

DEMOCRACY AND SILENCE:  
RETHINKING THE MEANINGS AND SIGNIFICANCE OF  
SILENT CITIZENSHIP IN DEMOCRATIC SYSTEMS

by

Sean William David Gray

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## ABSTRACT

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Contemporary democratic theory is focused on empowering voice in collective political decision-making. The opposite of voice is silence: Citizens may remain silent rather than vocalize their preferences, needs, interests, or ideals. Yet traditional understandings of voice and silence in democratic theory fail to capture the changing circumstances of politics in developed liberal democracies, including shifting patterns of participation and nonparticipation, rising levels of distrust and disaffection, and an increasing tendency among citizens to choose silence over voice. But because contemporary democratic theory equates silence with deficits of democracy the meanings and significance of silence have not been adequately conceptualized. How, then, should we theorize and assess the silence of citizens in a democracy? Can silence itself ever be a form of political engagement?

In this dissertation, I offer tools for conceptualizing the dangers and possibilities for democracy that silent citizenship might pose, both as a symptom of political disempowerment and as an expression of political engagement. To do so, I develop a theoretical framework that maps different choices for silence to their expected political consequences. I identify four types of communicative silence that citizens may use to engage politically: affective, demonstrative, emulative, and facilitative communicative silence. I argue that, under certain circumstances, each of these four types of communicative silence can function as a low-cost, low-risk method for citizens to influence collective political decision-making, especially where opportunities for voice-based influence are limited. I suggest that greater attention to the expressive dimension of silent citizenship should motivate democratic theorists to design democratic institutions and practices to better anticipate and support communicative uses of silence in politics. To illustrate how the expressive possibilities of silent citizenship might be empowered, I propose a series of mechanisms that could enable and protect communicative choices for silence in electoral systems, representative relationships, and democratic deliberation. Understanding the democratic potentials of silence, I conclude, can provide a framework for evaluating otherwise neglected forms of political engagement, enhancing our capacity to imagine alternative means and methods of democratic influence, to improve collective decision-making, and to strengthen bonds of authorization and accountability between citizens and democratic institutions.

## PREFACE

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This dissertation is original, unpublished work by the author, Sean W.D. Gray

Chapter 1 draws in part on arguments advanced in Sean W.D. Gray, “Mapping Silent Citizenship: How Democratic Theory Hears Citizens’ Silence and Why It Matters,” *Citizenship Studies* 19 (2015): 474–491.

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*FOR MY PARENTS*

## Introduction

Let us think with sentences that contradict one another,  
speaking out loud in sounds that aren't sounds ...

Fernando Pessoa, *The Book of Disquiet*<sup>1</sup>

Across the developed democracies, large numbers of citizens are going quiet. Though supportive of democracy in principle, citizens today are more disengaged from their neighbourhoods and communities, more distrustful of politicians and parties, more sceptical of government goods and services, and less interested in voicing their frustrations in public or at the ballot box.<sup>2</sup> If you were to ask these citizens to justify their nonparticipation in politics, their answers would wildly differ. One person might answer that their commitments to work and family prevent them from attending to politics on a routine basis. Another might tell us their silence is wilful, and that they prefer politics to operate in the background of their lives when possible. Someone else might admit that they lack knowledge about current issues, are generally satisfied, and defer to the judgements of elected officials. Others might tell us that they're just not interested, or that they don't like politics – politicians seem to be always bickering like children. We might also hear that politicians seldom listen to the people in any case, and so there is little point in participating. Still another answer might be that people do not participate out of

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<sup>1</sup> Fernando Pessoa, *The Book of Disquiet*, trans. Richard Zenith (New York: Penguin, 2003), 342.

<sup>2</sup> For an overview and analysis of these trends, see Pippa Norris, *Democratic Deficit: Critical Citizens Revisited* (New York: Cambridge University Press, 2011), chaps 11-12. Norris's findings are consistent with earlier research on rising distrust and civic disaffection. See, for example, Russell J. Dalton, *Democratic Challenges, Democratic Choices: The Erosion of Political Support in Advanced Industrial Democracies* (New York: Oxford University Press, 2004); and, Susan J. Pharr and Robert D. Putnam, eds., *Disaffected Democracies: What's Troubling the Trilateral Countries?* (Princeton, NJ: Princeton University Press, 2000). A particularly troubling indication of the increasing silence of citizens is the slow but steady decline in voter turnout rates across the developed democracies. In Canada, voter turnout has fallen from regular highs of 75-79% in the 1960s and 1970s to a historic low of 58% in 2008. Other democratic countries, including the United Kingdom and the United States, report similar long-term declines in voter turnout. See Mark N. Franklin, *Voter Turnout and The Dynamics of Electoral Competition in Established Democracies Since 1945* (New York: Cambridge University Press, 2004), chap 7.

principle; refusing to give their support to institutions they perceive to be corrupt or unjust. Some silences may be conscious decisions to deny these institutions legitimacy. While other silences may indicate a general lack of choice in politics, resulting in the decision to completely abstain from participating. Silences may also point to a sense of alienation from the political system as a whole.

When we step back and consider the sheer diversity of reasons people may have for remaining silent in politics, it is surprising to see that this diversity is not reflected in contemporary democratic theory. It seems that democratic theorists don't quite know what to do with silence. As both a popular and a philosophical ideal, democracy aims primarily at giving those who are affected by collective decisions and policies *a voice* in making those decisions. Having a voice enables citizens to be heard within collectivities through arguments, debates, bargaining, and deliberation, for example, or through communicative acts that readily translate into voice, such as lobbying, petitioning, and voting. It is significant that two of the most basic features of modern democracies – electoral systems and representative institutions – operate on the assumption that citizens are willing and able to take on the burdens of voice in political life. What is more, among otherwise disparate theories of democracy there is an unacknowledged tendency to theorize silent citizenship exclusively through the lens of voice.<sup>3</sup>

As it stands, when democratic theorists encounter silence, they tend to view it as an absence of voice, and thus tend to read various disempowerments into silence, ranging

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<sup>3</sup> Jeffrey E. Green develops this line of criticism more fully in his discussion of the “vocal model of popular power,” which he argues has assumed a “hegemonic status” in contemporary democratic theory, traceable to the rebirth of democratic thought in the eighteenth and nineteenth centuries. See Green, *The Eyes of the People: Democracy in an Age of Spectatorship* (New York: Oxford University Press, 2010), chap. 3. For a similar argument about the overriding tendency of democratic theorists to conceive political participation in vocal terms, see Mark E. Warren, “Voting with Your Feet: Exit-Based Empowerment in Democratic Theory,” *American Political Science Review* (2011): 684–689. I detail consequences of this vocal ideal for current democratic thinking about silence over the course of the next two chapters.

from apathy and disaffection to acquiescence and domination. Under these circumstances, the meaning of silent citizenship has been almost entirely taken for granted. Silence is an indication of a lack of voice and a deficiency in democratic citizenship, a sign of people's marginalization and exclusion from politics through lack of resources, opportunities, confidence, competence, or articulateness. The silent citizen depicted in democratic theory and occasionally in political science is inattentive to public issues, lacks knowledge about public affairs, does not debate, deliberate, or take action, and most fundamentally, does not vote.<sup>4</sup> Silent citizenship, on these views, is clearly indicative of deficits of democracy – deficits that are best solved by devising new ways to support and empower people's voices within democratic institutions and practices.

The position that I take in this dissertation is not that this depiction of silent citizenship is wrong, but that, by itself, it is too narrow. Over the past several decades, it has increasingly become apparent that equating silent citizenship with disengagement and disempowerment no longer adequately accounts for the changing character of political participation and nonparticipation in developed liberal democracies. Though silence can and often does indicate deficits of democracy, three emerging realities strongly suggest that deficits are not the only reasons citizens have for remaining silent in democratic life. In different ways, these new realities make it clear that we need to be more precise about the meanings and significance we attribute to silent citizenship in democracies. We need a democratic theory of silence.

Consider, first, mounting evidence that contradicts the strong conclusion that silence straightforwardly reflects political disengagement. Though silent citizens may

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<sup>4</sup> Here, I am drawing on an analysis of silent citizenship I advance in Sean W.D. Gray, "Mapping Silent Citizenship: How Democratic Theory Hears Citizens' Silence and Why It Matters," *Citizenship Studies* (2015): 473–491.

decline to voice their preferences and judgements at the polls, it is increasingly apparent that they do have clear preferences and that these differ substantially from the preferences of those who vote and those who get elected.<sup>5</sup> For example, silent citizens are more likely to favour spending on public education, universal healthcare, social security, and other public goods, as well as government action on problems of social and economic inequality. What is more, of those who do not regularly vote in elections in countries like Canada and the United States, a majority report feeling that their elected representative did not speak for them.<sup>6</sup>

A second relevant trend has to do with shifting patterns of political participation across the developed democracies. Citizens – particularly *younger* citizens – are steadily migrating away from traditional forms of participation, such as voting, in large part because these expressions often fail to elicit clear responses from elected officials.<sup>7</sup> These citizens choose not to use institutionalized channels for voice, instead opting for more “discursive” forms of participation that bypass electoral politics in order to challenge political authority more directly, through abstentions, boycotts, sit-ins and vigils, as well as through social media, voluntary associations, and advocacy groups.<sup>8</sup> Not only do these

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<sup>5</sup> See, for example, Martin Gilens, “Preference Gaps and Inequality in Representation,” *PS: Political Science and Politics* 42 (2009): 335–341; John D. Griffin and Brian Newman, “Are Voters Better Represented?,” *The Journal of Politics* 67 (2005): 1206–1227; and, Jan E. Leighley and Jonathan Nagler, *Who Votes Now? Demographics, Issues, Inequality, and Turnout in the United States* (Princeton, NJ: Princeton University Press, 2014), chap. 6. Cf. Raymond E. Wolfinger and Steven J. Rosenstone, *Who Votes?* (New Haven: Yale University Press, 1980).

<sup>6</sup> André Blais, Shane Singh, and Delia Dumitrescu, “Political Institutions, Perceptions of Representation, and the Turnout Decision,” in *Elections and Democracy: Representation and Accountability*, ed. Jacques Thomassen (New York: Oxford University Press, 2014), 105–106. See also, Heather Bastedo, Wayne Chu, and Jane Hilderman, “Outsiders: Agency and the Non-Engaged,” in *Canadian Democracy from the Ground Up: Perceptions and Performance*, ed. Elisabeth Gidengil and Heather Bastedo (Vancouver: UBC Press, 2014); and, Stephen Coleman, *How Voters Feel* (New York: Cambridge University Press, 2013), chap 5.

<sup>7</sup> Russell J. Dalton, *The Good Citizen: How a Younger Generation Is Reshaping American Politics*, 2nd ed. (Washington, D.C.: CQ Press, 2015), chap 4. Similar trends in participation away from formal voice-based institutions have been found across the developed democracies, see Ronald Inglehart and Christian Welzel, *Modernization, Cultural Change, and Democracy: The Human Developmental Sequence* (New York: Cambridge University Press, 2005), 118–120.

<sup>8</sup> Lawrence R. Jacobs, Fay Lomax Cook, and Michael X. Delli Carpini, *Talking Together: Public Deliberation and Political Participation in America* (Chicago: University of Chicago Press, 2009), chap. 1. See also, Pippa Norris, *Democratic Phoenix*:

political expressions require fewer resources – time, money, and organizational skills – to deliver a message, but they also have the advantage of allowing people to communicate precisely and spontaneously the position they desire, while retaining control over the consequences of their choices. These are goods that traditional forms of democratic participation frequently do not deliver.

While these two emerging realities help to frame the broad problem of silent citizenship, in this dissertation I focus primarily on a third set of circumstances and possibilities. This concerns the fact the citizens might have reasons for remaining silent in politics besides disengagement and disempowerment. Indeed, citizens who *choose* silence for their own reasons could even be considered to have done so in a way that is active, engaged, and – as strange as it might at first sound – empowering. What is missing is a theoretical accounting of the possibilities for political agency and self-expression that people’s choices for silence may represent. Under certain circumstances, I argue, silence in the form of active nonparticipation in political decision-making can actually function as a means of influencing politics, including, for example, refusing cooperation, withholding support and recognition, or silently resisting relationships of domination and oppression. The difficulty, however, is that these empowering contributions of silence have been precluded from any serious consideration in contemporary democratic theory by too narrow a focus on the *disempowering* consequences of silence. As a result, the concept of silence has been left largely unexplored in democratic theory, associated exclusively with the failure or absence of voice in politics, and therefore with deficits of democracy. But if, as I suggest, silence can also be found to function in ways that empower people to influence the decisions that

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*Reinventing Political Activism* (New York: Cambridge University Press, 2002), 196-200.

affect them, then we shall need to revisit our conventional understanding of the meaning and significance of silent citizenship in liberal democracies today. My aim in this dissertation, therefore, is to rethink the problems and potentials of silence within democratic theory.

Only very recently have democratic theorists begun to notice that there are implications of silence that have gone unappreciated. “Withdrawal, abstention, and silence, are in fact forms of political expression,” Pierre Rosanvallon reminds us. “Indeed, they are ubiquitous forms of political expression, and it would be a mistake to overlook their importance.”<sup>9</sup> John Keane goes one step further in calling for a sustained focus on the significant, yet undertheorized, consequences of silence for current institutions and practices of democracy. “Given the fundamental importance of silence as a power resource,” he writes, “it is unfortunate that a political treatise on silence and its various effects remains unwritten.”<sup>10</sup>

Taking up this task, however, turns out to be complex problem and project. If we want to know what silence actually signifies or accomplishes in democratic politics, I argue, then we need a theoretical framework capable of mapping people’s choices for silence under different circumstances to their expected political consequences. This project requires that we deal with several conceptual and normative challenges more or less simultaneously. We need conceptual tools that could identify the conditions under

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<sup>9</sup> Pierre Rosanvallon, *Counter-Democracy: Politics in an Age of Distrust*, trans. Arthur Goldhammer (New York: Cambridge University Press, 2008), 186.

<sup>10</sup> John Keane, *Democracy and Media Decadence* (New York: Cambridge University Press, 2013), 229. This being said, there are a number of scholars who have pointed to exemplary instances of silence, and then sought to analyse their political significance. I am unaware of any attempt, however, to systematically conceptualize the terrain of silence in a way that would allow us to generalize about its democratic potentials. See, for example, Danielle Allen, “Anonymous: On Silence and the Public Sphere,” in *Speech and Silence in American Law*, ed. Austin Sarat (New York: Cambridge University Press, 2010); Susan Bickford, *The Dissonance of Democracy: Listening, Conflict, and Citizenship* (Ithaca: Cornell University Press, 1996), 153-158; Kennan Ferguson, “Silence: A Politics,” *Contemporary Political Theory* 2 (2003): 49–65; Vincent Jungkunz, “The Promise of Democratic Silences,” *New Political Science* 34 (2012): 127–150; and, John Zumbrennen, *Silence and Democracy: Athenian Politics in Thucydides’ History* (University Park, PA: Pennsylvania State University Press, 2008), chap. 1.

which silence is an active expression of choice, and that could, at the same time, clarify the communicative implications of that choice. We need normative criteria by which to judge the benefits and dangers to democracy that different types of choices for silence might pose. And we need to use this framework as the basis for a broader discussion about how democratic institutions could be designed and reformed to better account for silence in developed liberal democracies.

### 1.1 THE PROJECT: BUILDING A DEMOCRATIC THEORY OF SILENCE

In this dissertation, I develop a theoretical framework for understanding the problems and possibilities of silence from a democratic perspective. I begin with the question: What could motivate different people to use silence to engage in democratic politics? Put differently, when and how is a choice for silence also an empowering form of political engagement?

The premise of this question, and thus the starting point of this project, is that silence holds the possibility of being a meaningful kind of political behaviour – even, sometimes, an active expression of individual or collective choice. I argue that if we frame silence in terms of choice – as paradoxically arising in democracies from expressions of choice *and* from various disempowerments that undermine choice – we can develop a series of distinctions that will allow us to think systematically about silence in the political domain, and to distinguish choices for silence as more or less beneficial for democracy.

