons and free speech, they are likely to end up still more outraged and negative to liberal free speech ideas as a result of talking to one another.⁴⁰

Political extremism is often a product, in part, of group polarization and what Sunstein has called *enclave deliberation* – that is, deliberation among like-minded people who talk or even live, much of the time, in isolated enclaves. He argues that enclaves of people who are separated from others and inclined to rebellion or even violence might well move sharply in that direction as a consequence of internal deliberations with their like-minded peers. ‘In fact, a good way to create an extremist group, or cult of any kind, is to separate members from the rest of society. ... With such separation, the information and views of those outside the group can be discredited and hence nothing will disturb the process of polarization as group

³⁹ See, e.g., Cass Sunstein, *Why Societies Need Dissent* (Cambridge, Mass.: Harvard University Press, 2003), p. 11.

⁴⁰ There are a number of factors that can explain why group polarization occurs. Here I will just briefly mention some of the factors that are emphasised by Sunstein. One explanation involves *informational influences* (i.e. how individual belief and behaviour are influenced by the actions and statements of other group members) and *limited argument pools* within groups (i.e. how we are influenced by the arguments made by other members of a group (especially the dominant arguments within the group), and how the argument pool in any group with some predisposition in one direction will inevitably be skewed toward that predisposition). Another explanation concerns *social influences* – i.e. how people often want to be perceived favourably by other group members, and how many people will adjust their positions at least slightly in the direction of the dominant position in the group once they hear what others believe. For interesting discussions of these and other main explanations for group polarization see, e.g., Sunstein, *Why Societies Need Dissent*, Chap. 6 and ‘The Law of Group Polarization’, in J. Fishkin and P. Laslett (eds.), *Debating Deliberative Democracy* (Oxford: Blackwell Publishing, 2003), pp. 80–101. See also Russell Hardin, ‘The Crippled Epistemology of Extremism’, in A. Breton, G. Galeotti, P. Salmon and R. Wintrobe (eds.), *Political Extremism and Rationality* (Cambridge: Cambridge University Press, 2002), pp. 3–22.

members continue to talk'.⁴¹ If anti-liberal-democratic groups and political movements are excluded from taking part in parliamentary elections, there is a danger that such groups and their leaders will function as 'polarization entrepreneurs' who attempt to create enclaves of like-minded political extremists that can provide new breeding grounds for political extremism. It is, of course, an open empirical question whether the exclusion of anti-liberal-democrats will have the outlined effects with regard to the development of political extremism in liberal democracies. The effects of restrictions on political rights will vary depending on a number of different factors (see also below). Nevertheless, I believe that it is important to take this danger into account when the issue of exclusion is considered in ripe democracies.

3. When can it be wise to restrict the political rights of anti-liberal-democrats in ripe democracies?

Now, I will briefly consider the question of when it can be wise to restrict the political rights of anti-liberal-democrats in ripe democracies. This is a very difficult and complex question with no easy answer. Presumably the question of when it is wise must be considered on a case-by-case basis where the specific circumstances and historical conditions of particular countries are taken into account. In this connection, one must analyse the costs and benefits of introducing restrictions both in the short term and in the long term. Moreover, one must consider the likelihood of the costs and benefits. This will involve a number of complex empirical considerations, as well as speculations about the consequences of organising political and legal institutions in different ways under different conditions (i.e. in different countries with different political traditions, cultures and so on).

In view of the complexity of the problem at issue, it is difficult to come up with general guidelines or criteria for when it is wise to introduce restrictions. Nevertheless, I will propose that it can be wise or prudent for ripe democracies to restrict the political rights of anti-

⁴¹ Sunstein, *Why Societies Need Dissent*, p. 112. Here I focus on the negative effects of enclave deliberation. It should, however, be noted that enclave deliberation can also have positive effects – e.g. it can be crucial to the development of ideas that would not otherwise emerge and that deserve a social hearing by the wider public, and it can increase the diversity of a society's aggregate argument pool and enrich the marketplace of ideas (see also Sunstein, 'The Law of Group Polarization', pp. 91, 93 and 94).

liberal-democrats, at least, in cases where one of the following conditions⁴² is fulfilled:

- (1) Restrictions can be wise, if reliable evidence or scenarios⁴³ suggests that the absence of restrictions can fuel serious social conflicts and threaten peaceful coexistence between different groups – for example, different ethnic and religious groups. Divided societies can be especially vulnerable when it comes to social conflicts that can threaten peaceful coexistence between different groups.⁴⁴
- (2) Restrictions can be wise, if reliable evidence suggests that the absence of restrictions can significantly increase the danger of violence – for example, politically motivated violence. Thus, if political parties that are deemed to be fronts of terrorist or paramilitary groups or organisations increase the danger of violence, then it seems to be wise to ban such parties and exclude them from elections to legislatures. To allow such groups (or their members) to form political parties and run for office can perhaps also contribute to the legitimisation of their activities in some segments of a society.
- (3) Restrictions can be wise, if reliable evidence suggests that the absence of restrictions can increase the popular and political support of anti-liberal-democratic groups so that they over time (or in the long run) will become significant political actors that can pose a significant danger to the stability and survival of liberal democratic institutions and rights.

Even if it can be wise to restrict the political rights of anti-liberal-democrats in the outlined cases, I do not think that these conditions are fulfilled in most real world examples of ripe democracies today. For this reason, I believe that it is rarely wise for ripe democracies to introduce restrictions in view of the worry that the exclusion of anti-

⁴² Some aspects of these conditions are partly related.

⁴³ With regard to the issue of reliable evidence or scenarios, disagreement is likely to arise. This raises the question of where one should place the burden of proof. Should it rest on those who defend the restrictions or on those who oppose the restrictions? Although this is an interesting issue, I will leave it aside here.

⁴⁴ *Divided or plural societies* are societies that are sharply divided along religious, ethnic, cultural, racial, ideological, regional or linguistic lines into virtually separate subsocieties (See Arend Lijphart, *Patterns of Democracy* (New Haven: Yale University Press, 1999), p. 32). As pointed out by Sujit Choudhry, 'a divided society is not merely a society which is ethnically, linguistically, religiously, or culturally diverse. ... Rather, what marks a divided society is that these differences are politically salient – that is, they are persistent markers of political identity and bases for political mobilization' (Sujit Choudhry, 'Bridging Comparative Politics and Comparative Constitutional Law: Constitutional Design in Divided Societies', in S. Choudhry (ed.), *Constitutional Design for Divided Societies* (Oxford: Oxford University Press, 2008), pp. 4–5).

liberal-democrats can be counterproductive and lead to group polarization and enclave deliberation that can engender political extremism and impair processes of deliberation. Having said that, the situation might change over time, and this will, of course, affect the conclusion of the preceding considerations.

VI. CONCLUSION

In this paper I have considered the question of whether it is permissible for a liberal democratic state to deny anti-liberal-democratic citizens and groups the right to run for parliament. I have defended the position that it is, in principle, permissible for liberal democratic states to deny anti-liberal-democratic citizens and groups the right to run for parliament, as well as certain other political rights (e.g. the right to form political parties and the rights to run for state legislatures and elective executive positions). Both the argument from precautionary self-defence and the argument from the foundation of liberal democratic rights and institutions support this conclusion. On the other hand, I have argued that it is rarely wise for ripe liberal democracies to restrict the political rights of anti-liberal-democratic citizens and groups.

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