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Fuzzy Citizenship in Global Society

Mathias Koenig-Archibugi¹

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I. INTRODUCTION

Most states in the world grant the right to vote in political elections to some people who do not live in the state's territory (and possibly never have done or never will). Non-residents are allowed to cast their vote from abroad in 115 out of 214 countries of the world.² Furthermore, the uptake of such rights is sometimes substantial. For instance, about 2.6 million non-residents were eligible to vote from abroad in Italy's 2006 parliamentary elections and about 1.1 million actually voted, constituting 2.6 per cent of all ballots cast. Such extraterritorial voting rights are sometimes commended for acknowledging the realities of globalization and human mobility across borders. A

¹ I owe a special debt of gratitude to Robert Goodin for many helpful suggestions. I am also grateful to Hans Agné, Daniele Archibugi, Leonardo Baccini, Jared Barnes, Luis Cabrera, Nicola Dunbar, Eva Erman, James Fishkin, David Held, Thomas Hale, Mary Kaldor, Eszter Kollar, Cristina Lafont, Patti Lenard, Leif Lewin, Kate Macdonald, Terry Macdonald, Raffaele Marchetti, Antonio Masala, Paul Muldoon, Eva-Maria Nag, Sofia Näsström, Adam Quinn, Miriam Ronzoni, Michael Saward, Hannah Söderbaum, Tom Sorell, Theresa Squatrito, Jonas Tallberg, and Laura Valentini for valuable questions and comments. While completing this article, I benefitted from an Open Society Institute research grant. I remain responsible for the article's shortcomings.

² Carlos Navarro Fierro, Isabel Morales and Maria Gratschew, 'External voting: a comparative overview', *Voting from Abroad: The International IDEA Handbook* (Stockholm: International Institute for Democracy and Electoral Assistance, 2007), pp.11-34, at p. 11. The figure includes autonomous territories.

member of the Italian parliament elected in the ‘Africa-Asia-Oceania-Antarctica’ constituency hailed them as a form of ‘global citizenship.’³ Cosmopolitans, however, are more likely to approve of the general principle of extraterritorial voting rights than of the reasons why some individuals enjoy them and others do not. As Rainer Bauböck has noted,⁴ extraterritorial voting rights are usually justified with reference to ethnic-nationalist arguments, and states reserve them for ‘nationals’, i.e. people with a privileged legal status that is usually acquired through descent from another national and, less commonly, by being born in the state or through a naturalization procedure.

But what reasons would be more congenial to cosmopolitan sensibilities? Cosmopolitans (and not only they) often believe that people who are significantly affected by a policy decision should have an opportunity to influence that decision. This ‘all-affected principle’ arguably requires the extension of participatory entitlements beyond the circle of resident and non-resident nationals, to include also those who are neither residents nor nationals but are nevertheless significantly affected by the policy decisions of the state.

However, it is also true that most residents are likely to be affected more directly and intensely by the decisions of any particular state than most non-residents. Despite growing global interdependence, jurisdictional boundaries still constrain the ability of a state to get hold of people and coerce them into obeying its laws and paying taxes. Interpretations of the all-affected principle that are sensitive to differences in affectedness thus suggest that it would be wrong to grant participatory entitlements to non-residents on the same footing as residents. This creates a conundrum: if the all-affected principle is regarded as a valid basis for assigning participatory entitlements to individuals, how should those entitlements be distributed in a world where jurisdictional boundaries between states matter in determining patterns of affectedness – but only to some extent?

This article presents a solution to this conundrum. The solution is called ‘fuzzy citizenship’, and consists in an approach to the democratization of the global order that

³ Simone Battiston and Bruno Mascitelli, ‘The challenges to democracy and citizenship surrounding the vote to Italians overseas’, *Modern Italy*, 13 (2008), 261-280 at p. 274.

⁴ Rainer Bauböck, ‘Stakeholder citizenship and transnational political participation: a normative evaluation of external voting’, *Fordham Law Review*, 75 (2007), 2393-2447.

does not place direct constraints on what states can or should do (the ‘output’ side of state action) but changes the set of people to whom they owe participatory entitlements (the ‘input’ side). Fuzzy citizenship has the following key features: (a) it is based on territorial jurisdictions with authority over a broad or almost unlimited set of issues – most importantly, on states as they exist today; (b) participatory entitlements with regard to the decision-making process of those jurisdictions are accorded to all those who are likely to be causally affected by any possible decision under any possible agenda,⁵ rather than only to individuals with a privileged legal relationship to the jurisdiction (nationals) or those formally bound to comply with policy decisions because of their presence on the territory (residents); (c) participatory entitlements *vary* depending on the likelihood that decisions will have a significant impact on the interests of individuals;⁶ (d) since the likelihood of significant impact can only be determined on the basis of the resources controlled by jurisdictions, rather than on the basis of the content of possible decisions, jurisdictions that control a larger stock of resources should be obliged to grant more say to extraterritorial voters than jurisdictions that control a smaller stock of resources. These features can be institutionally realized in a number of ways, the simplest of which is the following: *the legislature of each state should grant voting power to representatives elected by all non-residents in proportion to the share of world income under the control of that state.* While this is not the only institutional reform that could realize fuzzy citizenship, its relative simplicity makes it a useful point of reference for the discussion that follows. An important caveat is that this

⁵ This formulation of the all-affected principle stems from Robert Goodin and is discussed below in section III. Robert E. Goodin, ‘Enfranchising all affected interests, and its alternatives’, *Philosophy and Public Affairs*, 35 (2007), 40-68.

⁶ The fuzzy citizenship approach is therefore based on the proportionality principle: see Harry Brighouse and Marc Fleurbaey, ‘Democracy and proportionality’, *Journal of Political Philosophy*, 18 (2010), 137-155. ‘Proportional citizenship’ could be another suitable descriptor for the institutional arrangements proposed here. On the tension between ‘numerical equality’ and ‘proportional equality’ see Sofia Näsström, ‘Democracy counts: problems of equality in transnational democracy’, *Transnational Actors in Global Governance*, ed. C. Jönsson and J. Tallberg (Basingstoke: Palgrave Macmillan, 2010).

article addresses only the desirability of this institutional innovation and does not discuss the conditions under which it may become politically feasible.⁷

The article is organized as follows. Section I presents the proposal in greater detail. Section II justifies the proposal by showing how it addresses problems of underinclusiveness and overinclusiveness in light of the all-affected principle. Section III compares fuzzy citizenship with other blueprints for global institutional reform – world federalism, global stakeholder democracy, and ‘functional, overlapping and competing jurisdictions’ – and examines their relative ability to reduce overinclusiveness and underinclusiveness.

II. DESCRIPTION OF FUZZY CITIZENSHIP

Over forty years ago, Robert Dahl examined the maxim ‘Everyone who is affected by the decisions of a government should have the right to participate in that government’ and noted that, for all its problems, it ‘is very likely the best general principle of inclusion that you are likely to find’.⁸ Various issues and problems raised by Dahl in relation to that maxim have since been discussed and elaborated, and new arguments relating to the all-affected principle have been developed. However, one remark made by Dahl has generated little discussion: the all-affected interests principle ‘forces us to ask whether there is not some wisdom in the half serious comment of a friend in Latin America who said that his people should be allowed to participate in our elections, for what happens in the politics of the United States is bound to have profound

⁷ For general discussions on the empirical feasibility of global democratization see Mathias Koenig-Archibugi, ‘Is global democracy possible?’, *European Journal of International Relations*, Published online before print June 16, 2010; Mathias Koenig-Archibugi, ‘Global democracy and domestic analogies’, *Global Democracy: Normative and Empirical Perspectives*, ed. D. Archibugi, M. Koenig-Archibugi and R. Marchetti (Cambridge: Cambridge University Press, 2011); Robert E. Goodin, ‘Global democracy: in the beginning’, *International Theory* 2 (2010), 175–209.

⁸ Robert Dahl, *After the Revolution? Authority in a Good Society* (New Haven: Yale University Press, 1970), p. 64.

consequences for his country.’ Dahl added: ‘Do not dismiss his jest as an absurdity. In a world where we all have a joint interest in survival, the real absurdity is the absence of any system of government where that joint interest is effectively represented.’⁹

Perhaps the lack of attention towards Dahl’s remark is due to the fact that, as Robert Goodin has noted, by labelling it ‘half-serious’ it was left ‘hovering uneasily in that infamous argumentational no-man’s land between QED and *reductio [ad absurdum]*’.¹⁰ This article aims at rescuing it from that unfortunate condition.