Following this strategy leads us to define two very different generalized conceptions of silence. Though sometimes overlapping, they drive our normative

intuitions about silence in opposite directions. On the one hand, we can identify clear cases of what I call *disempowered silence*. Disempowered silences are what contemporary democratic theorists have in mind, I argue, when they think about problems of silence in democratic political systems. They encompass the experiences of those who find themselves *being silenced* in the political domain, including, for example, women, immigrants, racial and cultural minorities, and indigenous groups. They are the consequences of people's marginalization and exclusion from the democratic process on free and equal terms. They arise from barriers to voice and participation that effectively reduce people to silence. Historically, such barriers have taken the form of denial of basic rights and standings of democratic citizenship, including, most fundamentally, the right to vote. Other barriers take the form of structural inequalities in power and circumstance, such as poverty, discrimination, unequal access to education and economic opportunities, inadequate resources, and other vulnerabilities that limit realistically available options. Given the moral urgency of overcoming these barriers, it is easy to understand how democratic theorists might slip, with little notice, into equating silence – all silence – with disempowerment.

On the other hand, our opinions might change once we turn to consider a second conception of silence, which I call *communicative silence*. The conception of communicative silence, which I develop in this dissertation, describes situations in which people's deliberately quiet inaction – their conscious resistance to vocal participation – has an expressive dimension that enables others to understand the implications of their silence. In democratic theory, we may be less accustomed to thinking of people's choices for silence as expressions. But, as it turns out, most communicative silences are, I

suggest, easily recognizable as facets of ordinary social life. So, to understand the *political* meanings of silence, we need to first understand the variety of possible communicative functions that silences can have in social interactions more generally.

I argue that we can think of people's communicative choices for silence in politics as comprising four types. *Affective* communicative silences are used to express reactive attitudes to someone else, like anger, blame, indignation, or opposition, in order to punitively sanction them. *Demonstrative* communicative silences are used to wordlessly disclose information about oneself, such as one's commitments, beliefs, or preferences. *Emulative* communicative silences are chosen to indicate compliance with specific institutional rules or social norms that entitle some to speak instead of others, or none at all. *Facilitative* communicative silences are chosen out of respect for interpersonal norms of civility, tact, and polite conduct, which require sometimes remaining silent in order to listen, for example, or to avoid interrupting others. Making these distinctions enables us to begin to identify the possible ways in which people's choices for silence can also be forms of political engagement. The result is a typology of communicative silence that provides us with a sense of what consequences we should expect from different choices for silence in politics. Whether the consequences of these choices are beneficial or not to democracy is another question. Indeed, I would argue that we risk overgeneralizing about the democratic possibilities of silence if we are not also careful to acknowledge that communicative silences can also just as easily detract from, rather than enhance democracy.

In evaluating the democratic potentials of silence my strategy is to borrow two normative criteria that are increasingly common in contemporary democratic theory –

*nondomination* and *inclusion* – and then to ask whether the different types of choices for silence I identify contribute to or undermine these norms. Thus, if a person can use silence to refuse to cooperate with the arbitrary dictates of others, this has the effect of expanding their options for self-determination, contributing to the democratic norm of nondomination. If silence can also be used by a person to exact a cost on a relationship that induces responsiveness from others, then this contributes to the democratic norm of inclusion. In this way, I connect silence to politically empowering choices, while attending to contexts within which opportunities for voice and participation are otherwise limited.

When we assemble all of these components – our conception of disempowered silence, our conception of communicative silence, as well as our normative criteria – I suggest that we have the necessary framework for building a democratic theory of silence.<sup>11</sup>

## 1.2 THE CONCEPT OF SILENCE

One of the major ambitions of my dissertation is to make relevant for democratic theory the concept of silence. My discussion so far has used “silence” as a sort of placeholder term, without explaining or justifying what I understand its definition to be. Attention to the concept of silence itself is not routine in democratic theory. It is more common to impute to the silent citizen a disempowered motive for silence and to then work towards its resolution. Notwithstanding that silence most often appears as a corollary of

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<sup>11</sup> To avoid misunderstanding, however, let me indicate at the outset what this dissertation *is not*. While my goal is to theorize silence from a democratic perspective, I do not do so in order to advance any one vision as to what the role and function of silence within democratic institutions and practices should properly be. Nor do I advocate for a *greater* amount of silence in everyday life, as some have done, for instance, in criticizing mainstream cultures that are too “noisy” or “garrulous.” These are quite different projects, and – I would argue – presuppose the kind of careful conceptual work I aim to accomplish here. See, for example, Stuart Sim, *Manifesto for Silence: Confronting the Politics and Culture of Noise* (Edinburgh: University of Edinburgh Press, 2007).

nonparticipation in the domain of politics, there can be numerous other motivations for silence, some disempowered, while others potentially communicative. For this reason, we need to expand the concept of silence beyond its conventional understanding in democratic theory so that it is no longer just a metaphor for nonparticipation – so that it accommodates a much broader view of the place and functions of silence generally.

Though some democratic theorists are beginning to recognize that considerations of silence might play a greater role in democratic theory, there remain serious doubts about our ability to generalize about silence. Some commentators even go so far as to suggest that the concept of silence – if it is even appropriate to consider silence as a single concept – eludes any coherent definition. Kennan Ferguson, for instance, rejects attempts to define silence as “doomed to fail,” concluding that the practical meanings of silence in politics will always be “radically indeterminate, [and] open to processes of domination, emancipation, and resistance which can never be fully contained, represented, or comprehended.”<sup>12</sup> Vincent Jungkunz likewise worries that the concept of silence may be “inherently insubordinate” and thus may “refuse to open up to observation, hypothesization, and operationalization.”<sup>13</sup> Despite this scepticism, I am convinced that we can not only generalize about the silence, but also do so in a way that is rigorous and, I hope, useful to both democratic theorists and political scientists alike. To this end, one contribution that this dissertation makes is to offer a fairly precise conceptual rendering of the political terrain of silence – one that, I believe, is rich enough not only to ground our normative judgments about silence, but also to generate hypotheses for future empirical research.

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<sup>12</sup> Ferguson, “Silence: A Politics,” 62-63.

<sup>13</sup> Jungkunz, “The Promise of Democratic Silences,” 149.

The concept of silence, as I define it, refers to moments where a person's *quiet inaction* stands out in light of prevailing expectations about how they ought to behave in a relevant situation. Though this definition may, at first, seem arguable and partial, it nevertheless underscores the important link between prevailing expectations and the perception of silence. "Silence," I argue, denotes not so much an empirical matter of fact – for example, the complete absence of noise or sound – as it does a social artefact. Silence is a description or state we attribute to individuals or groups in cases where their quiet inaction has significance in relation to us. The Latin *silentium* carries this understanding of something quiet, inactive, or at rest. It derives from *sileo*, which originally meant to make no sound or to cease to speak.

To clear the way for this definition, we can begin by testing its plausibility against our own personal experiences of silence. The paradigmatic experience of receiving the so-called "silent treatment" provides an illustration. Suppose that a person with whom we have an established relationship – a family member, a friend, a co-worker, or fellow citizen – is quietly unresponsive in our presence. In my view, we are primed to assign significance to this person's quiet inaction because of our previous expectations of the relationship, and so we begin to search for motives for their silence.

Punishment and passive aggression are common motives for silence in ordinary social life. But they are not the only common motives. We may also be silent when we listen to another person speak, when we hesitate in speaking ourselves, when we tacitly approve of other people's actions, or when we are simply idle out of apathy or disinterest. More generally, we may choose silence to express emotion, to demonstrate dissent, to facilitate collective decisions, or to regulate collective activities.

The concept of silence I develop here may be mostly unfamiliar within contemporary democratic theory, but it is well established as an important aspect of disciplines outside of the study of politics, including, among others, theology, philosophy, linguistics and communication studies, and the aesthetics of art and musical performance.<sup>14</sup> Three insights particularly contribute to how I conceive silence in this dissertation.

First, from Max Picard comes the notion that our experiences of language and silence are intertwined – where language ceases, silence begins. Picard finds in silence a method of escaping earthly corruption, since silence, unlike language, is “valueless.” It allows us to stand “outside the world of profit and utility,” making space for contemplation and reverence.<sup>15</sup> Second, additional observations about silence can be found in studies of music and the aesthetics of art and performance. A famous example is John Cage’s 1952 experimental composition *4’33”*, which instructs its musicians to sit silently in front of an audience for the duration of the performance. Cage’s intention is to highlight how an audience cannot help but read content into silence, as their attention is drawn towards previously unnoticed background noises – “try as we may to make a silence, we cannot.”<sup>16</sup> This elegant experiment inspired Susan Sontag to remark that silences are always perceived as a meaningful absences rather than absences of meaning. In art as much as in politics, there is “no neutral surface, no neutral discourse, no neutral theme, no neutral form” – “one must acknowledge a surrounding environment of sound

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<sup>14</sup> For an excellent survey and overview of this literature, see Kris Acheson, “Silence in Dispute,” in *Communication Yearbook 31*, ed. Christina S. Beck (Mahwah, NJ: Lawrence Erlbaum, 2007).

<sup>15</sup> Max Picard, *The World of Silence* (Chicago: Regnery, 1952), 18-19.

<sup>16</sup> John Cage, *Silence* (Middletown, CT: Wesleyan University Press, 1961), 8. For an extended analysis of the significance of Cage’s work for thinking about silence in music, see Kyle Gann, *No Such Thing as Silence: John Cage’s 4’33”* (New Haven: Yale University Press, 2010).

or language in order to recognize silence.”<sup>17</sup> Third, the philosopher Maurice Merleau-Ponty picks up on the feelings of disquiet we experience when confronted with the silence of someone else. Silence, in Merleau-Ponty’s formulation, has less to do with the absence of words or sounds per se; rather, it has more to do with the “inhuman gaze” that is noticed and “felt unbearable” because it “takes the place of possible communication.” So, ironically, a refusal to communicate “is still a form of communication.”<sup>18</sup> Building on Merleau-Ponty’s observations in his own pioneering philosophical work on silence, Bernard Dauenhauer considers silence to be neither “muteness nor the mere absence of audible sound,” but instead, “a conscious activity” we impute to others via surrounding “signs, sounds, gestures, or marks having recognizable meanings to express thoughts, feelings, state of affairs, etc.”<sup>19</sup>

Despite their differences in approach, what these insights share is that they all highlight the importance of *perception* both in identifying what counts as silence according to different people under different circumstances, as well as in specifying the range of possible meanings an audience may appropriately read into silence at any given moment. I take perception to be one of the defining features of silence. For the purposes of this dissertation, however, I am interested only in those perceptions of silence with meanings that directly spill over into politics, whether as a consequence of expressions of choice, of disempowering conditions that undermine choice, or of simple apathy or

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<sup>17</sup> Susan Sontag, “The Aesthetics of Silence,” in *Styles of Radical Will* (New York: Farrar, Straus and Giroux, 1969), 10-11.

<sup>18</sup> Maurice Merleau-Ponty, *Phenomenology of Perception*, trans. Colin Smith (New York: Routledge, 1962), 420. Susan Bickford also discusses the significance of Merleau-Ponty’s notion of “the gaze” as it might apply to politics. See Bickford, *The Dissonance of Democracy*, 143-145.

<sup>19</sup> Bernard P. Dauenhauer, *Silence: The Phenomenon and Its Ontological Significance* (Bloomington: Indiana University Press, 1980), 4-5.

inattention. Particularly within the domain of politics, I suggest that there are two key aspects of the concept of silence worth noting.

The first has to do with how silence is noticed and attributed in political contexts. Whatever the exact reasons for silence, it is something that is *relational* – emerging, as it does, *vis-à-vis* the perceptions of one person about another. Silence exists between people, and thus is always oriented towards others. Crucially, this relational aspect of silence is what distinguishes the concept from closely related ideas of *isolation* and *solitude*, sometimes confused with silence.<sup>20</sup> Isolation and solitude move in more individualistic directions: connoting the retreat from public life and society in general.<sup>21</sup> The concept of silence retains a crucial aspect of attachment to the world outside oneself in ways that solitude, for example, does not.

Second, using the concept of silence presumes a continued *presence*. When we perceive someone else to be silent, we presume, even if one-sidedly, that this person is in fact still present relative to us, and that this relationship has not simply broken off – as happens, for example, when someone runs from a quarrel, quits a political party, leaves an unsatisfactory job, or emigrates from a state. In short, the concept of silence is something attributable only to those who stay put. This presumption of presence – in

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<sup>20</sup> Ferguson, for instance, likens silence to “a basic withdrawal, whether from conversation or from the business of modern life.” Ferguson, “Silence: A Politics,” 55. But this, in my view, mixes silence with solitude. Because silence is *relational*, and because attributions of silence *depends* on the public perceptions of others, remaining silent is *not* the same as withdrawing – temporarily or permanently – from a relationship with other people.

<sup>21</sup> The distinction between silence and solitude I draw here parallels a similar one found in the writings of Ralph Waldo Emerson. Emerson praises solitude, as distinguished from silence, for cultivating individual virtues of fortitude and self-reliance. “To go into solitude,” he writes, “a man needs to retire as much from his chamber as from society.” Emerson, “Nature,” in *The Complete Essays and Other Writings of Ralph Waldo Emerson*, ed. Brooks Atkinson (New York: Modern Library, [1836] 1950), 5. For further discussion of Emerson’s views on solitude, see Alex Zakaras, *Individuality and Mass Democracy: Mill, Emerson, and the Burdens of Citizenship* (New York: Oxford University Press, 2009), 75-77.

either a proximate or mediated sense – is what distinguishes silence from concepts like *exit*.<sup>22</sup>

With these two aspects of the concept of silence in mind, we can now begin to map out the forms and functions of silence in practices of democratic politics. Examples of silence in politics, I am claiming, are identifiable both in *relational terms*, as quiet inaction occurring *between* people, as well as in *terms of presence*, as quiet inaction within an *ongoing* relationship between people. Attending to these two aspects allows us to identify meaningful instances of silence in the political domain. Yet, crucially, both aspects tell us nothing about what silence means or why people might use silence to engage in democratic politics. Neither do they provide us with grounds to develop the conceptual tools we would need to make judgements about the variety of political meanings and uses silence has. To do so – to develop the necessary tools – is the purpose of this dissertation.

### 1.3 SUMMARY AND PLAN OF THE DISSERTATION

In the chapters that follow, I walk through each of the conceptual distinctions needed to establish a framework for a democratic theory of silence. The first step is to get specific about the reasons that silence has not yet been adequately addressed in contemporary democratic theory. In Chapter 2, I suggest that the biggest obstacle to current thinking and theorizing about silence is an implicit consensus that silent citizenship is a clear

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<sup>22</sup> Brian Barry makes exactly this point while criticizing a tendency in the literature to assume that people have only two options when negotiating social and political disagreements: “exit” or “voice.” “[T]o speak of a choice between exit and voice is in fact to collapse two separate choices into one another,” Barry notes: “One choice is between exit (leaving) and non-exit (staying), *the other is between voice (activity, participation) and silence (inactivity, non-participation)*.” Barry, “Review Article: ‘Exit, Voice, and Loyalty,’” *British Journal of Political Science* 4, no. 1 (1974): 91. Italics mine. For further discussion of the concept of exit, see Albert O. Hirschman, *Exit, Voice and Loyalty: Responses to Decline in Firms, Organizations, and States* (Cambridge, MA: Harvard University Press, 1970); and, Warren, “Voting with Your Feet: Exit-Based Empowerment in Democratic Theory.”

indication of disengagement or disempowerment. The roots of this implicit consensus, I argue, lie in a tight connection that most contemporary democratic theorists draw between the concept of voice and the principles of democratic self-rule. This connection becomes most apparent, I suggest, when the definition of democracy is cast in purely normative terms. Democracy, according to its normative definition, is about the *inclusion* and *empowerment* of people's *voices*, such that they come to enjoy a sufficient degree of *nondomination* in those processes of collective decision-making that most affect them. I call this the *vocal ideal of democracy*. I do not argue that the vocal ideal of democracy is "wrong." To the contrary, voice is critical to democracy: it structures processes of collective decision-making ensuring responsiveness and accountability to those affected. The only problem with the vocal ideal of democracy, I claim, is that it inspires what is perhaps best described as a sort of "tunnel vision." In keeping with the vocal ideal, democratic theorists focus their attention exclusively on strengthening voice-based institutions and practices, with the consequence that silence, when it is noticed, is noticed only as evidence of failed or absent empowerments for voice. For this reason, silence would be thought to have little to do with the ideals of democracy, not least because silent citizens are seen to forgo having a voice in the democratic process.

What conception of silence is suggested by the vocal ideal of democracy? Answering this question is my focus in Chapter 3. To make headway on building a framework for understanding the democratic potentials of silence, I consider the one conception of silence that *is* well recognized and theorized from a democratic perspective, namely, *disempowered silence*. The conception of disempowered silence that is typically invoked within contemporary democratic theory responds to the fact that

silences arise most often from structural barriers to voice and political participation. Taking my cues from Iris Marion Young, I distinguish two widely recognized forms of disempowered silence: what I call *external silencing*, which results from restricted access to capacities, resources, and opportunities for voice and participation; and, what I call *internal silencing*, which arises from subtle kinds of prejudice and discrimination that can invalidate certain people's voices, even when there exist formal opportunities to participate.<sup>23</sup> These two forms of disempowered silence are particularly dangerous because they reinforce patterns of domination and exclusion, which exacts a heavy price on democracy *writ large* – epistemically, ethically, and in terms of democratic legitimacy. Notwithstanding these antidemocratic costs of silence, I argue that we can and should reject the idea that silence is *always* a consequence of disempowerment. Properly framed, however, the conception of disempowered silence constitutes an important, albeit incomplete, component of our theoretical framework for understanding silence.

With these preliminaries in place, the natural next step is to extend our framework of analysis by pursuing the suggestion that silence could also, under certain circumstances, be an active expression of choice. Starting with a careful mapping of the relationships between silence and power, I develop an opposing conception called *communicative silence* that pairs with the conception of disempowered silence already developed by democratic theorists.

My assertion that communicative silence has a place within democratic theory would surely ring hollow without some idea as to when and how we could expect choices

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<sup>23</sup> Iris M. Young, *Inclusion and Democracy* (New York: Oxford University Press, 2000), 53-57.

for silence to be politically empowering. In Chapter 4, I take up the search for these conditions. I proceed from the observation that people's choices for silence are, typically, enabled and protected in modern liberal democratic systems through the guarantee of a basic political and legal *right* to silence. Exercising this right to silence is thought to be empowering in at least two ways: it insulates against political domination, by ensuring there is the option to refuse cooperation with authorities; and, it maintains the voluntariness of political relationships, by ensuring that one's participation is being neither coerced nor compelled. Importantly, this account gives us a sense as to why silence might be a choice, as well as some clues as to where this choice is likely to function as a political empowerment. Silence is politically empowering, I argue, when the availability of silence *as a choice* expands people's options for self-determination. Within democratic institutions, a second unrealized potential also exists: Because it requires fewer resources, and it carries lower risks, silence can be used, by those whose voices would otherwise be marginalized and excluded, to induce responsiveness from decision-makers and other elites. The difficulty is not knowing in advance how silence will be interpreted by power-holders in a given situation. Indeed, it is just as likely that the presence of a right to silence will mask relationships of domination and exclusion, as it will protect against them. What we need, therefore, is a more fine-grained understanding of the communicative implications of choosing silence within different contexts.

In Chapter 5, I develop the conceptual tools needed to do precisely this: to account for the various things that can be communicated by people's silence. But accomplishing this task requires us to step outside the usual domain of democratic theory in order to draw upon resources found only in pragmatics and the philosophy of language

– and, specifically, in the *inferentialist* approach to language advanced by Robert Brandom.<sup>24</sup> Central to this approach is the claim that the practical meaning of our words and expressions is determined by what they entitle other people to *infer* about us under the relevant circumstances. I argue that much the same is true of our choices for silence. A choice for silence gains meaning and significance only through the *inferences* that it entitles its audience to make. I theorize these implications as communicative features of silence – tracing out their generic form and function – to identify four types of communicative silence that may also constitute political engagement: *affective*, *demonstrative*, *emulative*, and *facilitative* communicative silence. The result is a typology of communicative silence capable of grounding our expectations as to the probable political consequences of choosing silence under different circumstances.

With this conception of communicative silence in hand, we have all of the necessary components of a framework through which to theorize not only the problems, but also the possibilities of silence from a democratic perspective. In Chapter 6, I demonstrate how this theoretical framework can be brought to bear on more substantive questions of democratic institutional design and reform. Recognizing that, in practice, disempowered silences can be virtually indistinguishable from communicative silences, I argue that democratic theorists should be looking to design democratic institutions so that they are capable of anticipating and supporting the right kinds of inferences from silence, while disabling those that are false or inappropriate. I therefore propose a series of mechanisms that would parse silence roughly along the same lines that we have distinguished silence conceptually; separating disempowered from communicative

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<sup>24</sup> See Robert B. Brandom, *Making It Explicit: Reasoning, Representing, and Discursive Commitment* (Cambridge, MA: Harvard University Press, 1994), and *Articulating Reasons: An Introduction to Inferentialism* (Cambridge, MA: Harvard University Press, 2000).

silences within different institutional domains, including electoral systems, representative relationships, and deliberation in democratic decision-making. Considered together, these proposals provide a sense of the possibilities for democracy that are opened up when silent citizenship is not just taken to indicate disengagement or disempowerment.

Chapter 7 summarizes the main findings of the dissertation and highlights avenues for future research. The political landscape across the developed democracies is changing, and with this, so too are patterns of participation and nonparticipation. As citizens gradually shift away from traditional venues for voice and participation, there is a pressing need for democratic theorists to rethink the meanings and significance of silent citizenship. Understanding the democratic potentials of silence, I conclude, can provide a framework for evaluating neglected forms of political engagement, enhancing our capacity to imagine alternative methods of influence to improve collective decision-making, and to strengthen bonds of authorization and accountability that exist between citizens and democratic institutions.

## The Vocal Ideal of Democracy

Nature makes nothing pointlessly, as we say, and no animal has speech except a human being ... speech is for making clear what is beneficial or harmful, and hence also what is just or unjust ... And it is community in these that makes a household and a city-state.

Aristotle, *Politics*<sup>1</sup>

Democracy has traditionally been understood to be about empowering the voices of citizens. It is through voice, as Aristotle first argued, that citizens transform raw sense into reasoned judgment – distinguishing right from wrong, good from bad, and useful from harmful. And it is only by expressing judgments as voice, as democratic theorists argue today, that citizens hold sway over government – choosing who should hold power, how it should be used, and to what end. It follows that much of contemporary democratic theory is concerned with deepening institutions and practices that strengthen voice in democratic life. It also follows that contemporary democratic theorists have come to view silence – the conceptual opposite of voice – as evidence of deficits of democracy.

In this chapter, I explore a key reason for this contrast. I argue that at the core of contemporary democratic theory lies a vocal ideal – that is, a tight connection between the concept of voice and the principles of democratic self-rule. This ideal has important implications for how silence has been predominantly thought about and theorized from a democratic perspective. Serious political thinkers from Aristotle to present conceive of voice in the form of debating, deliberating, protesting and, indeed, voting, as essential elements of democracy. We also value many of the most basic features of modern liberal democracies – electoral systems and representative institutions, for example – precisely

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<sup>1</sup>Aristotle, *Politics*, trans. C.D.C. Reeve (Indianapolis: Hackett, [384-322BCE] 1998), 1253a14-17.

because they enable and empower the voices of citizens to be heard. So compelling is this vocal ideal of democracy that any conception of democracy that promises anything less would, I think, strike us as critically deficient. My concern here, however, is the extent to which democratic theorists are predisposed to notice *only* those silences that reflect the failed or absent voices of citizens in democratic politics. This has the unfortunate effect that contemporary democratic theorists have little, if anything, to say about what silence can signify or accomplish in politics besides deficits of democracy. In fact, I go so far as to suggest that the vocal ideal of democracy is our biggest obstacle to rethinking the democratic potentials of silence.

In order to trace the roots of the vocal ideal and to assess its impact on how silence is currently theorized, the first section of the chapter sketches a remarkable point of convergence within contemporary democratic theory. Notably, democratic theorists have increasingly come to share a common set of normative intuitions about democracy – specifically, they are principles about how we ought to judge institutions and practices of democracy. It is upon these principles that the fundamental justification for the vocal ideal is most often based. One of these principles is *nondomination*: citizens in a democracy, theorists agree, should not be exposed to relations of power that arbitrarily deny them capacities and opportunities for self-rule. Another normative principle is *inclusion*: citizens should have influence over collective decisions that potentially affect them. Together, these two principles combine to form what is a widely accepted definition of democracy cast in purely normative terms. In the second section of the chapter, I suggest that what contemporary democratic theorists value most about voice is that it makes it possible for citizens to realize nondomination and inclusion in practice.

Mechanisms of voice provide a means to structure collective decision-making processes to be responsive and accountable to those affected. Numerous additional benefits are thought to flow directly from voice, including, among others, providing for “better” decision-making, protecting and cultivating plural interests and dispositions, and enhancing public perceptions of democratic legitimacy. Understanding the primacy of voice in contemporary democratic theory is important in light of the broader theoretical ambitions of this dissertation. Indeed, if the principles of democratic self-rule identify exclusively with the benefits of voice, then it stands to reason that, in comparison, theorists’ valuations of silence will be overwhelmingly negative. I end with a brief discussion of the consensus about silence that has emerged as a consequence of the vocal ideal of democracy.

## 2.1 TWO PRINCIPLES OF DEMOCRATIC SELF-RULE

Does there truly exist an underlying vocal ideal in contemporary democratic theory? If so, then how should we go about uncovering it? The most straightforward strategy for answering these questions, I suggest, is to start by thinking through what “democracy” means in the abstract, and then move towards considering the ways in which this definition resonates in actually existing institutions and practices.

At the highest level of abstraction, democracy means and, I argue, is most often taken to mean, *collective self-rule* under conditions that provide those who are affected by collective decisions with opportunities to influence the making of those decisions. When John Rawls offers his vision of a “well-ordered constitutional democracy” in which citizens “exercise ultimate political power as a collective body,” he is embracing

this conception of democratic self-rule.<sup>2</sup> Robert Dahl expresses this conception with even greater clarity: “[A] democratic order is above all the freedom of self-determination in making collective and binding decisions: the self-determination of citizens entitled to participate as political equals in making the laws and rules under which they live together as citizens.”<sup>3</sup> The image of citizens making decisions together is revealing. It evokes Aristotle’s depiction of the ancient Athenian model of democracy, where “assemblies meet, sit in judgment, deliberate and decide.”<sup>4</sup>

My initial claim is that this conception of democratic self-rule, even in its incipient form, contains two complementary dimensions.<sup>5</sup> Each dimension poses a distinct set of organizational problems that remain relevant to how modern forms of democratic governance are understood today. The first dimension deals with the *distribution of empowerments* through which those affected gain standing to influence collective decisions. It raises organizational questions about the kinds of institutional arrangements necessary for democratic self-rule. The second dimension deals with the ways and means through which those affected *communicate* their preferences and judgments in processes of collective decision-making. Here, the questions are about how individual interests, wants, and needs get considered in reaching a collective decision.

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<sup>2</sup> John Rawls, *Political Liberalism*, expanded ed. (New York: Columbia University Press, 2005), 445.

<sup>3</sup> Robert A. Dahl, *Democracy and Its Critics* (New Haven: Yale University Press, 1989), 326.

<sup>4</sup> Aristotle, *Politics*, 1286a7. For a discussion of the differences between the ancient Athenian model of democracy in comparison to modern representative democracies, see David Held, *Models of Democracy*, 3rd ed. (Stanford: Stanford University Press, 2006), chap. 1.

<sup>5</sup> Here, I am making use of Mark Warren’s suggestion that democratic theories can be organized according to emphasis they place on “power mechanisms” versus “communicative processes of collective judgment.” See Warren, *Democracy and Association* (Princeton, NJ: Princeton University Press, 2001), 236n.1. Joshua Cohen draws a similar distinction in defining deliberative in terms of “two elements, neither reducible to the other”: “[1] making collective decisions and *exercising power* in ways that [2] *trace to the reasoning of the equals* who are subject to the decisions.” Cohen, “Deliberative Democracy,” in *Deliberation, Participation, and Democracy: Can the People Govern?*, ed. Shawn W. Rosenberg (New York: Palgrave Macmillan, 2007), 220. Italics mine.

Consider, first, the organizational problem of how to distribute empowerments within a collectivity. To be capable of democratic self-rule, all affected parties in a collective decision must have (ideally equal) opportunities to influence the decision.<sup>6</sup> This is a moral claim that entitles us to a distribution of basic rights and standings, as well as a minimum threshold of resources, all of which are necessary to guarantee equal chances for influence. The most familiar of these empowerments is the right to vote, which amounts to an equal distribution of the power of decision. Additionally, the distribution of empowerments could include more broadly, for example, distributions of political, civil, and social rights, as well as distributions of agency-enabling resources, such as education, status, and wealth.

Now consider the second organizational problem of how participants communicate judgments and preferences, and transform these into collective decisions. In deciding what to do together, we face a daunting task of trying to cooperate and form a collective will, despite inevitable disagreements about how best to do so.<sup>7</sup> As individuals, we need to possess a sense of what we want or think, and to be willing to share these preferences and judgments with others. As a group, we need mechanisms that allow us to consider what each of us wants in order to arrive at a collective decision that everyone can endorse – through argument, bargaining, negotiation, or deliberation, for example. For this reason, effective communication depends on there being institutional procedures

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<sup>6</sup> On the empowerment side, Adam Przeworski in fact lists four minimum conditions for collective self-rule: “Every participant must be able to exercise equal influence over collective decisions, every participant have some effective influence over collective decisions, collective decisions must be implemented by those selected to implement them, and the legal order must enable secure cooperation without undue interference.” Przeworski, *Democracy and the Limits of Self-Government* (New York: Cambridge University Press, 2010), 13. See also, Ian Shapiro, *The State of Democratic Theory* (Princeton, NJ: Princeton University Press, 2003), 55-58.

<sup>7</sup> For an overview of the kinds of communication necessary to democratic political decision-making, see Jack Knight and James Johnson, *The Priority of Democracy: Political Consequences of Pragmatism* (Princeton, NJ: Princeton University Press, 2011), chap. 5. On this point, see also, James Bohman, *Public Deliberation: Pluralism, Complexity, Democracy* (Cambridge, MA: MIT Press, 1996), 34-37; Robert E. Goodin, *Reflective Democracy* (New York: Oxford University Press, 2003), chap. 8.

and protections that ensure that participants can articulate and defend their views, and that they somehow find a place in collective decision-making.

There is a wide range of responses to these two organizational problems within contemporary democratic theory. We can usefully think of these responses as being along a spectrum. Some democratic theorists may place greater emphasis on the need for distributed empowerments of the kind that would enable citizens to hold their leaders accountable for their decisions. Some may even go so far as to argue, as does Joseph Schumpeter, that democracy is a purely “institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for people’s vote.”<sup>8</sup> Other democratic theorists, particularly deliberative and participatory democrats, may give priority to the second problem of collective judgment through communication. They may argue for a “talk-based approach to political conflict and problem-solving,” as one prominent group of theorists has recently done.<sup>9</sup> Or, perhaps they may take inspiration from Jürgen Habermas’s “discourse theory of democracy,” and frame self-rule primarily in terms of “communicatively generated power.”<sup>10</sup> There is a diversity of views about the kinds of institutions and practices needed to organize self-rule in a modern liberal democratic system, as well as a healthy amount of skepticism about the degree to which people are capable of self-rule. While this diversity of views must be respected, we can note that each has an answer to the same two sets of basic organizational questions: What kinds of empowerments are

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<sup>8</sup> Joseph A. Schumpeter, *Capitalism, Socialism, and Democracy* (New York: Routledge, [1942] 2003), 269.

<sup>9</sup> Jane Mansbridge et al., “A Systemic Approach to Deliberative Democracy,” in *Deliberative Systems: Deliberative Democracy at the Large Scale*, ed. John Parkinson and Jane Mansbridge (New York: Cambridge University Press, 2012), 5.

<sup>10</sup> Jürgen Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Democracy*, trans. William Rehg (Cambridge, MA: MIT Press, 1996), 301-302.

necessary for democratic self-rule? And, how are individual interests, wants, and needs communicated and considered in processes of collective decision-making?

In answering these foundational questions, my next claim is that contemporary democratic theories have increasingly coalesced around two distinct principles or “norms” of democracy: *nondomination* and *inclusion*. Together, these two norms constitute what might be considered a consensus definition of democratic self-rule. Focusing on this definition allows us to identify self-rule in normative terms, separate from the specific institutions and practices through which it is realized according to different democratic theories. It is in this common normative definition, I argue, that the first inklings of the vocal ideal of democracy can be found.<sup>11</sup> I elaborate these two norms of democratic self-rule below, before exploring their relationship to the vocal ideal of democracy in the rest of the chapter.