The possibility of granting some form of representation for extraterritorial interests in state institutions has not completely been ignored since Dahl wrote those words. Philippe Schmitter proposed a system called ‘reciprocal representation’, whereby states that are highly interdependent accord each other a number of seats – perhaps two or three – in their respective national legislative chambers.¹¹ The reciprocal representatives would have the right to speak on the floor and, in time, possibly acquire the right to vote. For Schmitter, such an arrangement would be especially desirable and acceptable in the case of neighbouring countries and members of free trade areas such as NAFTA and MERCOSUL. From the point of view of the all-affected principle, a crucial limitation of the proposal is that cross-national affectedness is often radically asymmetric. For instance, citizens of Nicaragua are significantly more affected by policies decided by the U.S. government than U.S. citizens are affected by Nicaraguan policies. An institutional blueprint that does not take such asymmetries into account is unlikely to make substantial progress towards realizing the all-affected principle.

More recently, a very weak form of ‘external representation’ has been proposed by David Miller for cases in which a state is considering a coercive policy that would have external impacts.¹² Miller suggests that before the decision is taken, representatives of other states that will feel the impact of the decision should be invited to put their case to the legislature of the first state, without the right to vote on the decision. While

⁹ Dahl, *After the Revolution?* p. 67.

¹⁰ Goodin, ‘Enfranchising all affected interests, and its alternatives’, at p. 64.

¹¹ Philippe C. Schmitter, ‘Exploring the problematic triumph of liberal democracy and concluding with a modest proposal for improving its international impact’, *Democracy’s Victory and Crisis*, ed. A. Hadenius (Cambridge: Cambridge University Press, 1997), pp. 297-310.

¹² David Miller, ‘Democracy’s domain’, *Philosophy and Public Affairs*, 37 (2009), 201-228.

attractive compared to the status quo, such an arrangement is unlikely to satisfy the all-affected principle.

The remainder of this section presents the basic features of a more extensive and intensive form of external representation – fuzzy citizenship – while the next section examines why and how those features can satisfy the all-affected principle under the conditions of partial and asymmetric interdependence that pervade the world today. Fuzzy citizenship has five main features, which will be presented in turn.

1. Entities that owe participatory entitlements. In contrast to other proposals for global democratization that focus on specialized and nongovernmental organizations (see section IV), fuzzy citizenship applies primarily to decision-making units that combine two features: they are able to exercise effective authority over a territory in a way that is ultimately backed by coercive capabilities; and their authority applies to a wide and possibly open-ended range of policy issues. A number of entities possess those features at least to some extent, notably provinces in federal states and the European Union. But they most clearly characterize *states* as we know them today. Therefore, while the proposal may be extended to every multifunctional decision-making unit endowed with coercive authority, in the interest of simplicity the remainder of this article refers to ‘states’.

Furthermore, I assume that within each state it is possible to identify an organ that has the twin function of taking fundamental decisions on how to use the authority of the state and of ‘representing’ those who are subject to that authority. While such organs have many different names, they are called ‘legislatures’ here. The following discussion skips over the diversity of ways in which legislative powers are exercised in existing states – e.g. bicameralism, the role of the executive in legislation, constitutional review of statutory legislation by the judiciary, and so on – and instead is based on a stylized account of how regulative and allocative policy decisions are made within state jurisdictions.

One question needs to be addressed now, however. Most existing legislatures claim to represent ‘the people’, but in many cases this ‘representation’ is arguably far from satisfying minimal standards of democracy. Any proposal that advocates some kind of extraterritorial representation thus faces an obvious problem: what should be done about legislatures that do not provide adequate democratic representation even for ‘insiders’?

There are at least two possible answers to this question. The first answer is that participating legislatures must be fully democratic, and specifically be legitimized by free and fair elections, before the idea of extending the circle of represented interests can even be entertained. This could be called a ‘thick’ version of extraterritorial representation. This position could entail either that the establishment of a global system of extraterritorial representation must wait until all states have become democracies, or alternatively that existing democracies should accord participatory rights to each other’s citizens and progressively include the citizens of other states as they become democratic. The second possible answer is that nondemocratic forms of political representation are compatible with external representation: it would suffice that in each legislature the affected extraterritorial interests are represented according to the same (democratic or nondemocratic) standards as nationals.¹³ This would be a ‘thin’ version of external representation. Since the fuzzy citizenship approach is rooted in the all-affected principle, which is generally interpreted as a foundational principle of democracy, it is naturally close to the thick version. However, it is compatible with a distinction between a transitional phase, during which various forms of political representation coexist, and a steady-state phase, which is reached when democratic representation is all-pervasive.

2. *Beneficiaries of participatory entitlements.* Under a fuzzy citizenship regime, participatory entitlements with regard to the selection of members of state legislatures are to be extended well beyond the circle of individuals with a privileged legal relationship to the state (‘nationals’) or those formally bound to comply with legislative decisions because of their presence on the territory (‘residents’). Participatory entitlements should be accorded to *anyone who is likely to be significantly affected by*

¹³ On the issue of nondemocratic standards of valid political representation see Andrew Rehfeld, ‘Towards a general theory of political representation’, *Journal of Politics*, 68 (2006), 1–21. On the issue of non-electoral standards of valid democratic representation see Terry Macdonald, *Global Stakeholder Democracy: Power and Representation beyond Liberal States* (Oxford: Oxford University Press, 2008) and Michael Saward, ‘Authorisation and authenticity: representation and the unelected’, *Journal of Political Philosophy*, 17 (2009), 1–22.

any possible decision taken under any possible agenda.¹⁴ Since individuals can be affected by the exercise of state power in a myriad of specific causal relationships that transcend territorial borders, this expansive ‘affectedness’ criterion means that some form of ‘citizenship’ (understood as political status entailing participatory rights) may have to be expanded well beyond anything so far contemplated even by the states with the most generous and inclusive citizenship admission policies.

3. *Full and partial citizenship.* Under a fuzzy citizenship regime, citizenship ceases to be an all-or-nothing affair. Individuals can be full citizens or fully non-citizens, but also partial citizens of a state. A useful way to think about this revised conception of citizenship is in terms of fuzzy-set logic, which was first proposed by Lofti Zadeh and later developed by many scholars.¹⁵ The key feature of fuzzy sets is that they embody both qualitative states, i.e. full membership and full nonmembership in a set, and variation by level, i.e. degrees of membership between 0 and 1. This feature has made the approach fruitful in a number of disciplines, such as mathematical logic, computer science, engineering, medicine, and the social sciences.¹⁶ The basic idea can also be applied to normative and legal concepts such as citizenship. Thinking in terms of fuzzy sets is especially useful when observers of a certain property in a number of elements can identify one or two thresholds. There is a lower threshold when it makes sense to differentiate elements on the basis of the degree to which they possess that property when the value of the property is above that threshold but not when it is below. Elements that are below the threshold can be all considered fully out the relevant set, whereas elements that are above the threshold are either partially or fully in the set. Conversely, there is a higher threshold when it makes sense to differentiate elements on

¹⁴ This formula is based on Goodin, ‘Enfranchising all affected interests, and its alternatives’. Section III of this article elaborates on its implications.

¹⁵ Lofti Zadeh, ‘Fuzzy sets’, *Information and Control*, 8 (1965), 338-353.

¹⁶ See for instance Senén Barro and Roque Marin (eds), *Fuzzy Logic in Medicine* (Heidelberg: Physica-Verlag, 2002); John Harris, *Fuzzy Logic Applications in Engineering Science* (Dordrecht: Springer, 2006); Charles Ragin, *Fuzzy-Set Social Science* (Chicago: University of Chicago Press, 2000); Terry D. Clark, Jennifer M. Larson, John N. Mordeson, Joshua D. Potter and Mark J. Wierman, *Applying Fuzzy Mathematics to Formal Models in Comparative Politics* (Berlin and Heidelberg: Springer, 2008).

the basis of the degree to which they possess that property when the value of the property is below that threshold but not when it is above. Elements that are above the threshold can be all considered fully in the relevant set, whereas elements that are below the threshold are either partially or fully out the set.