### 2.1.1 NONDOMINATION

The first norm of democratic self-rule has to do with *autonomy* and it arises from concerns about *domination*. In Philip Pettit’s influential formulation, people suffer domination whenever they are “exposed to a power of uncontrolled interference” in their decision-making.<sup>12</sup> It follows that people should not be subject to relations of power that arbitrarily deny them capacities and opportunities to make decisions for themselves. Central to this normative principle is the idea that individuals should be able to

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<sup>11</sup> The vocal ideal has elsewhere been described as the “vocal model of popular power”; and, the “voice-monopoly model of democracy.” See, respectively, Green, *Eyes of the People*, 9; Mark E. Warren, “Voting with Your Feet: Exit-Based Empowerment in Democratic Theory,” *American Political Science Review* 105 (2011): 684-686.

<sup>12</sup> Philip Pettit, *On the People’s Terms: A Republican Theory and Model of Democracy* (New York: Cambridge University Press, 2012), 52. See also, James Bohman, *Democracy across Borders: From Demos to Demoi* (Cambridge, MA: MIT Press, 2007), 45-47; Frank Lovett, *A General Theory of Domination and Justice* (New York: Oxford University Press, 2010), 119-123. Cécile Laborde casts the norm of non-domination in explicitly vocal terms: “To be non-dominated,” she writes, “is to be recognized as having a voice of one’s own.” Laborde, *Critical Republicanism: The Hijab Controversy and Political Philosophy* (New York: Oxford University Press, 2008), 155.

autonomously develop their own preferences, beliefs, and goals. This implies, first, that an individual's decisions should not be unduly influenced by the will or threat of interference from others. It also implies, more substantively, that individuals should have the capacities and opportunities necessary to exercise control over their own affairs.<sup>13</sup> Such autonomy requires *nondomination*: that individuals possess a sufficient distribution of empowerments – economically, socially, and politically – to avoid domination and to be able to direct the political duties and obligations that collective life imposes on them.

The connection between nondomination and democratic self-rule, as I am sketching it, has a long and traceable history in Western democratic thought, starting with Rousseau who argued that we are free in a society only when bound by laws we choose.<sup>14</sup> Nondomination taps powerful intuitions about self-determination that receive widespread allegiance among contemporary democratic theorists. Henry Richardson identifies this “liberal republican” point of consensus in democratic theory today: “The political process ought to be arranged so that individuals are not subject to arbitrary power, by which we centrally mean uses of power that do not flow from ... a fair process of discussion in which individuals are treated as free and equal citizens and their fundamental rights and liberties are protected.”<sup>15</sup>

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<sup>13</sup> There is some debate as to whether the republican conception of “non-domination” truly encapsulates the more familiar liberal conceptions of positive and negative liberty. For my purposes here, however, it is sufficient to note that, whether understood in liberal or republican terms, the fundamental goal of each of these conceptions is to enable and protect individual autonomy. According to John Dunn, the idea of autonomy is where “the power and appeal of democracy” historically lies. Dunn, *Democracy: The Unfinished Journey, 508 BC to AD 1993* (New York: Oxford University Press, 1993), vi. See also, Henry S. Richardson, *Democratic Autonomy: Public Reasoning about the Ends of Policy* (New York: Oxford University Press, 2002), chap 2; Habermas, *Between Facts and Norms*, 84-87; and, Held, *Models of Democracy*, chap. 10.

<sup>14</sup> See Jean-Jacques Rousseau, “The Social Contract,” in *The Social Contract and Other Later Political Writings*, ed. Victor Gourevitch (New York: Cambridge University Press, [1762] 2003), 49-50.

<sup>15</sup> Richardson, *Democratic Autonomy*, 52.

Most democratic theorists would echo these sentiments, albeit each with their own distinctive emphasis. Ian Shapiro, for instance, adds that we should value democratic procedures precisely because they provide “a means of managing power relations so as to minimize domination.”<sup>16</sup> Thomas Christiano links the realization of nondomination in liberal democracies to the public recognition that individuals have equal claims to autonomy. Democratic decision-making is one of the surest buffers against domination, he suggests, because it “enables us all to see that we are being treated as equals,” thereby discouraging the “domination of one group over others.”<sup>17</sup> Brian Barry similarly argues that democratic processes ensure that “the preferences of citizens have some formal connection with the outcome [of a decision] in which each counts equally.”<sup>18</sup> Even Schumpeter, who offers one of the most minimal theories of democracy we have, concedes that the relationship between “democracy and individual freedom” is “very important.” Individuals will be able to exercise judgment in the selection of their political leaders only if they have a substantial framework of rights and liberties, including “a considerable amount of freedom of discussion *for all*.”<sup>19</sup> These democratic theorists may disagree about how it is best achieved in practice, they might even refer to it differently,

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<sup>16</sup> Shapiro, *The State of Democratic Theory*, 3.

<sup>17</sup> Thomas Christiano, *The Constitution of Equality: Democratic Authority and Its Limits* (New York: Oxford University Press, 2008), 76, 196.

<sup>18</sup> Brian Barry, “Is Democracy Special?,” in *Democracy and Power: Essays in Political Theory* (New York: Oxford University Press, 1991).

<sup>19</sup> Schumpeter, *Capitalism, Socialism, and Democracy*, 271-272. In fact, some go so far as to argue that so-called “minimalist” views of democracy smuggle in a normative commitment to voice and autonomy as necessary pre-requisites for democracy, despite claiming otherwise. This is because, as David Held notes, “if one drops the notion of human beings as knowledgeable agents *capable of making political choices*, it is but a short step to thinking that all ‘the people’ need as ‘governors’ are engineers ... a vision which is anti-liberal and anti-democratic.” Held, *Models of Democracy*, 152-153. Italics mine. Thus even the most ardent critics of the central role of voice in democratic thinking, such as Jeffrey Green, concede that a “vocal model” is still necessary for democracy – for example, “without elections, leaders would have little obligation to make public appearances, let alone candid ones.” Green, *Eyes of the People*, 15.

but as we can see, they all agree that some version of the norm of *nondomination* is necessary for democratic self-rule.

### 2.1.2 *INCLUSION*

In addition to nondomination, most contemporary democratic theorists also embrace a second democratic norm concerning *inclusion*.<sup>20</sup> The appeal of this norm is equally intuitive and basic from a democratic perspective. Simply put, people have a claim to be included in collective decisions and policies that may impact their lives. They should have the opportunity, at minimum, to influence the outcomes of collective decisions that potentially affect them. Following Dahl, this norm of inclusion has come to be known as the *all-affected principle*: “everyone who is affected by the decisions of a government should have the right to participate in that government.”<sup>21</sup> Absent such rights of participation, individuals will be excluded from collective forms of self-governance in ways that can damage their autonomy and undermine their capacities for self-rule. Thus, as Iris Marion Young argues, “a democratic decision is normatively legitimate only if all those affected by it are included in a process of discussion and decision-making.”<sup>22</sup> In this respect, the norm of inclusion is more positive than is nondomination: Individuals should have opportunities to influence collective decisions that potentially affect them, including equal chances to initiate actions, raise concerns, debate, deliberate, demonstrate, and ultimately control how they relate to collective decisions.

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<sup>20</sup> For a discussion of the limitations of nondomination, and the necessity of pairing it with a norm of “involvement” or inclusion, see Patchen Markell, “The Insufficiency of Non-Domination,” *Political Theory* 36 (2008): 9–36. See also, Lovett, *Domination and Justice*, 210-217. Cf. Pettit, *On the People’s Terms*, 126-127.

<sup>21</sup> Robert A. Dahl, *After the Revolution? Authority in a Good Society* (New Haven: Yale University Press, 1970), 49.

<sup>22</sup> Iris M. Young, *Inclusion and Democracy* (New York: Oxford University Press, 2000), 23. See also, Habermas, *Between Facts and Norms*, 107, 365.

To be sure, there is an undeniably aspirational quality to the normative ideal of inclusion, especially in a world in which the effects of collective decisions and actions can reach across borders, and even across generations. Democratic theorists are still working out what the scope and implications of this norm should properly be.<sup>23</sup> Robert Goodin characterizes the problem as one of practicality. Should we “include every interest that might possibly be affected by any possible decision arising out of any possible agenda?”<sup>24</sup> The answer to this provocative question is vigorously debated.

One recent commentator has claimed that to have “one’s interests in general affected by others does not *itself* negate self-rule or autonomy and equal standing,” unless “the state [were to] subject them to coercion.”<sup>25</sup> Another has countered that, “enfranchisement in state decision-making is insufficient for self-rule, when many important decisions that order the common affairs of citizens are made by non-state actors or at levels above or below the nation.”<sup>26</sup> For our purposes here, it is enough simply to note that the democratic norm of inclusion, however formulated, is about establishing *who* has legitimate claim to influence collective decision-making. It is driven by an enduring intuition with a long and distinguished pedigree dating back to Roman law in the sixth century: *Quod omnes tangit, omnibus tractari et approbari debet*

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<sup>23</sup> For an excellent overview of the debate, see Sofia Näsström, “The Challenge of the All-Affected Principle,” *Political Studies* 59 (2011): 116–134. For further discussion, see also Frederick G. Whelan, “Prologue: Democratic Theory and the Boundary Problem,” in *Liberal Democracy*, ed. James R. Pennock and John W. Chapman (New York: New York University Press, 1983); Carol C. Gould, *Globalizing Democracy and Human Rights* (New York: Cambridge University Press, 2004), 175-180.

<sup>24</sup> Robert E. Goodin, “Enfranchising All Affected Interests, and Its Alternatives,” *Philosophy and Public Affairs* 35 (2007): 61.

<sup>25</sup> Arash Abizadeh, “On the Demos and Its Kin: Nationalism, Democracy, and the Boundary Problem,” *The American Political Science Review* 106 (2012): 878. Italics mine. For an alternative conception of inclusion centered on an “all-subjected principle,” see Nancy Fraser, *Scales of Justice: Reimagining Political Space in a Globalizing World* (New York: Columbia University Press, 2009), 65-67.

<sup>26</sup> Archon Fung, “The Principle of Affected Interests: An Interpretation and Defense,” in *Representation: Elections and Beyond*, ed. Rogers M. Smith and Jack H. Nagel (Philadelphia: University of Pennsylvania Press, 2013), 239.

(“Whatever touches all, must be considered and approved by all”).<sup>27</sup> We can give this intuition a more contemporary gloss. We can state that, whatever else democracy entails, it is fundamentally about self-rule under conditions that provide for the *inclusion* of those who are affected by collective decisions in making those decisions.

### 2.1.3 THE NORMATIVE DEFINITION OF DEMOCRATIC SELF-RULE

My approach thus far is to focus on what unites contemporary democratic theorists rather than divides them. My claim is that what democratic theorists share, at bottom, is a similar concern about how it is that a collection of individuals might organize their common affairs so as to live together and rule themselves as relative equals. This claim is encompassing enough, I believe, to capture a wide range of prominent views within contemporary democratic theory. Indeed, I suggest that we can frame *different* democratic theories as distinct responses to the same two sets of basic organizational questions: How should power be distributed in a collectivity? And, how should judgments and preferences be communicated and considered in collective decision-making?

When we survey responses to these two questions, a coherent normative definition of democratic self-rule begins to emerge from otherwise disparate theories of democracy. All democratic theorists endorse the value of *nondomination* in some form – that people should not be arbitrarily denied capacities and opportunities for self-determination. Equally, most democratic theorists would also endorse the value of *inclusion* – that people should have the standing to influence the collective decisions and actions that affect them. Each of these norms – nondomination and inclusion – is a

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<sup>27</sup> Hanna F. Pitkin, *The Concept of Representation* (Los Angeles: University of California Press, 1967), 85, 245-246. Pierre Rosanvallon similarly traces popular demands for inclusion back to this maxim, see Rosanvallon, *Counter-Democracy: Politics in an Age of Distrust*, trans. Arthur Goldhammer (New York: Cambridge University Press, 2008), 125-127.

necessary but not, by itself, sufficient condition for democratic self-rule. Each embodies one half of the answer as to how people should be organized and relate to one another in a democratic society. When combined, they give us a picture of what democratic self-rule looks like from an ideal standpoint. Ideally, we relate to one another in a democracy not as subjects, but instead as autonomous agents who all share a common fate, who all agree to fair terms of cooperation, and who all enjoy equal opportunities to influence the collective decisions that affect us – especially equal opportunities to freely communicate judgments, needs, and preferences in collective decision-making without the threat of domination.<sup>28</sup>

We can use the democratic norms represented in this picture as metrics for judging the actual institutions and practices of modern liberal democracies. With these norms in mind, we can ask whether and how far a particular institution or practice – including, in subsequent chapters, practices of silence – advances (or detracts from) nondomination and inclusion. Notwithstanding the fact that they may never be perfectly realized, these democratic norms resonate in the familiar sets of rights and empowerments that underwrite important features of developed liberal democratic systems today, including the rule of law, representative government, competitive elections, and civil liberties, as well as social entitlements like education, healthcare, and welfare.

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<sup>28</sup> Although, cf. Schumpeter, *Capitalism, Socialism, and Democracy*, 243-247.

## 2.2 THE PRIMACY OF VOICE IN DEMOCRATIC THEORY AND PRACTICE

What does voice have to do with the normative ideals of contemporary democratic theory? The short answer, I argue, is that voice is the most attractive mechanism for *organizing* norms of nondomination and inclusion into democratic institutions and practices.<sup>29</sup> Whether the method is direct participation in voting, campaigning, protesting, or speaking out, or the indirect expression of people's preferences, interests, and concerns through everyday talk, public opinion, and electoral representation, voice fulfills at least two basic organizational needs: it *communicates* information in order induce accountability and responsiveness in ways that *empower* individuals in processes of collective decision-making.<sup>30</sup> The democratic case for voice builds from this premise.

We value having a voice in a democratic politics, I would argue, because it allows us to communicate our convictions about the collective decisions we face. It permits a degree of control over the policies that most affect us, and enables us to resist or to try and change what we do not like. It facilitates us organizing, mobilizing, and pressuring elites and elected officials to be responsible for their decisions and policies. Most fundamentally, having a voice in government affirms our status *as citizens* – each with equal rights and opportunities to participate in public affairs. I believe that this compelling way of understanding the relationship between voice and democratic self-rule can explain the primacy of voice in contemporary democratic theory. I also believe that

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<sup>29</sup> The argument here follows Warren, "Exit-based Empowerment," 687.

<sup>30</sup> Here I build on the definition of the of concept voice found in Kay L. Schlozman, Sidney Verba, and Henry E. Brady, *The Unheavenly Chorus: Unequal Political Voice and the Broken Promise of American Democracy* (Princeton, NJ: Princeton University Press, 2012), 10-11. See also, Green, *Eyes of the People*, 64-66; Knight and Johnson, *The Priority of Democracy*, 118-121; Mansbridge et al., "A Systemic Approach to Deliberative Democracy," 9-10. It is worth noting that, outside of democratic theory, political scientists also premise their understanding of democracy on the connection between voice and responsiveness. Thus, for example, James Stimson argues that the "minimal standard" of what democracy entails in practice "is that citizens succeed in communicating their preferences to government and that government responds." Stimson, *Tides of Consent: How Public Opinion Shapes American Politics* (New York: Cambridge University Press, 2004), 171.

its corollary explains why silence – as the conceptual opposite of voice – is so often taken as evidence of deficits of democracy.

### 2.2.1 *THE BENEFITS OF VOICE*

What are the benefits of voice that make it so normatively attractive to democratic theorists? Perhaps the best-known account comes, not from democratic theory, but from the developmental economist Albert Hirschman, who explains the advantages of voice in the context of declining organizations and collectivities.<sup>31</sup> Hirschman’s explanation is deceptively simple. When there is dissatisfaction within an organization – or, indeed, any collectivity, including a democratic state – there are two general ways dissatisfied members can pressure for change. As Hirschman puts it, they can choose “exit” or they can choose “voice.”