This reasoning can be applied to the problem at hand. The relevant property of individuals is the likelihood of being affected by decisions taken by a given state (affectedness, for short). A threshold is given by the circumstance that some individuals, by virtue of their being residents on the territory of the state, are ‘subject’ to its direct and coercion-backed authority. Such individuals are equally entitled to ‘full’ citizenship, i.e. to full and equal participatory entitlements. By contrast, non-residents may be ‘affected’ by but not ‘subjected’ to the authority of a state, and this justifies partial citizenship, i.e. participatory entitlements that are weaker than those associated with full citizenship.¹⁷ But how much weaker should they be? In other words, what degree of citizenship should states grant to non-residents? This question is addressed next.¹⁸

¹⁷ Also Bruno Frey advocates a form of ‘partial citizenship’, as well as ‘multiple citizenship’, but he conceptualizes it in a fundamentally different way. Frey’s partial citizenship would allow an individual to be a citizen of a political unit with respect to one particular function and a citizen of another political unit with respect to other functions; Frey’s multiple citizenship would involve splitting up the citizenship of persons simultaneously working and living in different countries. See Bruno S. Frey, ‘Flexible government for a globalized world’, *Global Democracy: Normative and Empirical Perspectives*. The general topic of ‘global citizenship’ is analysed by Luis Cabrera, *The Practice of Global Citizenship* (Cambridge: Cambridge University Press, 2010).

¹⁸ In addition to the fact that, as noted in the introduction, most states of the world allow extraterritorial voting, it may be of interest that some states establish *de facto differential voting rights* for resident and non-resident voters. In Croatia, France, Italy, Portugal, Algeria, Angola, Cape Verde, Mozambique, Colombia, Ecuador and Panama, the votes of citizens abroad are not added to the votes of resident citizens, but used to elect special representatives with reserved parliamentary seats. See Navarro Fierro et al. ‘External voting’, at p. 28. The proportion of seats reserved for expatriate representatives as a percentage of total seats in parliamentary assemblies ranges from 0.6% (in Colombia) to 8.3% (in Cape Verde). The effect of such arrangements is usually that the ‘weight’ of the votes of expatriates is significantly lower than the weight of residents’ votes. In the 2006 elections for the lower chamber of the Italian parliament, for

4. *Criteria for extraterritorial representation.* Under a fuzzy citizenship regime, the degree of citizenship that states should grant to non-subjects varies from state to state. The likelihood that a non-subject will be affected by a state's decision - *any* possible decision taken under *any* possible agenda – depends primarily on the resources that are controlled by that state. Hence, non-subjects should be granted relatively high degrees of partial citizenship by resource-rich states, and relatively low degrees of partial citizenship by resource-poor states. In short, extraterritorial participatory entitlements should be proportional to the resources controlled by the state.

It is possible that some kinds of resources are unlikely to have an impact on non-subjects, whatever decision is taken about their use. What kind of resources should enter in the calculation?¹⁹ A first step towards answering this question consists in the distinction between fungible resources, which are convertible into one another in the short or long run, and resources that are strictly not convertible. Fungible resources include tangible assets such as land, natural resources, factories, infrastructure, goods, weapons, etc, as well as intangible assets such as skills and 'social capital'. Ideally, all fungible resources should be included in the calculation of extraterritorial participatory entitlements, since decisions on whether and how to convert them are likely to affect all non-subjects. This is because even if the current form of the resource cannot affect them, a 'converted' form probably would. By contrast, strictly nonfungible resources do not *necessarily* affect non-subjects, or affect only a subset of them, which suggests that their likely effect would need to be considered case by case. However, since the set of strictly non-fungible resources is small and possibly empty, this issue will not be considered further here.

Considering that the set of fungible resources is very heterogeneous, how should the various categories be aggregated for the purpose of calculating the proportion of votes that states should assign to extraterritorial constituencies, i.e. to partial citizens?

instance, there was one parliamentary seat for every 76,171 eligible electors voting in Italy, and one parliamentary seat for every 225,615 eligible electors voting abroad (own calculations based on Ministero dell'Interno, *Archivio storico delle elezioni*, <http://elezionistorico.interno.it>). As voter turnout was significantly higher in Italy than abroad, the difference between seats/voters ratios was substantially lower than the difference between seats/electors ratios.

¹⁹ I am grateful to Robert Goodin for highlighting important issue.

Unfortunately there is no straightforward answer to this question. One possible solution consists in focusing on the most ‘fungible’ kind of resource, which is probably national ‘income’ as captured by GDP. This shortcut would allow the application of very general rules, such as the rule that, in the legislature of each state, the percentage of seats for extraterritorially elected representatives should relate to the percentage of world GDP under the control of that state, taking into account what proportion of world population is already made up by full citizens of that state.²⁰

To be sure, several other calculation methods are plausible. Researchers of the Correlates of War project have created a Composite Index of National Capability, which is computed by summing all observations on each of six capability components (total population, urban population, iron and steel production, energy consumption, military personnel, and military expenditure), converting each state's absolute component to a share of the international system, and then averaging across the six components. One limitation of this index is that it does not capture an important aspect of material capability such as the possession of nuclear weapons, although it is plausible to maintain that the other components are correlated with the *potential* possession of nuclear weapons in the future, which would be consistent with the argument about fungible resources developed earlier. Another limitation of an index of material capabilities is, of course, that it does not include intangible and ideational resources,

²⁰ One possible formula could be: $S_e/S_j = (GDP_j/GDP_w) \cdot (POP_w - POP_j)/POP_w$, where S_e/S_j is the ratio of extraterritorial seats over total seats in the legislature of state j , GDP_j is the gross domestic product of j , GDP_w is the world's gross domestic product, POP_j is the population residing in j , and POP_w is total world population. For illustration, the following table provides calculations for two large rich countries, a large poor country, a small rich country and a small poor country, in 2009 (data from World Development Indicators).

| | GDP_j/GDP_w | $(POP_w - POP_j)/POP_w$ | S_e/S_j (% of seats) |
|------------|---------------|-------------------------|------------------------|
| USA | 0.284 | 0.955 | 0.271 (27.1%) |
| Japan | 0.123 | 0.981 | 0.121 (12.1%) |
| India | 0.022 | 0.829 | 0.018 (1.8%) |
| Sweden | 0.0071 | 0.9986 | 0.0071 (0.7%) |
| Costa Rica | 0.0006 | 0.9992 | 0.0006 (0.0%) |

although also in this case an argument about correlation between material and ideational resources could be made.

While the question of how to operationalize the principle of proportionality between resources and extraterritorial votes would inevitably be the subject to debate and contestation, the next section will argue that the principle itself is an appropriate way of realizing the all affected principle in a world of uneven interdependence.²¹

5. *Constitutional decisions.* Decisions that concern the basic rules and functioning of the fuzzy citizenship regime require special procedures. These decisions include which resources should enter into the calculation of extraterritorial participatory entitlements, the formula according to which resources are translated into seats, and how to assess whether states have correctly applied the rules about extraterritorial representation. Everyone in the world would be affected by such ‘constitutional’ decisions in equal degree, and hence everyone should have an equal chance to participate in taking them. The most straightforward way of implementing this requirement is to create a global assembly whose members are either elected directly by citizens around the world or are chosen by state legislatures. Since such a body would be concerned only with settling constitutional questions and ensuring the proper functioning of the regime, it may convene only occasionally on the basis of need.

III. JUSTIFICATION OF FUZZY CITIZENSHIP

The introduction stated that fuzzy citizenship would provide a way of realizing the all-affected principle in a situation in which jurisdictional boundaries between states determine patterns of affectedness, but only to some extent. This section aims at substantiating this assertion.

The principle that people who are significantly affected by a policy decision should have an opportunity to influence that decision underlies a range of diagnoses of political legitimacy under conditions of global interdependence. For instance, David Held argued

²¹ External representatives may be excluded from voting on decisions that pertain only very weakly and indirectly to a state’s use of scarce resources, for instance on traffic regulations.

that globalization undermines a key assumption of traditional democratic thought: the assumption of a ‘symmetrical’ and ‘congruent’ relationship between ‘decision-makers’ and ‘decision-takers’. Democracy is challenged by ‘the divergence that sometimes exists between the totality of those affected by a political decision and those who participated in making it (however indirectly) within a democratic state’²².