The consequences of exiting an organization are fairly straightforward but also fairly abrupt. By exiting and breaking the relationship, one immediately escapes an “objectionable state of affairs,” and “[a]s a result, revenues drop, [or] membership declines.”<sup>32</sup> The consequences of voice, on the other hand, are far more variable and nuanced, not least because the information that a dissatisfied voice conveys “can be graduated, all the way from faint grumbling to violent protest.”<sup>33</sup> Choosing voice also has the advantage of giving organizational leaders the time needed to respond to dissatisfaction and repair their mistakes. Indeed, Hirschman suggests that unless there are

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<sup>31</sup>See Albert O. Hirschman, *Exit, Voice, and Loyalty: Responses to Decline in Firms, Organizations, and States* (Cambridge, MA: Harvard University Press, 1970). For a survey of the wave of subsequent literature generated by Hirschman’s theory, see Keith Dowding and Peter John, *Exits, Voices and Social Investment: Citizens’ Reaction to Public Services* (New York: Cambridge University Press, 2012), chap. 1.

<sup>32</sup> Hirschman, *Exit, Voice, and Loyalty*, 30, 4. For an argument for the democratic potentials of exit, see Warren, “Exit-Based Empowerment in Democratic Theory.”

<sup>33</sup> Hirschman, *Exit, Voice, and Loyalty*, 16.

members willing to take on the burdens of voice, organizations, including democratic states, will not receive the critical feedback required to identify problems and reform. This, in turn, gives organizations an incentive to prevent exit by cultivating voice. If an organization can encourage dissatisfied members to speak up, to provide input, and to work to resolve problems through discussion and deliberation, then their dissatisfaction can be channeled in ways that, ultimately, make the organization more responsive and accountable. Using voice to direct organizational change from within can also give members an increased sense of loyalty, efficacy, and personal control. These democratic effects lead Hirschman to characterize voice as “political action par excellence.”<sup>34</sup> He concludes: “[T]o develop ‘voice’ within an organization is synonymous with the history of democratic control through the articulation and aggregation of opinions and interests.”<sup>35</sup>

Hirschman’s analysis closely parallels the normative justifications for voice we find in democratic theory in two key ways. First, as democratic theorists often note, communication through voice contributes to collective political decision-making by generating *information* about people’s wants and needs (e.g., their judgments, preferences, beliefs, opinions, concerns, and so on), as well as by providing feedback about the effects of collective decisions and policies. To be sure, expressions of voice in politics can vary in the level of detail of information they convey. Voting, for example, is a fairly blunt instrument for communicating one’s decision. It is information-poor, because there is no opportunity to provide additional detail about the rationale behind one’s decision when simply casting a ballot. Even so, Geoffrey Brennan and Alan

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<sup>34</sup> Hirschman, *Exit, Voice, and Loyalty*, 16.

<sup>35</sup> Hirschman, *Exit, Voice, and Loyalty*, 55.

Hamlin urge us to think of votes “like ‘speech acts’” – as an “expression of favorable comment” about the character and policies of a particular candidate or party.<sup>36</sup> Other expressions of voice, such as criticism in the press or participation in public meetings or opinion polls, can provide far more detailed information for consideration in collective decision-making. So, too, can the input of well-informed interest groups and associations. The general point is that expressions of voice in politics not only fulfill a key communicative function in collective political decision-making by providing valuable input and feedback – as Hirschman understood – but they also provide a method through which people can share in a process of democratic self-rule, as democratic theorists emphasize.

Hirschman’s analysis also explains a second benefit of voice commonly embraced by democratic theorists. Voice, in the form of voting or otherwise participating in politics, can give elected representatives incentives to *respond* and remain *accountable* to those that their decisions affect. The logic is simple: Elected representatives and parties that desire to win reelection must respond to shifts in public opinion, and make policy decisions that are mindful of their most vocal supporters. They must listen “to the voices expressed through nonelectoral mechanisms, not only to the private voices of lobbyists but also to the public voices shouted in demonstrations, political strikes, road blockages, and so on.”<sup>37</sup>

What is more, voice facilitates the creation and coordination of the kinds of collective actions necessary for organized resistance, opposition, pressure, and protest, all of which can amplify the force of people’s message in contexts where electoral

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<sup>36</sup> Geoffrey Brennan and Alan Hamlin, *Democratic Devices and Desires* (New York: Cambridge University Press, 2000), 177-178.

<sup>37</sup> Przeworski, *Democracy and the Limits of Self-Government*, 116.

representation is unresponsive. Bernard Manin locates the democratic benefits of voice in its capacity to forge connections between people focused on common problems and interests. “When a number of individuals find themselves expressing similar views, each realizes that he is not alone,” he writes. “The less isolated people feel, the more they realize their potential strength, and the more capable they are to organize themselves and exercise pressure on the government.”<sup>38</sup> In these ways, contemporary democratic theorists follow Hirschman in linking the beneficial effects of voice to increased responsiveness and accountability, as well as developed capacities for collective action, which combine to establish the basic conditions for democratic self-rule.

In addition to these core benefits of voice, democratic theorists may list other ways that voice enhances norms of self-rule, depending upon their particular expectations of democracy. Pluralist democrats, for instance, will often underscore the *protective* benefits of voice in ensuring that collective decisions remain responsive to a plurality of interests and concerns from across different segments of society.<sup>39</sup> Robert Dahl sets out the concern: “If you are deprived of an equal voice in the government of a state, the chances are quite high that your interests will not be given the same attention as the interests of those who do have a voice. If you have no voice, who will speak up for you?”<sup>40</sup>

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<sup>38</sup> Bernard Manin, *The Principles of Representative Government* (New York: Cambridge University Press, 1997), 170-171.

<sup>39</sup> See Held, *Models of Democracy*, chap. 6.

<sup>40</sup> Robert A. Dahl, *On Democracy* (New Haven: Yale University Press, 1998), 76. See also, Elmer E. Schattschneider, *The Semisovereign People: A Realist's View of Democracy in America* (Boston: Wadsworth Publishing, [1960] 1975).

Participatory democrats such as Carole Pateman and Benjamin Barber tend to emphasize the *developmental* benefits of voice.<sup>41</sup> The more of a direct say that people have in the collective decisions that affect them, the more chances they have to develop the capacities, experiences, and skills necessary to make decisions autonomously. By regularly exercising their voices, people can come to better know themselves and others – come to know their needs, commitments, desires, and dependencies – and come to identify false or misleading claims unthinkingly accepted by society. “All the functions of talk,” writes Barber, “converge toward a single crucial end – the development of a citizenry capable of genuinely public thinking and political judgment.”<sup>42</sup>

Deliberative democrats similarly recognize the potential for voice to serve a developmental – even transformative – role in collective decision-making. But in addition to these participatory benefits, theories of deliberative democracy also point to the inherently *legitimizing* effects of voice on the outcomes of collective decisions reached through deliberative means.<sup>43</sup> In Amy Gutmann and Dennis Thompson’s estimation, “if representatives refuse to subject their decisions to public deliberation (either prospectively or retrospectively), then they have no legitimate basis for claiming to the citizens on whose behalf they are acting that their actions are right.”<sup>44</sup> It is only when collective decisions are made through a process of public reason-giving and persuasion –

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<sup>41</sup> See Carole Pateman, *Participation and Democratic Theory* (New York: Cambridge University Press, 1970); and, Benjamin Barber, *Strong Democracy: Participatory Politics for a New Age* (Los Angeles: University of California Press, 1984). For a nice summary of participatory democracy and a contrast with other prominent theories, see Archon Fung, “Democratic Theory and Political Science: A Pragmatic Method of Constructive Engagement,” *The American Political Science Review* 101 (2007): 450.

<sup>42</sup> Barber, *Strong Democracy*, 197.

<sup>43</sup> Simone Chambers provides what remains a broadly agreed upon conception of deliberation as: “debate and discussion aimed at producing reasonable, well-informed opinions in which participants are willing to revise preferences in light of discussion, new information, and claims made by fellow participants. Although consensus need not be the ultimate aim of deliberation ... an overarching interest in the *legitimacy of outcomes* (understood as justification to all affected) ideally characterizes deliberation.” Chambers, “Deliberative Democratic Theory,” *Annual Review of Political Science* 6 (2003): 309.

<sup>44</sup> Amy Gutmann and Dennis Thompson, *Why Deliberative Democracy?* (Princeton, NJ: Princeton University Press, 2004), 45.

through the “forceless force of the better argument,” as Habermas famously puts it – that everyone involved will accept the outcome as legitimate.<sup>45</sup> James Fishkin sums up the deliberative approach: “[D]eliberative democracy represents a form of collective informed consent,” he writes, “opinions that are to some degree the product of deliberation require that the person in question reflect on the merits of arguments. Reasons for or against a decision need to be voiced and answered.”<sup>46</sup>

In short, the benefits that voice is seen to provide within contemporary theories of democracy make it appear almost synonymous with the principles of democratic self-rule. Voice is the medium by which democratic institutions and practices should be organized, and through which collective political decision-making ought to be conducted. It shades our assessment of just how “democratic” particular institutions and practices are, both in the negative sense that every exclusion of voice damages democratic norms of nondomination and inclusion, and in the positive sense that having capacities and opportunities for voice is a basic condition for democratic self-rule. It is this emphasis on the normative benefits of voice in achieving self-rule that has given rise to what I call a *vocal ideal of democracy*.

### 2.2.2 THE CONSENSUS ABOUT SILENCE

Let me outline, in a preliminary way, the consensus that has emerged about silence within contemporary democratic theory as a result of the vocal ideal of democracy. I explore this consensus in greater detail in the next chapter. What is important, for now, is to note that, if voice is directly associated with an ideal vision of democratic self-rule, then it follows

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<sup>45</sup> Jürgen Habermas, *Legitimation Crisis*, trans. Thomas McCarthy (Cambridge, MA: Beacon Press, 1975), 108. See also, Mansbridge et al., “A Systemic Approach to Deliberative Democracy,” 17-18.

<sup>46</sup> James S. Fishkin, *When the People Speak: Deliberative Democracy and Public Consultation* (New York: Oxford University Press, 2009), 90.

that the opposite is true of silence. Silence is most often seen in contemporary democratic theory as a failure or absence of voice in democratic politics – as something listless and devoid of content, positive meaning, intention, or imagination. Silence is a form of quiet inaction that, for most democratic theorists, evokes the specter of civic passivity – of a disengaged and disempowered citizenry, variably characterized by attitudes of selfishness, apathy, ignorance, and neglect.<sup>47</sup>

The normative force of the vocal ideal of democracy explains why silence, when it is noticed in contemporary democratic theory, is usually perceived as an absence of voice – an absence indicative of weak or nonexistent empowerments. For if people’s capacity for voice sets the threshold for self-rule, then it follows that those who refrain from voice – who are silent – deny themselves, or are denied, an equal say in directing the collective powers that affect their lives.

This line of reasoning, with its implied equivalence of voice to the principles of democratic self-rule, has a long tradition in some strains of Western democratic thought. Aristotle, for instance, thinks that silence befits only those who are deficient in the “deliberative part of the soul,” such as women, children, and slaves.<sup>48</sup> Rousseau, for his part, ties voice to our capacity to think and act collectively: “[H]ow much could men perfect and enlighten one another,” he asks, “without recognizing and speaking with one another?”<sup>49</sup> Nineteenth century theorists of democracy such as John Stuart Mill and

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<sup>47</sup> This characterization of silent citizenship draws upon arguments I develop in Sean W.D. Gray, “Mapping Silent Citizenship: How Democratic Theory Hears Citizens’ Silence and Why It Matters,” *Citizenship Studies* 19 (2015): 474–491.

<sup>48</sup> Aristotle, *Politics*, 1260a10-20. For further discussion of the ancient Athenian view of silence in politics – which was, on the whole, negative – see, in particular, Silvia Montiglio, *Silence in the Land of Logos* (Princeton, NJ: Princeton University Press, 2000); and, John Zumbrennen, *Silence and Democracy: Athenian Politics in Thucydides’ History* (University Park, PA: Pennsylvania State University Press, 2008).

<sup>49</sup> Jean-Jacques Rousseau, “Second Discourse,” in *The Discourses and Other Early Political Writings*, ed. Victor Gourevitch (New York: Cambridge University Press, [1754] 2008), 144.

Alexis de Tocqueville articulate this vocal ideal even more forcefully. Mill argues that for someone to “take an active interest in politics,” but “not wish for a voice in them, is an impossibility” – for they are “not a citizen.”<sup>50</sup> While Tocqueville claims that finding oneself “reduced to silence” is but a short step away from being “beneath the boots of a tyrant.”<sup>51</sup> Hannah Arendt raises similar concerns about silence in distinguishing politics as a domain of public action and speech – a domain that, ultimately, is made possible only through “the presence of others who see what we see and hear what we hear.” To be silent, according to Arendt, is to “no longer be an actor” in a political sense, since public action would require, at the same time, being a “speaker of words.”<sup>52</sup>

As I discuss in the next chapter, there is also considerable empirical evidence to support the predominant view that silence is, in great part, a symptom of disengagement and disempowerment in democratic life. Silent citizens appear politically undemanding. People who are silent either *prefer* politics to operate in the background of their lives, as some scholars have suggested, or else they are incapable of meaningfully contributing to political decisions.<sup>53</sup> Silent citizens also appear politically unorganized. For the most part, this is because those who are silent lack politically relevant capacities and resources for

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<sup>50</sup> John Stuart Mill, “Thoughts on Parliamentary Reform,” in *Collected Works of John Stuart Mill, Vol. XIX*, ed. J.M. Robson (Toronto: University of Toronto Press, [1859] 1977), 322.

<sup>51</sup> Alexis de Tocqueville, *Democracy in America*, trans. Gerald E. Bevan (New York: Penguin, [1835] 2003), 211.

<sup>52</sup> Hannah Arendt, *The Human Condition*, 2nd ed. (Chicago: University of Chicago Press, 1998), 50, 178-179. Daniel Allen draws out this point in Arendt’s thought. See Allen, “Anonymous: On Silence and the Public Sphere,” in *Speech and Silence in American Law*, ed. Austin Sarat (New York: Cambridge University Press, 2010), 106-107.

<sup>53</sup> See, for example, Nina Eliasoph, *Avoiding Politics: How Americans Produce Apathy in Everyday Life* (New York: Cambridge University Press, 1998); John R. Hibbing and Elizabeth Theiss-Morse, *Stealth Democracy: Americans’ Beliefs About How Government Should Work* (New York: Cambridge University Press, 2002).

voice, including adequate time, money, education, and civic skills, as well as communication and organizational abilities.<sup>54</sup>

More generally, as Mancur Olson insightfully notes, when people choose to remain silent within collectivities and other kinds of social and political relationships, their silence often serves to reinforce the status-quo – one consequence of which is people “suffering in silence” within declining organizations, unfulfilling jobs, or dominating and oppressive relationships, often at significant personal and emotional cost.<sup>55</sup> When voice is suppressed within an organization, whether a small firm or an entire state, it often reappears as grumblings, whispers, resentment, cynicism, and other forms of disaffection that can damage the long-term stability and legitimacy of that organization.<sup>56</sup>

Silence has similarly pernicious effects on public opinion and representation at a societal level. If a majority of people opts to remain silent in a society, this silence can deprive others of critical information about where majority opinion in fact lies. People may then feel pressured into adopting outwardly conservative positions that do not reflect their actual preferences or views – or, indeed, those of most others. Such “preference falsification” and similar psychological defense mechanisms can lead to “spirals of silence” that disable collective actions and prevent social and political change.<sup>57</sup>

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<sup>54</sup> Scholzman, Verba, and Brady, *The Unheavenly Chorus*, 580-581. See also, Jan E. Leighley and Jonathan Nagler, *Who Votes Now? Demographics, Issues, Inequality, and Turnout in the United States* (Princeton, NJ: Princeton University Press, 2014), 7-10; and, Sydney Verba, Kay L. Scholzman, and Henry E. Brady, *Voice and Equality: Civic Voluntarism in American Politics* (Cambridge, MA: Harvard University Press, 1995), chaps. 10-12.

<sup>55</sup> Mancur Olson, *The Logic of Collective Action: Public Goods and the Theory of Groups* (Cambridge, MA: Harvard University Press, 1971), 165-167.

<sup>56</sup> See, for example, John Gaventa, *Power and Powerlessness: Quiescence and Rebellion in an Appalachian Valley* (Chicago: University of Illinois Press, 1980), chap. 4; and, James C. Scott, *Domination and the Arts of Resistance: Hidden Transcripts* (New Haven: Yale University Press, 1990), 136-138.