Diagnoses of this kind are often based, implicitly or explicitly, on some version of the all-affected principle. The principle itself has deep roots in history. The formula ‘*Quod omnes tangit ab omnibus approbetur*’ (what affects all should be approved by all), which is found in Justinian’s Code, was first used in a constitutional rather than private law sense in the thirteenth century, most famously in the writ by King Edward I of England that summoned the bishops and abbots to the so-called Model Parliament of 1295²³. Most generally, the principle can mean that those affected have a *veto* on the decision (a literal reading of Justinian’s formula); or that they are entitled to a *vote* (a weaker version already accepted in medieval theory and practice); or that they are entitled to *voice*, i.e. to be heard in a genuinely deliberative process. In this article, I assume that the principle is about voting rights, although many of the arguments presented here also apply to an interpretation stressing the right to express views and concerns in the context of a deliberative process leading to a decision.

As noted above, recent discussions of the principle owe much to the influence of Dahl. It has been invoked by other prominent political theorists, e.g. Jürgen Habermas, who stated that ‘[d]eficits in democratic legitimation arise whenever the set of those involved in making democratic decisions fails to coincide with the set of those affected by them.’²⁴ Important recent defences of the principle have been presented by Ian Shapiro and Robert Goodin.²⁵ Jeremy Waldron has gone as far as describing the principle ‘what touches all should be decided by all’ as ‘entirely unexceptionable’.²⁶

²² David Held, *Democracy and the Global Order* (Cambridge: Polity Press, 1995), at p. ix.

²³ Gaines Post, ‘A Roman legal theory of consent, quod omnes tangit, in medieval representation’, *Wisconsin Law Review* 1950 (1950), 66-78.

²⁴ Jürgen Habermas, *Time of Transitions* (Cambridge: Polity Press, 2006), at p. 78, emphasis removed.

²⁵ Ian Shapiro, *Democratic Justice* (New Haven: Yale University Press, 1999); Ian Shapiro, *The Moral Foundations of Politics* (New Haven: Yale University Press, 2003); Goodin,

The all-affected principle is useful to the extent that it provides a general criterion for assessing existing and hypothetical institutional arrangements. In order to perform this function, the principle needs to be disaggregated into more specific criteria. A first relevant distinction is between the ability of institutional arrangements to reduce ‘underinclusiveness’ and their ability to reduce ‘overinclusiveness’. Moreover, underinclusiveness and overinclusiveness can themselves be broken up into more specific concepts and criteria.

The likelihood that an institutional arrangement will be underinclusive depends to a significant extent on how the all-affected principle is understood. Goodin has probably provided the most expansive, and also most coherent and cogent, interpretation of the

‘Enfranchising all affected interests, and its alternatives’. For a discussion of the principle and further references to works that refer to it see Sofia Näsström, ‘The challenge of the all-affected principle’, *Political Studies*, Article first published online on 10 June 2010. The relationship of the principle with other approaches to ‘constituting the demos’ is examined by Christian List and Mathias Koenig-Archibugi, ‘Can there be a global demos? An agency-based approach’, *Philosophy and Public Affairs*, 38 (2010), 76-110.

²⁶ Jeremy Waldron, *Law and Disagreement* (Oxford: Clarendon Press, 1999), at p. 114. In fact, several authors have taken exception to the principle, or accepted it only in a substantially qualified form. Some reject the principle and want to replace it with something else, for instance Hans Agné, ‘A dogma of democratic theory and globalization: why politics need not include everyone it affects’, *European Journal of International Relations*, 12 (2006), 433-458; Raffaele Marchetti, *Global Democracy - For and Against: Ethical Theory, Institutional Design and Social Struggles* (London and New York: Routledge, 2008). Others develop what can be seen as restrictive variants of the all-affected principle, where participatory entitlements are justified only in relation to particular types of impact; for instance Carol C. Gould, *Globalizing Democracy and Human Rights* (Cambridge: Cambridge University Press, 2004); Macdonald, *Global Stakeholder Democracy*. Others yet argue that any application of the principle must be subject to stringent constraints and provisos, for instance Robert Nozick, *Anarchy, State, and Utopia* (Oxford: Blackwell, 1974), at pp. 268-271. It is not possible to address such objections and qualifications here. I assume without further argument that the all-affected principle is accepted as a valid foundation for assigning participatory entitlements, that its application should be suspended only in order to protect human rights, and that those human rights do not include the exclusive control over resources beyond what is necessary to keep out of poverty.

principle: a say should be given to anyone who might *possibly* be affected by any *possible* decision arising out of any *possible* agenda, and not just those who are *actually* affected by the course of action *actually* decided upon.²⁷ He also notes that the logical implication of this interpretation may well be that virtually everyone in the world should be entitled to vote on any proposal or any proposal for proposals. The risk that any institutional arrangement may fail to reach this demanding standard and produce underinclusiveness is clearly very high.

Goodin's formula is particularly useful because the distinction between specific decisions and agendas allows us to introduce a distinction between two kinds of underinclusiveness. One kind consists of being excluded from making decisions on a predetermined set of options. The other kind consists of being excluded from decisions on what options should be decided upon. Of the two kinds of underclusiveness – which can be called 'option-underinclusiveness' and 'agenda-underinclusiveness' respectively – the latter is arguably the most fundamental, and it violates one of the basic criteria for democracy stressed by Dahl: 'The members must have the exclusive opportunity to decide how and, if they choose, what matters are to be placed on the agenda.'²⁸ In practice, agenda-underinclusiveness is much more likely than option-underinclusiveness: most people may not be affected by any of the options that *actually are* on the table in any given decision-making situation, but may well be affected by options that *might* hypothetically be placed on the table.

The second criterion for assessing institutional designs is their ability to reduce overinclusiveness. Again, we can distinguish between two types of overinclusiveness. One type occurs whenever someone who is not affected by a decision is allowed to take part in making it. This can be called 'absolute' overinclusiveness. How serious is the risk of absolute overinclusiveness? It appears remote for any institutional arrangement that aims to realize Goodin's most expansive interpretation, i.e. to secure the inclusion of anyone who might *possibly* be affected by any *possible* decision arising out of any *possible* agenda. Goodin himself, however, notes that a somewhat different and more defensible interpretation, which requires the inclusion of anyone who might *probably*

²⁷ Goodin, 'Enfranchising all affected interests, and its alternatives'.

²⁸ Robert A. Dahl, *On Democracy* (New Haven: Yale University Press, 1998), at p. 38.

(as opposed to *possibly*) be affected by any possible decision arising out of any possible agenda, reduces the expansionary implications of the all-affected principle. This is the interpretation adopted in this article.²⁹

The second type of overinclusiveness can be called ‘relative’ overinclusiveness. If absolute overinclusiveness occurs whenever someone not affected by a decision is allowed to take part in making it, relative overinclusiveness occurs whenever someone who is (probably) less affected by a decision is included in the same way and to the same extent as someone who is (probably) more affected by it. A way to express differences in the degree of affectedness is the notion of an individual’s ‘stake’, which can be defined as ‘the pay-off difference between the better option from the individual’s perspective and the worse one’³⁰ Insofar as stakes as well as participation in decision-making are a matter of degree rather than a matter of all-or-nothing, absolute overinclusiveness is just a special case of relative overinclusiveness, namely a situation where the stake is ‘zero’ and participation is ‘full’.

Relative overinclusiveness is related to what Dahl called the ‘problem of intensity’ in democratic theory, i.e. how to deal with situations in which a minority prefers an alternative much more ‘passionately’ than the majority prefers a different alternative. Dahl suggested that the failure to take into account differences in intensity, especially in situations where minorities with intense preferences are systematically outvoted by majorities with weak preferences, contravenes the principle of equal consideration and

²⁹ Goodin suggested that overinclusiveness may not be a cause for concern even if it were to occur. He points out that, if people are required to vote on some issue that does not affect their interests, they will randomly distribute themselves equally across all options, leaving the overall outcome unaltered. In other words, including people who are not affected will not change the content of the decision. While this may show that overinclusiveness may not be a problem in theory, it still represents a massive problem for the purposes of institutional design. Creating effective opportunities for people to participate in a decision involves costs, which would be wasted if participants were not affected by the outcome. Allowing everyone to take part in any decision irrespective of whether they would be affected by it would constitute a massive violation of what Dahl called the ‘criterion of economy’. Dahl, *After the Revolution?* pp. 40-56.