Likewise, decreases in the diversity of voices that are heard within society inevitably skews political decision-making towards the interests of the wealthy and powerful, providing those with the loudest voices even greater influence.<sup>58</sup>

This consensus about silence is further reinforced by the methodological difficulties that empirical political scientists face in detecting any preferences or interests that people *might* hold in silence. Since unarticulated preferences held in silence are “unobservable,” silence often generates “exclusion bias” in the findings of polling and survey research on mass public opinion – with silent citizens “effectively removing themselves for measures of the collective will of the public.”<sup>59</sup> This problem is particularly acute for marginalized and excluded groups, who often *do* hold clear preferences and views, especially as it relates to their own personal wellbeing. These often differ significantly from those who participate in politics – and, indeed, often from those who are willing to volunteer their opinions in surveys and polls.<sup>60</sup> The relative paucity of *direct* data on silent citizens has important implications for theory. In particular, when and where democratic theorists intervene to deduce causes for silence, the vocal ideal predisposes them to hedge on explanations of disempowerment, often at the expense of considering other possibilities.

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<sup>57</sup> On preference falsification see Timur Kuran, *Private Truths, Public Lies: The Social Consequences of Preference Falsification* (Cambridge, MA: Harvard University Press, 1995). On the threat of “spirals of silence” in public opinion, see Elisabeth Noelle-Neumann, *The Spiral of Silence*, 2nd ed. (Chicago: University of Chicago Press, 1993).

<sup>58</sup> See Dara Z. Strolovitch, *Affirmative Advocacy: Race, Class, and Gender in Interest Group Politics* (Chicago: University of Chicago Press, 2007), chap. 5; and, Schattschneider, *The Semisovereign People*.

<sup>59</sup> Adam J. Berinsky, *Silent Voices: Public Opinion and Political Participation in America* (Princeton, NJ: Princeton University Press, 2004), 8. There is some debate about the extent of the distortions introduced by the refusal of silent citizen to share their preferences with researchers. See, Martin Gilens, *Affluence and Influence: Economic Inequality and Political Power in America* (Princeton, NJ: Princeton University Press, 2012), 35-37.

<sup>60</sup> See Berinsky, *Silent Voices*, chap. 2; Leighley and Nagler, *Who Votes Now?*, chap. 6; Schlozman, Verba, and Brady, *The Unheavenly Chorus*, 118-120, 309.

For these kinds of reasons, most democratic theorists today understand silence to be a symptom of disengagement and disempowerment. This way of understanding silence is surely justified in many cases – but I believe that it is also overgeneralized within contemporary democratic theory. As a consequence, I argue that most democratic theorists have taken on, sometimes explicitly, but more often implicitly, a tight theoretical commitment to what I am calling a vocal ideal of democracy. The legacy of this commitment is that the concept of silence has been left relatively unexplored and undertheorized from a democratic perspective.

### 2.3 CONCLUSION

To be a silent citizen is, for most contemporary democratic theorists, to be denied – or to deny oneself – capacities and opportunities for democratic self-rule. Silent citizens are thought to be nonparticipants in democratic life – they are politically inactive and inattentive, never give their public opinions, shy away from debate or deliberation, have no desire to advance any specific collective interests or goals, and above all do not vote. The compelling ideal that underlies these common depictions of silent citizenship is, I argue, a vocal one. This vocal ideal of democracy – and, specifically, the norms that it serves to actualize – are essential aspects of what democracy implies in practice, namely, a tight connection between collective decisions, opportunities to influence, and self-rule. Nonetheless, I argue that adherence to this ideal ought not to limit our thinking and theorizing about the democratic potentials of silence. Whereas contemporary democratic theorists predominantly view silent citizenship as solely a symptom of marginalization and exclusion from politics, the very concept of silence is itself a synonym for

disengagement and disempowerment. The approach to silence that I advocate for in this dissertation is grounded precisely on the idea that silence is quite possibly suggestive of something more. In the next chapter, however, I turn to explore the only conception of silence that remains visible when viewed exclusively through the lens of voice: disempowered silence.

## What's Wrong with Silence?

Silent citizens may be perfect subjects for an authoritarian ruler;  
they would be a disaster for democracy.

Robert Dahl, *On Democracy*<sup>1</sup>

It is too easy to forget how hard some people must fight to have their voices heard. It is even easier to forget how recently some struggles were fought. On March 15, 1965 U.S. President Lyndon B. Johnson addressed a joint session of Congress just days after civil rights protesters in Selma, Alabama were met with shocking police violence live on national television. Under mounting public pressure, Johnson called for the immediate passage of the Voting Rights Act, a bill that effectively ended the disenfranchisement of African Americans in the South. “Every American citizen must have an equal right to vote. There is no reason which can excuse the denial of that right. There is no duty which weighs more heavily on us than the duty we have to ensure that right,” Johnson declared. “The history of this country, in large measure, is the history of the expansion of that right to all our people.”<sup>2</sup>

There is no hint of exaggeration in Johnson’s remarks. His declaration could also apply to almost all democratic countries today. History’s greatest struggles for democracy have been, and continue to be, overwhelmingly about demanding an equal voice in government. Their object of concern is to break down the many barriers to voice and participation that effectively reduce people to silence in the political domain, including

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<sup>1</sup> Robert A. Dahl, *On Democracy* (New Haven: Yale University Press, 1998), 97.

<sup>2</sup> Lyndon B. Johnson, “Speech before Congress on Voting Rights,” *Miller Center, The University of Virginia*, March 15, 1965, accessed October 12, 2015, <http://millercenter.org/president/speeches/speech-3386>.

women, immigrants, racial and cultural minorities, and indigenous groups. Their concern is about *disempowered silence*. The purpose of this chapter is to survey the conception of disempowered silence that predominates contemporary democratic theory. In doing so, the intent is to better understand why silence – all silence – has come to be equated exclusively with disengagement and disempowerment in the minds of most democratic theorists. If democratic theorists are wary of what silence in politics represents, it is for very good reasons. We saw in the last chapter that the ideal citizen in democratic theory is a vocal citizen, but empirical research suggests that the realities of modern democratic citizenship are far from this ideal. Political scientists and democratic theorists alike paint a grim picture of the challenges that many citizens face in trying to participate in political decision-making, particularly growing socioeconomic inequalities, patterns of prejudice and discrimination, and political inattention and misinformation. The view that emerges of silent citizenship is that it is indicative of something profoundly wrong with democracy – silent citizens are unable or unwilling to take up the burdens of voice.

To draw out this conception of disempowered silence and the conditions that most often give rise to it, the first section of the chapter engages a considerable literature that documents the numerous barriers to voice and political participation. Here, I distinguish between two forms of disempowered silence that most often figure into these accounts. What I call *external silencing* is perhaps the most recognizable reason for disempowered silence in politics. The hallmark of external silencing is the denial of the formal rights and standings of citizenship, including the material and welfare supports necessary to be able to meaningfully participate in the democratic process. What I call *internal silencing*, on the other hand, is the more intractable form of disempowered silence in practice,

arising, as it often does, from how people identify and relate to one another unequally. It tends to reinforce stereotypes and prejudices that undermine the influence of certain people's voices, even when they should enjoy full rights and opportunities to participate. There is an overriding mission at the core of most contemporary democratic theories to overcome the causes and consequences of both of these forms of disempowered silence. Yet there has been little systematic reflection on how these causes and consequences interrelate. In the second section of the chapter, I consider the costs that disempowered silences can exact on the proper functioning of a democratic political system as a whole. One cost is to the *legitimacy* of a democratic system that is seen to be unresponsive. If citizens sense that they have been silenced and excluded from political decision-making, then there is little reason for them to treat any resulting decisions as legitimate. There are also *epistemic* costs of disempowered silences, which can accrue within decision-making institutions themselves. Without the input of a plurality of voices and perspectives, the ability of decision-makers to respond to public issues and problems is severely hampered. Third, disempowered silences have *ethical* costs, not least of which is that they can redirect public attention away from instances of domination and injustice with which people may otherwise be passively complicit. Surveying the costs of disempowered silence at the level of democratic systems, I suggest, gives us a fuller sense of the stakes involved in theorizing about silence from a democratic perspective.

### 3.1 THE CONCEPTION OF DISEMPOWERED SILENCE

To imagine a democratic society where silence has become the norm would make most of us uneasy. The source of this unease, I think, is an acknowledgement of the empirical realities of what silence in a democracy typically indicates, namely, *disempowered silence*. The conception of disempowered silence, I argue, captures situations where people's quiet inaction in politics is the result of their *being silenced*, most often through the failure of basic institutional supports and protections for voice, combined with background conditions of power and inequality. In order to better understand this conception that predominates most democratic thinking about silence, I propose to critically survey the conditions under which disempowered silences are most likely to be found. To identify these conditions in ways that make them salient, I make use of Iris Marion Young's apt distinction between external and internal exclusion. External exclusion concerns "how people are kept outside the process of discussion and decision-making," while internal exclusion concerns "ways that people lack effective opportunity to influence the thinking of others even when they have access to fora and procedures for decision-making."<sup>3</sup> Adapting Young, we can distinguish two forms of disempowered silence: *external silencing* and *internal silencing*.

#### 3.1.1 EXTERNAL SILENCING: BARRIERS TO VOICE

The first and most widely recognized cause of disempowered silence in democratic systems occurs through what I am calling *external silencing*. External silencing can occur in many guises, but almost all involve barriers to access the mechanisms that support

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<sup>3</sup> Iris M. Young, *Inclusion and Democracy* (New York: Oxford University Press, 2000), 55.

democratic decision-making.<sup>4</sup> Historically, the most glaring cases of external silencing are those that deny people the basic liberal rights and standings of citizenship – voting rights, rights to hold office, the equal protection of freedoms and liberties, rights to due process and equality before the law, and other protections. Such denials of rights and standings are “silencing” insofar as they exclude people from formal opportunities for voice in the democratic process. Other examples of external silencing – sometimes less noticed – arise from structural inequalities between particular groups of people, especially inequalities in the capacities and resources necessary to be active participants in political life. Such inequalities can reduce people to silence through poverty, lack of education, poor organization, unequal representation, and other disparities that limit choice, and thus preclude people from having an equal voice in decision-making. Whether as a complete denial of opportunities for voice, or unequal access to voice-enabling capacities and resources, the point is that barriers to voice can stem from disempowering conditions that undermine people’s choices.

External silencing impairs democratic norms in two main ways. First, as Kevin Olson notes, people can be “rendered vulnerable by silence,” and thus susceptible to domination, owing to a “lack of exit and lack of voice.”<sup>5</sup> As Olson explains, when inequalities of power and circumstance conspire to drastically limit people’s choices, the result leaves them vulnerable to dominating and oppressive relationships, precisely because they cannot exit to a better situation or speak up and change their present one. As

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<sup>4</sup> On this point, see Jack Knight and James Johnson, *The Priority of Democracy: Political Consequences of Pragmatism* (Princeton, NJ: Princeton University Press, 2011), 200-201. See also, Neil Gilbert, *Transformation of the Welfare State: The Silent Surrender of Public Responsibility* (New York: Oxford University Press, 2002), chap. 2; and, Sydney Verba, Kay L. Scholzman, and Henry E. Brady, *Voice and Equality: Civic Voluntarism in American Politics* (Cambridge, MA: Harvard University Press, 1995), chaps. 7-8.

<sup>5</sup> Kevin Olson, *Reflexive Democracy: Political Equality and the Welfare State* (Cambridge, MA: MIT Press, 2006), 55.

an example, consider how the denial of options to leave a marriage under traditional family and property laws had the effect of silencing women, thereby increasing their vulnerability to household domination and dependency. Susan Moller Okin forcefully argues that women's relative lack of legal and economic power, as well as unequal opportunities outside of marriage, inhibit women from "voicing their dissatisfactions or needs within marriage."<sup>6</sup> Silencing can also lead to social domination within religious and cultural groups, where "hidden forms of community pressure and manipulation [can make] 'exit' or resistance unattractive options."<sup>7</sup> Even in the workplace, where the denial of adequate welfare supports can often have a silencing effect, people are deterred from either speaking up or quitting when faced with a dominating or exploitative employer.

Often, the denial of formal political rights and opportunities for voice can combine with structural inequalities to compound disempowering experiences of silence. Consider the legacy left by the exclusion and disenfranchisement of African Americans in the United States, where full voting rights were not institutionalized until the Voting Rights Act of 1965.<sup>8</sup> One consequence of this long history of being silenced is that the voices of many African Americans today remain stifled by the limited opportunities and choices that their lived circumstances make available to them: segregated neighborhoods and schools, underfunded community development, depressed housing and property values, reduced employment opportunities for those with fewer skills and less training,

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<sup>6</sup> Susan Moller Okin, *Justice, Gender, and the Family* (New York: Basic Books, 1989), 182.

<sup>7</sup> Cécile Laborde, *Critical Republicanism: The Hijab Controversy and Political Philosophy* (New York: Oxford University Press, 2008), 166. On the potentials for domination that exist within closed religious and cultural communities, see Monique Deveaux, *Gender and Justice in Multicultural Liberal States* (New York: Oxford University Press, 2006), 47-53.

<sup>8</sup> Note that many other developed democracies, including Canada, also did not achieve universal suffrage until mid-century. Members of Canada's First Nations were not given the right to vote until 1960. For an analysis of voting rights across the developed democracies from a comparative perspective, see Charles Tilly, *Democracy* (New York: Cambridge University Press, 2007), chap 3.; and, Adam Przeworski, *Democracy and the Limits of Self-Government* (New York: Cambridge University Press, 2010), 48-53.

and so on.<sup>9</sup> Understanding these disempowering constraints on choice as external silencing draws our attention to, in Cathy Cohen’s words, “a politics of absence that mutes ... voices and needs from the government.”<sup>10</sup>

Cohen’s remarks point to a second way that external silencing can impair democratic norms. The needs and concerns of marginalized and excluded groups are largely neglected and ignored because the electoral system predominantly favors those with greater resources and stronger capacities for voice. When people are silenced and excluded from electoral representation, their interests are given little or no consideration in collective decision-making. Patterns of disadvantage that stem from being silenced are often replicated in the outcomes of decision-making, reinforcing the advantages of those who benefit from the status quo. The result is that some end up speaking with a whisper that is “lost on the ears of inattentive government officials,” while the voices of others “roar with a clarity and consistency that policy makers readily hear and routinely follow.”<sup>11</sup>

Democratic theorists have well developed responses to the effects of external silencing. Since structural inequalities have the effect of obstructing voice, many theorists have suggested measures that would *amplify* what *is* said by otherwise marginalized and excluded groups – by removing barriers to voice, developing capacities for voice, and

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<sup>9</sup> Iris M. Young, *Responsibility for Justice* (New York: Oxford University Press, 2011), 184-185. For further discussion of the structural constraints that poverty and racial injustices continue to impose on the life-choices of African Americans, see William Julius Wilson, *The Truly Disadvantaged: The Inner City, the Underclass, and Public Policy*, 2nd ed. (Chicago: University of Chicago Press, 2012). For an excellent analysis of the generational consequences of racial inequality in the United States, see Cathy J. Cohen, *Democracy Remixed: Black Youth and the Future of American Politics* (New York: Cambridge University Press, 2010).

<sup>10</sup> Cohen, *Democracy Remixed*, 5.

<sup>11</sup> Lawrence R. Jacobs and Theda Skocpol, *Inequality and American Democracy: What We Know and What We Need to Learn* (New York: Russell Sage Foundation, 2005), 1. On the unequal responsiveness of government to the wealthy, see Larry M. Bartels, *Unequal Democracy: The Political Economy of the New Gilded Age* (Princeton, NJ: Princeton University Press, 2008); and, Martin Gilens, *Affluence and Influence: Economic Inequality and Political Power in America* (Princeton, NJ: Princeton University Press, 2012).

increasing the number and kinds of venues that elicit voice. Anne Phillips describes this general strategy as an attempt to achieve a “politics of presence” centered on accommodating “demands for the political inclusion of groups that have come to see themselves as marginalized or silenced or excluded.”<sup>12</sup> It consists fundamentally in creating and sustaining “discursive practices and processes in which the previously silenced groups have a voice.”<sup>13</sup> This goal is, typically, accomplished via supplementary institutions that correct for the incapacitating effects of inequality, or via selection devices that correct for well-known biases in electoral representation.<sup>14</sup> Examples of democratic institutions that amplify voice range from modest devices that encourage more public feedback, such as targeted opinion polls and surveys, to formal venues that empower voice directly, like citizen juries, advisory councils, public review boards, and citizen assemblies.<sup>15</sup> In the most egregious cases of silencing, mechanisms of affirmative action may also be necessary to amplify disadvantaged voices within public organizations and political institutions as well as within society at large – through quotas, reserved seats, special veto powers, and other remedial measures.<sup>16</sup>

### 3.1.2 INTERNAL SILENCING: BARRIERS WITHIN VOICE

A second cause of disempowered silence in democratic systems is subtler, arising from what I am calling *internal silencing*, again taking inspiration from Young. Internal

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<sup>12</sup> Anne Phillips, *The Politics of Presence* (New York: Oxford University Press, 1998), 5.

<sup>13</sup> Melissa S. Williams, *Voice, Trust, and Memory: Marginalized Groups and the Failings of Liberal Representation* (Princeton, NJ: Princeton University Press, 2000), 242.

<sup>14</sup> See Archon Fung, “Minipublics: Deliberative Designs and Their Consequences,” in *Deliberation, Participation and Democracy*, ed. Shawn W. Rosenberg (New York: Palgrave Macmillan, 2007); and, Robert E. Goodin, *Innovating Democracy: Democratic Theory and Practice After the Deliberative Turn* (New York: Oxford University Press, 2008), 31-32.

<sup>15</sup> For a comprehensive overview, see Graham Smith, *Democratic Innovations: Designing Institutions for Citizen Participation* (New York: Cambridge University Press, 2009).

<sup>16</sup> See M. Williams, *Voice and Memory*, chap. 7; Lani Guiner, *The Tyranny of the Majority: Fundamental Fairness in Representative Democracy* (New York: Free Press, 1994); and, Phillips, *The Politics of Presence*, chaps. 2 and 3.

silencing focuses attention on a broad range of informal social factors that can undermine the authority and credibility of certain people's voices, even when they are included in the democratic process. Most noticeable are situations in which people find themselves silenced, not so much because of what they say, but rather because of who they are and how they say it. As a consequence, their opinions and preferences are systematically discounted – often unconsciously. Stereotyping and prejudging are the most common kinds of internal silencing. They cause disempowered silence when people identify and relate to one another on a unequal social footing – as male, female, husband, wife, rich, poor, educated, uneducated, worker, boss, and so on.<sup>17</sup> These identities are never fixed, but they can fix social expectations, which in turn can lead certain perspectives to be devalued based on who is speaking, and how they express themselves. The disempowering effect of this dynamic can make people feel unable or unwilling to participate in politics. It can also make them feel like what they *do* contribute matters less. The end result is that these people's preferences, needs, and concerns are never raised, or never given a fair hearing, even though they enjoy formally equal rights and opportunities to exercise voice in democratic decision-making.

With internal silencing, the worry for democratic theorists is that deeper relational disparities between people produces intractable deficits in democratic norms – specifically because it causes disempowered silence *within* formal institutions designed to protect and empower voice.<sup>18</sup> To see this, we can follow the philosopher Miranda Fricker

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<sup>17</sup> Here I draw on the discussion of internalized inequalities found in James Bohman, *Public Deliberation: Pluralism, Complexity, Democracy* (Cambridge, MA: MIT Press, 1996), 113-118; and, Thomas E. Wartenberg, *The Forms of Power: From Domination to Transformation* (Philadelphia: Temple University Press, 1991), chap. 7.

<sup>18</sup> Lynn M. Sanders was one of the first to raise this worry, arguing that deliberation within institutions could magnify existing prejudices and asymmetries between unequal groups, "Against Deliberation," *Political Theory* 25 (1997): 347-376. For empirical evidence supporting the claim that perceptions of identity can effect how, or if, certain voices are heard within democratic institutions,

in distinguishing “two kinds of silence” or, rather, two different sets of reasons behind internal silencing.<sup>19</sup>

The first set of reasons involves cases of “identity prejudice” rooted in the social asymmetries that can come to define particular relationships, for example, among people of different gender, race, culture, religion, or class. Identity prejudices can negatively affect the authority and credibility of certain people’s words by influencing how a hearer perceives a speaker.<sup>20</sup> Examples from practice are numerous. For instance, Rae Langton and Jennifer Hornsby have documented some of the various ways that women’s voices are subordinated within society because they are widely seen as less authoritative. One particularly troubling consequence, they argue, is that it is far easier for the meaning of women’s words to be twisted or lose their intended force. A woman’s explicit “No” to a man’s advances, for example, might be heard by him as a “Yes,” or might even fail to register at all. Langton identifies the problem: “She tries to refuse. But what she says misfires. Something about her, about the role she occupies, prevents her from voicing refusal.”<sup>21</sup>

Sometimes, people can be internally silenced by the sheer lack of credibility their voice is perceived to have. Elizabeth Anderson gives the example of racial stigmatization based on cultural differences in the communication styles of African Americans living in segregated inner-city neighborhoods such as New York, Chicago, and Baltimore. She observes that, “differences in body language, habits of emotional expression and

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see Christopher F. Karpowitz and Tali Mendelberg, *The Silent Sex: Gender, Deliberation, and Institutions* (Princeton, NJ: Princeton University Press, 2014), chap. 5.

<sup>19</sup> Miranda Fricker, *Epistemic Injustice: Power and the Ethics of Knowing* (New York: Oxford University Press, 2007), 129-141.

<sup>20</sup> Fricker, *Epistemic Injustice*, 17.

<sup>21</sup> Rae Langton, “Speech Acts and Unspeakable Acts,” *Philosophy and Public Affairs* 22 (1993): 299. See also, Jennifer Hornsby, “Speech Acts and Pornography,” in *The Problem of Pornography*, ed. Susan Dwyer (Belmont, CA: Wadsworth Publishing, 1995), 220-232.

management, and styles of personal appearance, can impair the ability of untutored blacks to navigate white-dominated social worlds successfully.”<sup>22</sup> In particular, differences in styles of self-expression mean that black voices are considered less trustworthy, and are often stereotyped as “stupid and lazy” or “criminal and violent.”<sup>23</sup> What is more, this kind of discrimination will often transfer over into democratic settings undetected. It will prevent certain disadvantaged groups from even being asked for their opinions and preferences in the first place. It will ensure that their issues, injustices, and needs remain hidden and excluded from the public agenda. Such disempowered silences are one of the very many reasons that ongoing racial segregation in the United States is so troubling from a democratic perspective.

Worse still is the fact that prejudices and stereotypes are often reinforced by taboos against raising specific issues or topics, which are considered “off limits” for public discussion and thus “literally passed over in silence.”<sup>24</sup> One particularly tragic example is the public silence that first surrounded the HIV/AIDS epidemic in the United States and Canada in the 1980s. The unwillingness of politicians and the media to discuss AIDS, and to dispel misperceptions about homosexuality in general, led to activist groups like Act-Up to adopt the slogan, “SILENCE=DEATH,” in order to raise awareness about the costs of not speaking openly about the crisis, and to challenge false representations of HIV/AIDS victims in mainstream discourse. Act-Up’s campaign against silence was instrumental securing more federal money for HIV/AIDS research.<sup>25</sup>

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<sup>22</sup> Elizabeth Anderson, *The Imperative of Integration* (Princeton, NJ: Princeton University Press, 2010), 36.

<sup>23</sup> Anderson, *The Imperative of Integration*, 15.

<sup>24</sup> Fricker, *Epistemic Injustice*, 131.

Reflection on this case brings out a second set of reasons behind internal silencing. It arises from the informational deficits that accrue among the members of marginalized and disadvantaged groups as a result of being systematically discriminated against.<sup>26</sup> Because these groups are informally excluded from broader conversations in society, they are denied access to the knowledge and resources (e.g., information) necessary to put into words the injustices they experience. In addition, members of disadvantaged groups are often forced to voice what needs and concerns they have using the language and concepts of dominant groups. One immediate danger, of course, is that the meanings that attach to specific words or concepts are *different* between groups. Take the example of a woman who is sexually harassed in the workplace in the 1950s, before the concept of sexual harassment first started to gain widespread currency. There is, quite clearly, a sense in which this woman's inability to put a name to the wrong she experiences is "silencing" – in this case, because "a patch of her social experience which it was very much in her interests to understand was not collectively understood."<sup>27</sup> We might also think of the unexpressed grievances of children, the homeless, the sick, or the otherwise dominated or oppressed in similar terms. If the poorest and weakest members of society do not have the concepts or language to put names to their experiences, problems, needs, or interests, there is an important sense in which they, too, are silenced.<sup>28</sup>

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<sup>25</sup> See Josh Gamson, "Silence, Death, and the Invisible Enemy: AIDS Activism and Social Movement 'Newness,'" *Social Problems* 36 (1989): 351–367.

<sup>26</sup> On the consequences of informational deficits on reinforcing domination and oppression, see Fricker, *Epistemic Injustice*, 131-134; Laborde, *Critical Republicanism*, 153-155; and Martha C. Nussbaum, *Women and Human Development: The Capabilities Approach* (New York: Cambridge University Press, 2000), chap. 2.

<sup>27</sup> Fricker, *Epistemic Injustice*, 162. See also, Young, *Inclusion and Democracy*, 72-73.

Democratic responses to the disempowering effects of internal silencing go beyond multiplying venues that elicit voice by *augmenting* what counts as voice through practices and institutions that work against barriers of status or misrecognition, and which encourage a full range of ways, means, and styles of communicating, including personal narratives, testimony, storytelling, rhetoric, and other less conventional modes of political participation. According to Young, the goal is to give people access to new vocabularies for identifying and sharing their personal experiences – ideally, in ways that “move them from a situation of total silencing” to “public expression.”<sup>29</sup> Doing so, it is theorized, enables voice to serve as a more inclusive medium for ethical functions, such as recognition and reciprocity.<sup>30</sup> To this end, democratic theorists focus on reforming institutional procedures – concentrating on questions of “how to fill the silence,” as Jane Mansbridge puts it, by reconsidering roles for self-interest, emotion, pressure, and informal modes of advocacy and group representation in order to empower otherwise silenced views.<sup>31</sup> Were democratic institutions redesigned to be more reflective of the informal ways that people often communicate their needs and concerns, so the thinking goes, thresholds for overcoming internal barriers within voice would be substantially lowered.

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<sup>28</sup> See, for example, Gayatri Chakravorty Spivak, “Can the Subaltern Speak?,” in *Marxism and the Interpretation of Culture*, ed. Carly Nelson and Lawrence Grossberg (London: Macmillan, 1988).

<sup>29</sup> Young, *Inclusion and Democracy*, 72. Tali Mendelberg and Christopher Karpowitz are sceptical of strategies that simply allow for different kinds of voice and self-presentation without addressing the underlying structural inequalities that can distort perceptions of credibility and authority. “[W]hy would a low-authority member who tells a story be given a hearing by a high-authority member inclined to dismiss this form of communication as non-authoritative? Testimony and emotional expression may create a sense of authentic self-expression for disadvantaged groups, but if such expressions are not also a means to build real authority among discussion partners, then the goal of deliberative equality is not likely to be realized.” Karpowitz and Mendelberg, *The Silent Sex*, 27.

<sup>30</sup> Young, *Inclusion and Democracy*, chap. 2. Cf. Spivak, “Can the Subaltern Speak?”

<sup>31</sup> Jane Mansbridge, “Practice-Thought-Practice,” in *Deepening Democracy: Institutional Innovations in Empowered Participatory Governance*, ed. Archon Fung and Erik Olin Wright (London: Verso, 2003), 175.

## 3.2 THE COSTS OF DISEMPOWERED SILENCE

What does this analysis of the forms of disempowered silence and their causes imply for democratic political systems? What does it mean for how silence has come to be thought of and theorized? To help elicit our judgments about the consequences of disempowered silence for democracy, I suggest that we now raise our level of analysis upwards to consider the practical costs of silence on democratic systems *writ large*. Some of these costs I have alluded to already in the last chapter, but they bear repeating in greater detail precisely because of how they weigh against the very idea that there could be any democratic potentials of silence at all. In general, I argue that there are three primary costs of disempowered silence to democratic systems: legitimacy costs, epistemic costs, and ethical costs. In what follows, I outline and consider each of these costs in turn.

### 3.2.1 LEGITIMACY COSTS

First, disempowered silences can exact a heavy toll on the *legitimacy* of democratic political systems. To get an initial sense of these costs, consider one of the most enduring questions that arises from the general study of democratic politics: Why do those who find themselves on the losing side in a collective decision not only abide by the outcome of the decision, but also view the outcome as legitimate? Why, in other words, do the “losers” consent to be governed by the winners?

Many democratic theorists have grappled with this question.<sup>32</sup> The most widely accepted answer is that people are willing to accept being on the losing side of a collective decision – an election, for example – to the extent that they believe that the

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<sup>32</sup> See, among others, Jürgen Habermas, *Legitimation Crisis*, trans. Thomas McCarthy (Cambridge, MA: Beacon Press, 1975); John Rawls, *Political Liberalism*, expanded ed. (New York: Columbia University Press, 2005), 390-395; Pierre Rosanvallon, *Democratic Legitimacy: Impartiality, Reflexivity, Proximity*, trans. Arthur Goldhammer (Princeton, NJ: Princeton University Press, 2011), 7-10.

*process* through which that decision was reached is legitimate. A benefit of democratic procedures is that they give people *a reason* to believe that the outcome of a decision is legitimate, because they distribute decision-making powers to citizens on an equal basis. Indeed, as we saw in the last chapter, the inclusion of multiple perspectives and plural voices is a central element of what makes a decision-making process democratically legitimate. If people can see that they have had an equal opportunity to voice their judgments and preferences in collective decision-making – if they can see that the procedure was at least fair – this affirms their belief that the decision is legitimate, even if they do not get their own way.

It is important to emphasize that this is not just a normative claim. The empirical evidence behind this assertion is, in fact, fairly substantial.<sup>33</sup> For example, it has been found that, over time, people's attitudes toward the democratic process improve when there are consistent opportunities for input available to them.<sup>34</sup> These attitudes rest on a shared belief that, whatever the decision and however modest our contribution, we are all in some sense *deciding together* what we should do. When this belief is shaken, so too is our attitude towards government, our confidence in its decisions, and our willingness to abide by them. Pierre Rosanvallon captures this sentiment perfectly: "Democratic legitimacy exists when citizens *believe* in their own government, which cannot happen unless they have a sense of empowerment," he writes. "The efficacy of public action

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<sup>33</sup> For an excellent overview of this literature, see Tom R. Tyler, *Why People Obey the Law* (Princeton, NJ: Princeton University Press, 2006).

<sup>34</sup> See Christopher J. Anderson et al., *Losers' Consent: Elections and Democratic Legitimacy* (New York: Oxford University Press, 2005), 187-190.

depends on legitimacy, and the sense of legitimacy affects the way in which citizens judge the quality of their country's democracy."<sup>35</sup>

Nothing shakes a person's belief in the legitimacy of the democratic process more than being silenced and excluded from it. When citizens are exposed to disempowering conditions that undermine their choices, it stands to reason that their attitudes toward the democratic system will be overwhelmingly negative. Faced with a situation where they are being denied the basic political rights and standings to participate, people will have no discernable connection to the democratic process. So, too, in situations where inequalities in material wealth and resources, or deep-seated and systemic prejudices exist, the influence of certain people's voices is radically unequal. When disempowered silences reflect exclusions from collective decision-making, most democratic theorists would argue (rightly) that no legitimacy could be generated.

These conclusions about the legitimacy costs of silence might seem overly dramatic. But recent empirical research paints an equally gloomy picture. It shows that rising levels of economic and social inequality – the two main causes of disempowered silence – significantly reduce the overall responsiveness of democratic decision-makers. Political scientists have found that, on average, there is a significant socioeconomic discrepancy between the most vocal citizens and the most silent. Socioeconomic status is now a consistent predictor of democratic responsiveness.<sup>36</sup> One series of studies went so far as to suggest that poor and middle class citizens in the United States have little to no

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<sup>35</sup> Pierre Rosanvallon, *Democratic Legitimacy*, 9-10. Italics mine.