³⁰ Larissa Conrath and Christian List, ‘Group decisions in humans and animals: a survey’, *Philosophical Transactions of the Royal Society of London B*, 364 (2009): 719-742, at 730.

respect that underpins many normative theories of democracy.³¹ Harry Brighouse and Marc Fleurbaey, and Terry Macdonald, have recently developed persuasive arguments in support of taking differences in stakes into account when allocating participatory entitlements.³²

The preceding discussion has yielded four criteria for the assessment of institutional designs: option-underinclusiveness, agenda-underinclusiveness, absolute overinclusiveness and relative overinclusiveness. The remainder of this section shows how fuzzy citizenship can reduce them simultaneously.

First, fuzzy citizenship reduces underinclusiveness because it assigns participatory entitlements to people who are not nationals but are affected by the decisions taken by the relevant legislature. A critical advantage of fuzzy citizenship is that it would reduce not only option-underinclusiveness but also agenda-underinclusiveness. This is because it applies to decision-making units whose authority extends to a wide and possibly open-ended range of policy issues. In contrast to other entities such as intergovernmental organizations, NGOs, and companies, the range of policy decisions that can be placed on the agenda of state legislatures is not constrained by a specialized ‘mandate’. It is usually the case that state legislatures can legitimately place on the agenda any decision except those that would infringe human rights. Within this constraint, states are general-purpose entities that decide about the extraction of resources and their allocation to a wide range of tasks, as well as about setting rules for a variety of social domains. Therefore access to state legislatures enables individuals to protect a wide range of their interests rather than only those stemming from particular social roles.

Second, fuzzy citizenship avoids overinclusiveness because it does *not* assign *equal* participatory entitlements to anyone who may possibly be affected by any possible

³¹ Robert A. Dahl, *A Preface to Democratic Theory* (Chicago: University of Chicago Press, 1956), pp. 91-102.

³² Brighouse and Fleurbaey, ‘Democracy and proportionality’; Macdonald, *Global Stakeholder Democracy*. Some authors defend this position on utilitarian grounds: failure to take intensities into account produces socially inefficient decisions, as the sum total of pay-offs across the group is lower than it could be otherwise. Marc Fleurbaey, ‘One stake one vote’, unpublished paper, 2008; see also Conradt and List, ‘Group decisions in humans and animals’.

decision under any possible agenda of any state legislature. A critical advantage of fuzzy citizenship is that it would address *relative* overinclusiveness (and ipso facto absolute overinclusiveness). This is so because it is based on a dual set of differentiation criteria: one that differentiates between beneficiaries of participatory entitlements (people) and another that differentiates between the entities that owe such entitlements (states). These criteria will be considered in turn.

With regard to the first differentiation, fuzzy citizenship avoids relative overinclusiveness because it recognizes that there is normally an important difference in likely impact between those who are directly subjected to the coercion-backed authority of a state (generally because they reside within the jurisdictional boundaries of that state) and those that are affected by its decisions in other ways. As the former are equally ‘subject’ to the authority of the state, they should be entitled to *equal* and *full* citizenship in the state. In terms of fuzzy set logic, they pass an intensity threshold of affectedness beyond which any further difference is irrelevant.³³ People over whom the state has no authority find themselves in a different position: they may be more or less affected by it, but the mere fact of not being subjects of the state entitles them to *less than full* citizenship, i.e. partial citizenship.³⁴

Are there are reasons for differentiating further among those non-subjects and assign *different degrees* of partial citizenship to different categories of non-subject? Since their

³³ In principle it could be argued that some residents are less ‘subject’ than others and therefore entitled to less than full citizenship. For instance, residents of a country X who have a guaranteed right to enter and settle in another country (e.g. because they are nationals of that country and left it voluntarily) might be seen as not being subject to the coercive authority of state X to the same degree as residents who do not have such a guaranteed entry and settlement right (e.g. because they are not nationals of any other state apart from X). The question is then whether better opportunities for ‘exit’ should result in weaker opportunities for ‘voice’. Whether this or any other differentiation between residents would be justified under any circumstance is simply noted here as a question that may deserve further consideration.

³⁴ Sofia Näsström has contrasted the all-affected principle with the ‘all-subjected principle’, according to which those subject to a rule should also be its authors. Näsström, ‘The challenge of the all-affected principle’. In the fuzzy citizenship approach, ‘being subject’ is a special case of ‘being affected’ that justifies *stronger but not exclusive* claims to citizenship.

affectedness has to be assessed in relation to any possible decision arising from any possible agenda, the answer is probably no: all non-subjects should be entitled to the same degree of partial citizenship. On the other hand, it could be argued that some non-subjects are more affected by the decisions of a state *whatever that decision might be*, for instance because poverty or refugee status places them in a particularly vulnerable position. I will not pursue this question further here, except to note that there might be some good reasons for distinguishing among non-subjects on the basis of general vulnerability.³⁵

With regard to the second differentiation mentioned above, the one relating to states, fuzzy citizenship reduces relative overinclusiveness because it does not impose the same participatory requirements on all states. As noted in the previous section, extraterritorial participatory entitlements should be proportional to the resources controlled by the state. Why this emphasis on resources? Recall the formulation of the all-affected proposed by Goodin: a say should be given to anyone who might *probably* be affected by any *possible* decision arising out of any *possible* agenda. In general, the impact of any decision depends on the content of the decision and on the resources that the decision-making unit could use to implement them. Of these two elements, the *content* of decisions cannot be used to determine who should have a say, because the content will probably depend on who has a say. Hence, the impact of decisions needs to be determined solely on the basis of how many resources are at the disposal of the decision-making unit.³⁶ Non-subjects have a higher *probability* of being *significantly* affected by a more resourceful decision-making unit than by a less resourceful decision-making unit. Indeed, many decision-making units, including some states, do not possess sufficient resources to be likely to affect any non-subjects in a significant way, whether beneficially or harmfully. Those units may be required to offer weak or no participatory entitlements to non-subjects either if the former can affect the latter significantly but only with a very low probability or if they can affect them with high probability but

³⁵ On the issue of granting more voting rights to the poor see Brighouse and Fleurbaey, 'Democracy and proportionality'.

³⁶ In contrast to Ian Shapiro, for whom 'the franchise is best defined activity by activity, decision by decision', I maintain that it can only be defined decider by decider. Shapiro, *Democratic Justice*, p. 235.

insignificantly. In sum, fuzzy citizenship reduces relative overinclusiveness by linking the extent of extraterritorial representation in states to the probability of them having a significant effect, via the resources they control.³⁷

In section II, a class of decisions was singled out as requiring a special procedure because of their ‘constitutional’ nature. These decisions concern the basic parameters and workings of the fuzzy citizenship regime. It was proposed to reserve these decisions to a special global assembly, whose members could be either elected by all citizens or chosen by all state legislatures. The justification for this special arrangement is that everyone would be affected by these decisions, and there is no reason to expect that some would be more affected than others. Since by design states do not offer equal opportunity for influence to everybody, those constitutional decisions need to be taken by an *ad hoc* body that offers such equal opportunities. It should be noted that this arrangement addresses an alleged difficulty of the all-affected principle, which is that the problem of defining democratically who is affected and therefore entitled to vote produces ‘a regression from which no procedural escape is possible’.³⁸ The institutional solution proposed here does not lead to such an infinite regression: since everyone is equally affected by the basic rules of the fuzzy citizenship regime, everyone should have an equal opportunity to shape them.

³⁷ Even a relatively weak state or non-state actor might have a significant impact on specific individuals when it concentrates its limited resources to uses that are detrimental to them. The best way to deal with this kind of situation is to create a system of obligations to provide *ex post* redress and compensation, not a duty to offer *ex ante* participation entitlements.

³⁸ Frederick G. Whelan, ‘Prologue: democratic theory and the boundary problem’, *Liberal Democracy: Nomos XXV*, ed. J. R. Pennock and J. W. Chapman (New York: New York University Press, 1983), p. 19. For a different conceptualization of this problem, see Näsström, ‘The challenge of the all-affected principle’.

IV. COMPARATIVE ASSESSMENT OF FUZZY CITIZENSHIP

Fuzzy citizenship is only one of many proposals aimed at reducing the ‘democratic deficit’ of global society.³⁹ Even if the arguments presented in section III are persuasive and it is accepted that fuzzy citizenship would promote the realization of the all-affected principle, this would not necessarily mean that fuzzy citizenship is the *best* way of doing so. Such a conclusion could only stem from a comparative assessment. This section presents some building blocks for such a comparative assessment, with the aim of stimulating further analysis and debate.

This section cannot provide a detailed discussion of specific institutional blueprints, and instead it aims at identifying how *general* design choices are likely to affect the ability of the proposed institutions to minimize both underinclusiveness and overinclusiveness. From this perspective, two dimensions of institutional variation seem especially important. The first dimension concerns the nature of governance in general, and is based on the distinction between a ‘pyramidal’ type of governance in which various nested decision-making units have competencies over a range of issues and there is no or little territorial overlap among them, and a ‘polycentric’ system of governance in which governance units are functionally specific and have significant territorial overlap with one another. The second dimension relates more specifically to the all-affected principle and depends on whether the proposed institutional mechanisms require or merely allow consideration of the fact that actual or potential participants in transnational democratic institutions are unlikely to have equal stakes or equally intense preferences on all issues that are to be decided collectively.

With regard to the first dimension, virtually no supporter of ‘transnational democracy’ thinks of it in terms of a centralized state. Almost all models expect authority to be diffused, accepting the plea by Dahl and Edward Tufte: ‘Rather than conceiving of democracy as located in a particular kind of inclusive, sovereign unit, we

³⁹ For overviews see Anthony McGrew, ‘Transnational democracy: theories and prospects’, *Democratic Theory Today*, ed. G. Stoker and A. Carter (Cambridge: Polity Press, 2002), pp. 269–294; and Daniele Archibugi, Mathias Koenig-Archibugi and Raffaele Marchetti, ‘Introduction: mapping global democracy’, *Global Democracy: Normative and Empirical Perspectives*.

must learn to conceive of democracy spreading through a set of interrelated political systems, *sometimes but not always* arranged like Chinese boxes, the smaller nesting in the larger'.⁴⁰ However, supporters of transnational democracy disagree on whether the 'nestedness' referred to by Dahl and Tufte should be the rule or the exception. Adapting for our purposes a typology of multilevel governance proposed by Liesbet Hooghe and Gary Marks,⁴¹ approaches to transnational democracy can be distinguished according to whether they envisage overlapping governance units forming a polycentric system or alternatively nested governance units forming a pyramidal system. In a pyramidal system, a range of different competencies and governance tasks are bundled in a limited number of jurisdictions operating at different, usually territorial 'levels'. There is no overlap between these jurisdictions at each territorial level, and the units at each level are 'nested' within those at the next higher level, so that there is one and only one relevant jurisdiction at any particular territorial scale. By contrast, in a polycentric system governance is exercised by a large number of functionally specific and specialized units, none of which has exclusive authority over a territory.

The second dimension of institutional design relates to the consideration of the intensity of affectedness. Institutional rules can *require* sensitivity to variation in affectedness or they can merely *allow* it. Such variation can be accommodated even in institutional arrangements that do not explicitly and formally recognize their relevance. Theoretical and empirical work on established democratic states suggests that electoral incentives, by pushing elected representatives to take into account the salience of issues for different groups of voters, allow members of minorities to exert disproportional influence on the issues they most care about.⁴² Moreover, vote trading among elected

⁴⁰ Robert A. Dahl and Edward R. Tufte, *Size and Democracy* (Stanford: Stanford University Press, 1973), p. 135, emphasis added.

⁴¹ Liesbet Hooghe and Gary Marks, 'Unraveling the central state, but how? Types of multi-level governance', *American Political Science Review* 97 (2003), 233-243.

⁴² Morris P. Fiorina, *Representatives, Roll Calls, and Constituencies* (Lexington, Mass.: Lexington Books, 1974); John David Griffin and Brian Newman, *Minority Report: Evaluating Political Equality in America* (Chicago: University of Chicago Press, 2008).

representatives allows for differences in preference intensity to be taken into account.⁴³ In sum, a range of political mechanisms can allow political actors to take into account variation in intensity even if this not required by ‘constitutional’ rules.

| | | Sensitivity to intensity | |
|--------------|-------------|---------------------------------------|---|
| | | Allowed | Required |
| Jurisdiction | Overlapping | 1 <i>Example: FOCJ</i> | 2 <i>Example: Global Stakeholder Democracy</i> |
| | Nested | 3 <i>Example: World federalism</i> | 4 <i>Example: Fuzzy citizenship</i> |

Fig. 1. Forms of transnational democracy

As shown in Figure 1, these two dimensions can be used to identify four categories of transnational democracy models. The remainder of this section examines whether three prominent models of transnational democracy, which are located in cell 1, 2 and 3 in Figure 1, might address problems of underinclusiveness and overinclusiveness more effectively than fuzzy citizenship, which is located in cell 4. The three models are the ‘functional, overlapping and competing jurisdictions’, which have been proposed by Bruno Frey and Reiner Eichenberger; ‘global stakeholder democracy’, which has been proposed by Terry Macdonald; and world federalism, which has been advocated by a variety of authors such as, recently, Raffaele Marchetti. Some of the remarks on world federalism also apply to the ‘cosmopolitan democracy’ approach developed by Daniele Archibugi and David Held.⁴⁴

⁴³ James M. Buchanan and Gordon Tullock, *The Calculus of Consent* (Ann Arbor: University of Michigan Press, 1962).

⁴⁴ Bruno S. Frey and Reiner Eichenberger, *The New Democratic Federalism for Europe: Functional, Overlapping, and Competing Jurisdictions* (Cheltenham: E. Elgar, 1999); Macdonald, *Global Stakeholder Democracy*; Marchetti, *Global Democracy – For and Against*; Held, *Democracy and the Global Order*; Daniele Archibugi, *The Global Commonwealth of Citizens: Toward Cosmopolitan Democracy* (Princeton, Princeton University Press, 2008).

Two caveats should be noted. First, the authors of those models do not necessarily justify them with reference to some version of the all-affected principle, but may use different normative yardsticks. The aim of this section is not to assess how well the proposed institutions are likely to achieve goals set by their authors, but how and how well they would meet the assessment criteria outlined in the previous section. Second, the models have different approaches to the decision-making units that may or may not have to grant participatory entitlements. Some – notably global stakeholder democracy and fuzzy citizenship – aim mainly at ‘democratizing’ existing decision-making units. The task is to add participatory mechanisms to those decision-making units. Others – notably functional, overlapping and competing jurisdictions, and world federalism – aim at creating new decision-making units, which would incorporate democratic participatory mechanisms by design.

Frey and Eichenberger argue that significant welfare gains would ensue from opening the market for government services to a range of public jurisdictions that specialize in the provision of particular services to individual citizens or communes, with none of those jurisdictions monopolizing authority over a particular territory. They call such entities ‘FOCJ’ (Functional, Overlapping and Competing Jurisdictions – the singular being ‘FOCUS’). They are functional in the sense that their size and geographical coverage are determined by the specific task to be performed, notably by issue-specific trade-offs between closeness to consumers and economies of scale. They are overlapping in the sense that the boundaries of different FOCJ do not coincide, and that several of them may operate in the same geographical area, providing a different or the same type of service. They are competitive because they incorporate two mechanisms of competition: citizens or communes can exit FOCJ and join others, which ensures market-like competition between FOCJ; and citizens or communes have voting rights on policy decisions and on the election of politicians and managers running the FOCUS, which promotes political competition within FOCJ. Finally, FOCJ are jurisdictions, because they have power to regulate and to tax their members. Their members may be either individuals or the smallest political units (‘communes’) with all their citizens – the choice of type of membership will depend on the type of service to be provided.

How does this proposal cope with the problems of underinclusiveness and overinclusiveness, as they have been defined in the previous section? FOCJ can produce intrasectoral and intersectoral, positive and negative externalities. For instance, waste disposal through incineration generates negative environmental externalities for non-members. This creates the potential of underinclusiveness, if members are unwilling to let affected outsiders participate in decisions. Recycling schemes, on the other hand, reduce the emission of greenhouse gases and thus generate positive environmental externalities for non-members. This may create a different risk of underinclusiveness, as non-members may refuse to join the scheme in order to avoid contributing to its cost. FOCJ will be underinclusive whenever members are interested in externalizing costs and reject the inclusion of affected outsiders, and whenever outsiders are interested in benefiting from positive externalities and prefer not to join the FOCUS that produces them. This is partly due to the voluntary nature of FOCJ. But it also depends on the fact that FOCJ are functionally specific: since they specialize in the production of one type of good, various kinds of decisions are not likely to be on the agenda. This results in agenda-underinclusiveness. Members of a FOCUS have a say on how the resources it raises should be used to provide a good or service, rather than considering every possible use that could be made of those resources. Fuzzy citizenship is more effective at avoiding these problems of underinclusiveness, because full citizens do not have the right to exclude non-residents from (partial) citizenship, and the multifunctional nature of states means that full and partial citizens can decide to use the resources controlled by the state in any way they wish.

Furthermore, the absence of explicit mechanism for taking the preference intensity of members into account exposes FOCJ to the risk of relative overinclusiveness. Frey and Eichenberger acknowledge that the single-issue character of FOCJ means that intense preferences cannot be revealed through vote trading, but they argue that intense preferences can be accommodated in other ways.⁴⁵ First, members with intense preferences are more likely to participate in votes and elections for FOCJ positions, and their particularly intensive demands may be taken into account by other members. The problem with these informal mechanisms is that the likelihood of active participation

⁴⁵ Frey and Eichenberger, *New Democratic Federalism for Europe*, pp. 11-12.

and the responsiveness of other members to one's demands are dependent not only on the intensity of preferences but also on a range of other factors, and the risk is that structurally disadvantaged members may become disenfranchised rather than empowered through them. Second, Frey and Eichenberger note that 'minorities with intensive preferences can establish a FOCUS designed to care for their special interests'. However, in some cases such separate FOCJ would forfeit economies of scale in the production of collective goods, and as a result a FOCUS that is more responsive to people with certain interests may also be less able to satisfy them. Special FOCJ for people with intense preferences may also increase the risk of exposing minorities to the externalities produced by majorities, so that relative overinclusiveness is reduced at the cost of creating underinclusiveness. These problems are unlikely to emerge in a fuzzy citizenship regime, since it incorporates a basic rule for differentiating between more affected and less affected people and it does not hinder vote trading as a way of taking into account more fine-grained differences in affectedness.

Whereas Frey and Eichenberger are mainly concerned with the creation of new entities that would provide collective goods more efficiently, and give reasons why they should be governed democratically, Terry Macdonald's 'global stakeholder democracy' is based on the observation that today power – crucially, power that impacts in problematic ways upon the capacity of individuals to lead autonomous lives – is already exercised not only by states but also by a variety of nonstate actors that operate across state borders, such as NGOs, transnational corporations and intergovernmental organizations. Given the existence of these decision-making units, the problem is to create participatory mechanisms involving groups of individuals whose autonomy is most deeply affected by those decision-making units. In global stakeholder democracy, what here is called *absolute* overinclusiveness could be kept in bounds by according participatory entitlements to affected individuals.⁴⁶ What here is called *relative*

⁴⁶ In *Global Stakeholder Democracy*, Macdonald adopts stricter criteria for assigning participatory entitlements to individuals, as they are due 'only in relation to those forms of power that impact in problematic way upon their autonomy', i.e. their capacity to 'formulate and effectively pursue authentic personal goals' (p. 41 and p. 37) and moreover only by agents who are somehow *responsible* for their autonomy, where responsibility must be determined politically for each context (p. 87). She also points out that in 'common-sense moral shorthand'

overinclusiveness is limited by creating a decision-making context in which the *substance* of stakeholders' interests is treated as subjective but the *intensity* of interests can be 'objectively' assessed. In the liberal pluralist representative ideal underlying the multi-stakeholder model, the decision-making process is thus divided in two stages. In the first stage, electoral or non-electoral mechanisms of authorization and accountability provide stakeholder representatives with mandates that reflect their constituents' subjective interests. In the second stage, stakeholder representatives make final decisions on the basis of a deliberative process that takes into account the interests of all stakeholders, and specifically 'objectively' assesses the relative intensity of the conflicting interests of various stakeholder constituencies. In other words, the tension between competing stakeholder claims are not solved by stakeholder representatives through aggregative mechanisms such as voting, but through deliberative judgements based on shared standards of 'rationality' and 'reasonableness'.⁴⁷

The ability of global stakeholder democracy to reduce overinclusiveness and underinclusiveness, as they have been defined in the previous section, is subject to significant limitations because of two reasons. First, its ability to address relative overinclusiveness depends on the effectiveness of deliberation as a mechanism for producing agreement. As Macdonald acknowledges, deliberation may fail to perform this function and decision-making may ultimately have to be based on aggregative mechanisms.⁴⁸ Fuzzy citizenship provides an aggregative solution that guarantees consideration of intensities even when deliberation fails to produce agreement.

Second, global stakeholder democracy could result in significant levels of underinclusiveness because individuals are represented according to *issue areas*.⁴⁹ As noted above, individuals can be affected not only by the decisions that are actually made but also by decisions that could have been made, yet were not made. Restricting the activities of agents to specific issues or issue areas, even with broad boundaries, often

there is a link between responsibility on the one hand and 'action' as opposed to 'omission' on the other hand (p. 38). By contrast, the interpretation of the all-affected principle adopted in this article does not privilege action over omission.

⁴⁷ Macdonald, *Global Stakeholder Democracy*, pp. 146-50.

⁴⁸ Macdonald, *Global Stakeholder Democracy*, p. 159.

⁴⁹ Macdonald, *Global Stakeholder Democracy*, p. 158.

amounts to narrowing the range of possible options and producing what here is called agenda-underinclusiveness. For illustration, consider the example of a NGO with a mandate to promote labour rights that has to decide how to allocate a substantial amount of funds among a wide range of possible activities, such as providing direct income support to workers in need in poor countries, financial and organizational support for creating labour unions, child care for working mothers, schooling for child labourers, and other tasks. It is conceivable that none of those issue-specific activities would have a significant impact on the interests or autonomy of many people with HIV/AIDS in a poor country. If so, those people with HIV/AIDS would have no legitimate claim to participate in the decisions of that NGO, even though the resources controlled by the NGO could make a substantial difference to their quality of life if the funding of health care were included on the agenda. This situation is a consequence of an *a priori* limitation of the range of options available to the NGO.⁵⁰

By contrast, as noted several times in this article, fuzzy citizenship addresses the problem of agenda-underinclusiveness by extending participation in decision-making units with an unrestricted agenda rather than an issue-specific mandate – states. But how does fuzzy citizenship deal with the forms of power that global stakeholder democracy is meant to target, i.e. non-state power exercised by large transnational corporations, NGOs, and intergovernmental organizations? States should normally be able to regulate non-state actors operating on their territory, and therefore citizens of states should be able to affect the decisions of those non-state actors *indirectly* through their influence on state regulatory policy. Elsewhere I have argued that, at least in the case of transnational companies, this indirect form of control can fail because of four reasons: regulatory competition, collusion between state officials and companies, subversive activities by

⁵⁰ Macdonald recognizes the problem of alternative uses of resources and notes that, '[o]nce we view the impact of NGOs' activities in light of opportunity-costs as well as their actual outcomes, we see that the impact for which they should be accountable are very similar to those of elected state governments with respect to resource allocation'. Macdonald, *Global Stakeholder Democracy*, p. 79. But a key feature of state governments, which set them apart from most other actors, is that their decision-making competencies extend to all issues – their agendas are not restricted in any way, unless such a restriction stems from a prior constitutional and/or democratic decision.

companies, and state weakness.⁵¹ If fuzzy citizenship were to ameliorate ‘accountability’ gaps due to state weakness, it would be only indirectly and in the long run. But a fuzzy citizenship regime would probably address competitive deregulation more directly: companies would find it more difficult to avoid stringent regulation by threatening to shift operations across borders and playing states against each other, if the interests affected by those companies were represented in the legislatures of their home country and at the same time in a variety of potential host countries. Similarly, collusion between companies and officials of host states, and covert subversion of the political system of host states, could be reduced if the interests of people in host states were represented in the legislature of home state, which would be likely to provide an additional, and probably substantial, constraint on company behaviour.

If agenda-underinclusiveness is a persistent problem for proposals that focus on the democratization of issue-specific organizations, we need to examine whether it may be less of a problem for institutional models that occupy the third cell of Figure 1, specifically world federalism. According to the federal approach, underinclusiveness can be reduced by shifting authority over a particular issue area ‘upwards’, i.e. to a more encompassing decision-making unit. Similarly, overinclusiveness can be reduced by shifting decision-making authority ‘downwards’, i.e. to smaller territorial units that are ‘nested’ in the larger one. The principle of ‘subsidiarity’ is often invoked as a criterion for allocating authority over policy areas among territorial levels, including in proposals for global democratization,⁵² but the principle itself is subject to several alternative interpretations, as Andreas Føllesdal has shown.⁵³

The federal approach to minimizing underinclusiveness and overinclusiveness has some limitations. The allocation of authority over a certain policy area to a certain governance unit results in a restriction of the decision-making agenda for all other governance units, at the same or at a different level. This can result in option-underinclusiveness as well as agenda-underinclusiveness. Option-underinclusiveness remains a problem when the choice among the options *on the agenda* of a given

⁵¹ Mathias Koenig-Archibugi, ‘Transnational corporations and public accountability’, *Government and Opposition*, 39 (2004), 234-259.

⁵² Held, *Democracy and the Global Order*; Marchetti, *Global Democracy – For and Against*.

⁵³ Andreas Føllesdal, ‘Subsidiarity’, *Journal of Political Philosophy*, 6 (1998), 190-218.

governance unit affects people who are outside of the territorial jurisdiction of that governance unit. This can be avoided only if the agenda of governance units were to include only options about which it can be said that no one outside the geographical boundaries of that unit would be affected by which one among them is chosen. To the extent that few policy issues can be circumscribed within neat territorial boxes, minimizing underinclusiveness may require the centralization of most or nearly all decisions at the most inclusive level, i.e. the global level.

Agenda-underinclusiveness remains a problem under federal arrangements because their proper functioning depends on a relatively stable definition of what is and what is not on the agenda of each governance unit, whereas the all-affected principle (at least in the version adopted here) applies principally to the determination of the agenda itself. A prior and all-inclusive decision on the content of any agenda before votes on any options are cast is probably not compatible with most interpretations of federalism as system of multilevel governance.

Federalism is vulnerable to these problems because it lacks some crucial features of fuzzy citizenship. Fuzzy citizenship reduces the problem of option-underinclusiveness deriving from extraterritorial externalities by overcoming the dichotomy of citizens who have a say and non-citizens who have no say at all. By assuming that all, or virtually all, choices about the use of scarce resources may have an extraterritorial effect and therefore give rise to extraterritorial participatory entitlements, fuzzy citizenship reduces underinclusiveness. Crucially, the fuzzy citizenship approach does not achieve this reduction in underinclusiveness at the cost of increasing relative overinclusiveness: since it assumes that residents are normally affected more strongly than non-residents by the decisions of territorial authorities, it maintains that the former should have a different, and stronger, citizenship status than the latter. By abandoning the constraint that people have to be either citizens or non-citizens of any given governance unit, fuzzy citizenship can address option-underinclusiveness and relative overinclusiveness more effectively than federalism.

Fuzzy citizenship also solves the problem of agenda-underinclusiveness that creates difficulties for federalism: as indicated in section II, a fuzzy citizenship regime applies to multifunctional territorial units whose substantive agenda is not restricted, either by

federal rules of competence or by specialized mandates. Full and partial citizens participate in determining the agenda as well as in choosing options from that agenda.

While the substantive agenda of territorial units would not be restricted under a fuzzy citizenship regime, there would be some procedural restrictions: as noted above, the basic rules of a fuzzy citizenship regime would affect everybody equally, and thus they cannot be placed on the agenda of states, which offer unequal participatory entitlements. The difference between federalism and fuzzy citizenship is that the former would assign to the ‘global’ level of authority a (potentially very wide) range of substantive competences in addition to procedural competences, whereas under fuzzy citizenship global institutions would focus on the procedural dimension. However, the fuzzy citizenship approach has important points of convergence with federalist approaches that emphasise the ‘constitutive’ and ‘dispute-resolving’ role of global representative institutions.⁵⁴

V. CONCLUSIONS

In contrast to world federalism, fuzzy citizenship does not entail the creation of a global government with substantive competences. In contrast to global stakeholder democracy, fuzzy citizenship does not require the addition of mechanisms of stakeholder representation for thousands of non-state organizations that may affect people’s ability to live autonomous lives. As proposals for reducing the global democratic deficit go, fuzzy citizenship could even be seen as requiring relatively modest institutional adjustments: as noted in the introduction, most states already allow non-residents to vote from abroad, and realizing the proposal would essentially entail dropping the requirement that those electors must be ‘nationals’ of the state.

Of course, matters are not so simple. Before any such institutional adjustments become conceivable, let alone feasible, a major conceptual adjustment is required: citizenship must no longer be seen as an all-or-nothing affair. This article has argued

⁵⁴ Notably Marchetti, *Global Democracy – For and Against*.

that, since different states have different impacts on different people, citizenship should be differentiated as well.

It is easy to develop this kind of arguments in academic journals. Another thing is for political entrepreneurs to move from abstract blueprints to programmes for political transformation that can attract the support of a broad coalition. Whatever the merits of the institutional change proposed in this article, the author of this article harbours no illusions that such a supporting coalition is likely to materialize. On the contrary, the outlook is certainly not rosy. One key obstacle to any programme for global democratization is, of course, the political construction of self-interest. U.S. President Lyndon B. Johnson warned in 1966 that ‘There are 3 billion people in the world and we have only 200 million of them. We are outnumbered 15 to 1. If might did make right they would sweep over the United States and take what we have. We have what they want.’⁵⁵ Johnson was speaking to troops stationed in Korea, and his speech implied that Americans had the might as well as the right to keep what they had. Political leaders may not always express such views so bluntly, but they are still predominant, and cosmopolitan advocates face an uphill battle in persuading the mighty to revise their views of what is right.

As noted above, the implementation of the fuzzy citizenship proposal would require a major conceptual shift in addition to major changes in norms and interests. It would be wrong to rule out the possibility of substantial conceptual innovations on the part of influential political entrepreneurs, and thus to condemn academic explorations into this unknown terrain as entirely futile. Shift happens. One prominent example must suffice. If the Founders of the United States had simply accepted what Dahl calls the ‘standard view’ until the eighteenth century, namely that ‘representative democracy was a contradiction in terms’,⁵⁶ they would have refrained from designing novel types of political institutions aimed to combine mechanisms of representation and political equality in a large polity. But instead they asked, as James Madison did in the Federalist No. 14, ‘why is the experiment of an extended republic to be rejected, merely because it

⁵⁵ John T. Woolley and Gerhard Peters, *The American Presidency Project* [online]. Santa Barbara, CA. Available from World Wide Web: <http://www.presidency.ucsb.edu/ws/?pid=27974>.

⁵⁶ Dahl, *On Democracy*, p. 94.

may comprise what is new?’ Madison contrasted the conservative attitude of the critics of the proposed Constitution with the forward-looking mindset of the Revolutionary leaders, who ‘accomplished a revolution which has no parallel in the annals of human society. They reared the fabrics of governments which have no model on the face of the globe.’⁵⁷

Today, in the light of unprecedented global challenges, attempts at nudging political leaders and citizens to engage in the kind of radical institutional imagination displayed by the American Founders are as worthwhile as ever.

⁵⁷ James Madison, ‘The Federalist No. 14’ (1788), in Alexander Hamilton, James Madison, and John Jay, *The Federalist* (London: J.M.Dent and Rutland, Vermont: Charles E. Tuttle, 1992), p. 66.