<sup>36</sup> Kay L. Schlozman, Sidney Verba, and Henry E. Brady, for example, find that citizens higher incomes and thus greater resources for voice are more likely to vote, more likely to volunteer on campaigns, more likely to participate in associations and civic groups, and more likely to make political donations – all key measures of political participation and, by extension, of responsiveness. See Schlozman, Verba, and Brady, *The Unheavenly Chorus: Unequal Political Voice and the Broken Promise of American Democracy* (Princeton, NJ: Princeton University Press, 2012), chap. 18.

say in what policies the U.S. Congress does or does not adopt. Measured in the legislative output of Congress, the poorest citizens received “near zero” responsiveness to their needs and concerns, whereas the most affluent had a significant independent impact on government policy. What is more, on those occasions where the interests of the poor do manage to be heard by decision-makers, it is because their voices just happen to be echoed by wealthy elites and organized interest groups.<sup>37</sup> There are similar findings in other developed democracies, including Canada and United Kingdom.

Unresponsiveness comes at a significant cost to public perceptions of the legitimacy of the democratic process. Since the more affluent and organized have stronger capacities and greater resources for voice, the outcome of democratic decision-making will almost always reflect the existing “mobilization of bias,” to borrow E.E. Schattschneider’s telling phrase.<sup>38</sup> It will reinforce the status quo by disproportionately skewing the public agenda toward the interests of the already wealthy and powerful, as mentioned previously. If the preferences and judgments of the poorest and most vulnerable members of society are consistently neglected and ignored, then their impression of the legitimacy of the democratic system as a whole will be increasingly negative, motivating their withdrawal from politics into passive forms of cynicism, distrust, and disaffection. Being consistently on the losing side of collective decisions, and finding no legitimacy in the process, these silent citizens cannot bear to abide the outcome, and so drift away from political life entirely.

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<sup>37</sup> Martin Gilens and Benjamin I. Page, “Testing Theories of American Politics: Elites, Interest Groups, and Average Citizens,” *Perspectives on Politics* 12 (2014): 576. See also, Bartels, *Unequal Democracy: The Political Economy of the New Gilded Age*; and, Martin Gilens, *Affluence and Influence*.

<sup>38</sup> Elmer E. Schattschneider, *The Semisovereign People: A Realist’s View of Democracy in America* (Boston: Wadsworth Publishing, [1960] 1975), chap. 2.

### 3.2.2 EPISTEMIC COSTS

Second, setting aside the legitimacy costs, the prevalence of disempowered silence in politics also presents an altogether different set of *epistemic* challenges to the proper functioning of democratic systems. Given the size, scale, and complexity of modern government and governance demands, as well as the plurality of competing interests that bear on most problems, citizens and their elected officials face the daunting task of how to gather and coordinate the knowledge and expertise necessary to make good decisions and policies.

When it comes to gathering and coordinating knowledge, democratic procedures offer some distinct epistemic advantages. One of the most commonly cited virtues of democratic decision-making institutions is that they make it possible for government to draw in information and critical feedback from all corners of society, efficiently pooling knowledge.<sup>39</sup> Democratic institutions facilitate the sharing and free exchange of information by enabling opportunities for public scrutiny, deliberation, and debate. An epistemically ideal decision-making environment is one where a diversity of voices and perspectives can be heard, discussed and deliberated, revised if necessary, and appropriately weighed against feasible alternatives before reaching a final decision. When everything is functioning as it should, and everyone's preferences, opinions, and interests are taken into consideration, then the democratic process becomes, in John Dewey's words, a kind of "organized intelligence."<sup>40</sup> It allows for better decision-

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<sup>39</sup> See, for example, Bohman, *Public Deliberation*, chap. 5; David Estlund, *Democratic Authority* (Princeton, NJ: Princeton University Press, 2008), chap. 9; Hélène Landemore, *Democratic Reason: Politics, Collective Intelligence, and the Rule of the Many* (Princeton, NJ: Princeton University Press, 2013); Knight and Johnson, *The Priority of Democracy*, 151-161. The idea that democratic decision-making procedures result in "better" decisions is traceable at least to J.S. Mill, however.

making, under the right conditions, by harnessing the input of those people best positioned not only to know their own needs and interests, but also to judge the effectiveness of collective decisions and policies in practice.

Disempowered silences obstruct the gathering and coordination of knowledge and information. In doing so, they can impose significant epistemic costs on democratic systems by hindering the ability of decision-makers to respond to public problems with intelligent solutions. The most straightforward of these hindrances arises from asymmetries in information that disempowered silences produce in society. Unequal distributions of power, resources, or opportunities for participation can lead to informational deficits within democratic organizations, in the media and public sphere, and among disadvantaged groups of people. Disturbingly for democratic theorists, the result is often a total lack of knowledge about the needs and concerns of society's most vulnerable, the specific problems they face, or the wrongs and injustices they endure. Instead, such groups are often left to "suffer in silence" below the threshold necessary to gain attention.<sup>41</sup> Charles Lindblom and Edward Woodhouse give us a sense of the negative consequences for democracy: "Not quite as apparent is that inequality interferes also with the *intelligence* of democracy," they write. "When some important problems are not forcefully called to attention, then all of us are deprived of the opportunity to deliberate about them, deprived of the opportunity to reappraise our own judgments of what issues most deserve scarce time, attention, and funding."<sup>42</sup>

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<sup>40</sup> John Dewey, *The Later Works, 1925-1953*, ed. Jo Ann Boydston, vol. 11: 1935-1937 (Carbondale: Southern Illinois University Press, [1935] 1991), 61.

<sup>41</sup> Mancur Olson, *The Logic of Collective Action: Public Goods and the Theory of Groups* (Cambridge, MA: Harvard University Press, 1971), 165-169.

In addition to disabling the upward flow of information to decision-makers, there is another way that disempowered silences can be epistemically costly. Since disempowered silences inevitably lead to informational deficits within and between particular groups of people, they can also disable the kinds of communications necessary for people to coordinate and mobilize for collective actions on a large scale.<sup>43</sup> Here the problem is not just one of having politically relevant information reach the attention of government or a wider public audience. Rather, it is the subtler problem of getting people who hold the same views to voice those views instead of remaining silent, so that everyone might come to realize these views are commonly shared. Elisabeth Noelle-Neumann suggests that in situations where the actual views of a majority of people go unexpressed, the unintended aggregate effect is a “spiral of silence” that leads to misperceptions of where majority opinion in fact lies.<sup>44</sup> People may also feel social pressure to engage in “preference falsification” by embracing conformist positions supportive of the status quo, even though this does not reflect their true beliefs.<sup>45</sup> This can prevent people from achieving collective outcomes that, individually, each wants or desires and that are, collectively, obtainable if only someone took the first step and spoke up. A lack of shared knowledge resulting from a failure of publicity in respect to people’s

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<sup>42</sup> Charles E. Lindblom and Edward J. Woodhouse, *The Policy-Making Process*, 3rd ed. (New York: Prentice Hall, 1993), 111.

<sup>43</sup> On this point, see Josiah Ober, *Democracy and Knowledge: Innovation and Learning in Classical Athens* (Princeton, NJ: Princeton University Press, 2008), 114-117, 176-177.

<sup>44</sup> Elisabeth Noelle-Neumann, *The Spiral of Silence*, 2nd ed. (Chicago: University of Chicago Press, 1993). For an excellent discussion and overview of these concerns from a democratic perspective, see Knight and Johnson, *The Priority of Democracy*, 140-142.

<sup>45</sup> See Timur Kuran, *Private Truths, Public Lies: The Social Consequences of Preference Falsification* (Cambridge, MA: Harvard University Press, 1995), chap 3. In contrast to Noelle-Neumann, Kuran prefers the term “spiral of prudence” to “spiral of silence” to describe social pressures for preference falsification, which he suggests is “inadequate, if not misleading. In actual contexts people reluctant to publicize their disenchantments do not just slip into silence. Were they to stop talking, they would end up revealing their private preferences. To make their efforts at preference falsification convincing, they tend to take steps to affirm their support for the status quo – as when an anticommunist Soviet citizen signs a letter condemning a dissident whom she admires.” Kuran, *Private Truths, Public Lies*, 113.

preferences and opinions can, in this way, be fatal to the capacity of people to organize, act collectively, and pressure government for accountability and change.

Yet here we should be careful here to not just focus on the epistemic challenges that *just* disempowered silences present. If we do, we risk overlooking the reality that many of these same challenges can as easily be brought on by public apathy and inattention to political life. In fact, much of the findings of public opinion research over the past half-century would suggest that – to the extent it can be directly measured – the public’s silence on important issues and policies would not be characterized as disempowered silence but, rather, what might be called *inattentive silence*.

Consider John Hibbing and Elizabeth Theiss-Morse’s influential argument about the attitudes of average Americans towards democracy. “The last thing people want is to be more involved in decision-making,” Hibbing and Thiess-Morse claim: “They do not want to make political decisions themselves; they do not want to provide much input to those who are assigned to make these decisions; and they would rather not know all of the details of the decision-making process.”<sup>46</sup> This argument fits well, I think, with folk understandings of the meaning of silence in politics, which often hold that silence in politics is a sign of apathy, ignorance, or tacit consent. This interpretation also finds some support among scholars of public opinion and voting behavior, with survey results routinely finding that the average person pays little, if any, attention to politics at all.

Many plausible explanations are given for such inattentive silences in politics. For example, Philip Converse shows that the inattention that people display towards politics

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<sup>46</sup> John R. Hibbing and Elizabeth Theiss-Morse, *Stealth Democracy: Americans’ Beliefs About How Government Should Work* (New York: Cambridge University Press, 2002), 1-2. See also, Nina Eliasoph, *Avoiding Politics: How Americans Produce Apathy in Everyday Life* (New York: Cambridge University Press, 1998). For a dissenting view, see Michael A. Neblo et al., “Who Wants To Deliberate - And Why?,” *The American Political Science Review* 104 (2010): 566–583.

is a reflection of their lack of strong feelings or “true attitudes” about most political issues, which often appear abstract, too technical, and overly complex.<sup>47</sup> Indeed, most people will not have even considered the issue or problem in question until asked to give their opinion by researchers. As a result, they will often just make up an answer off the “top of their heads.”<sup>48</sup> People who are apathetic and uninformed are also more likely to base the opinions they *do* happen to hold on partial and incomplete information. There is a high probability that their judgments will be clouded by cognitive biases that filter out conflicting points of view that do not fit with their prior beliefs, commitments, or worldview.<sup>49</sup> These biases are sometimes exacerbated by people’s unwillingness to make the effort to form new opinions, or to update the ones they already have.<sup>50</sup> In extreme cases, the result of not being exposed to diverse enough sources of information means that people might not even be aware of what their political choices truly are.<sup>51</sup>

There is, I believe, a common theme in these findings when considered together. The inattentive silence that characterizes many people’s encounters with democratic politics can be explained by ignorance and misinformation that shades their (often limited) knowledge of opportunities for voice and participation. I see this conclusion as serving only to highlight, once more, the significant epistemic costs that accrue to democracy whenever the diversity of voices in democratic decision-making is

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<sup>47</sup> Philip E. Converse, “The Nature of Belief Systems in Mass Publics,” in *Ideology and Discontent*, ed. D.E. Apter (New York: Free Press, 1964).

<sup>48</sup> John Zaller, *The Nature and Origins of Mass Opinion* (New York: Cambridge University Press, 1992), 49, 314.

<sup>49</sup> See Dennis Chong, “Degrees of Rationality in Politics,” in *The Oxford Handbook of Political Psychology* (New York: Oxford University Press, 2013).

<sup>50</sup> See Arthur Lupia and Mathew D. McCubbins, *The Democratic Dilemma: Can Citizens Learn What They Need to Know?* (New York: Cambridge University Press, 1998).

<sup>51</sup> Richard R. Lau and David P. Redlawsk, *How Voters Decide: Information Processing during Election Campaigns* (New York: Cambridge University Press, 2006), chap. 2.

diminished. Whether the result of structural barriers to reasoning, negligent reasoning, or no reasoning at all, people's ability to gather knowledge together and to coordinate their actions collectively is severely undermined by the widespread prevalence of disempowered silences in democratic systems.

### 3.2.3 *ETHICAL COSTS*

Last but not least, disempowered silences also raise a difficult set of ethical dilemmas concerning the passive role that silent citizens play in sustaining forms of domination and injustice in democratic societies. Though I will not tackle the ethics of silence in this dissertation, I would be remiss if I did not at least highlight the ethical costs of silence when it results in democratically licensed injustices.<sup>52</sup> While the democratic process offers many benefits and advantages, we would do well to remember that democratic decision-making is by no means perfect: the Jim Crow laws in the United States, the Aboriginal residential school systems in Canada and Australia, and even the apartheid regime in South Africa, all relied on familiar democratic tools for their authority and legitimacy.

Remaining silent – out of apathy, inattention, willful ignorance, simple cowardice, or even tacit approval – is a way that people can be indirectly complicit in sustaining unjust institutions and practices. Judith Shklar forcefully presses this charge. She argues that, as democratic citizens, our quiet inaction – our failure to vote, to speak up, or to otherwise participate – can make us accomplices to the wrongs that our leaders and elected officials do in our name. We are guilty of *passive* injustice, she accuses, “when we do not report crimes, when we look the other way when we see cheating and minor

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<sup>52</sup> See Eric Beerbohm, *In Our Name: The Ethics of Democracy* (Princeton, NJ: Princeton University Press, 2012), 78-81.

thefts, when we tolerate political corruption, and when we silently accept laws that we regard as unjust, unwise, or cruel.”<sup>53</sup>

At first glance, such an uncompromising view of silence’s ethical costs might seem harsh. After all, a common intuition is that remaining silent equates to refusing to participate in political decision-making, and thus refusing to contribute to unjust collective decisions and policies. While certainly not praiseworthy, such quiet action could appear to be a principle means of avoiding complicity in the actions of government. Silent citizens could respond that they are not directly contributing to the wrongdoing of their leaders and elected officials, even if they fail to lend their voices to reforming unjust institutions and practices.

Eric Beerbohm takes a particularly dim view of this sort of response. People’s choices for silence, however small in effect, can contribute to a broader political environment that not only makes wrongdoing possible, but also ensures that there will be neither accountability nor impetus for change. We cannot be said to collectively rule ourselves in a democracy without also incurring some blame for the passage of laws that are morally unacceptable. “We picture the individual who seeks a kind of ‘inner immigration’ from injustice – who squirrels himself away from social structures as far as possible,” Beerbohm writes. But “once our inactions are seen as a kind of cause, seeking hermitage is no answer to injustice.”<sup>54</sup> On this view, failure to contribute directly to defeat political injustice makes silent people accomplices to the wrongdoing of the state.

Complicity through silence becomes an acute problem, I think, when people’s choices for silence are set against the more realistic backdrop of material and social

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<sup>53</sup> Judith N. Shklar, *The Faces of Injustice* (New Haven: Yale University Press, 1990), 6.

<sup>54</sup> Beerbohm, *In Our Name*, 81.

inequalities, which, as we have seen repeatedly, can silence the voices of those who are most vulnerable to injustice. Disadvantages in society generate disempowering silences that lead the better off to wield vastly more influence in the political domain, meaning that their liability for wrongful state action should be correspondingly greater. This greater liability falls squarely on those who occupy positions of relative power and privilege, and whose voices will be heard most clearly. When set in the context of unequal abilities to fulfill the duties and obligations of democratic citizenship, people who have greater capacities and opportunities for voice also, admittedly, have greater burdens. Nancy Rosenblum locates the moral obligation for vocal participation in the responsibilities we share with one another as fellow citizens. “The disposition to speak up is peculiarly democratic,” she argues. “For the person speaking up, it is a matter of democratic pride. The shame and regret we may feel thinking back to occasions where we could have objected but kept silent is for a civic, not merely private moral failing.”<sup>55</sup> I tend to agree. When injustices and wrongdoing are witnessed, I would argue that people have both a moral and civic duty to speak up – to raise their voices in drawing attention to those wrongs with the goal of mobilizing opposition and instigating reform.

All this being said, we still cannot condemn people for failing at their citizenship when it seems that the political system has effectively silenced them. Iris Marion Young gives the example of a single mother who is forced into homelessness and therefore silenced by a combination of structural factors beyond her immediate control: the high costs of living, the need for transportation to get to and from work, the need for a safe environment to raise her children, the enormous gender gap in the wages that women

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<sup>55</sup> Nancy L. Rosenblum, *Membership and Morals: The Personal Uses of Pluralism in America* (Princeton, NJ: Princeton University Press, 1998), 358.

earn, and so on.<sup>56</sup> Given these circumstances, Young argues that this woman's silence in the political domain – her failure to vote, for example – is perfectly understandable, even excusable, in light of the considerable disadvantages she faces. I think that Young's judgments are right in this case. But I would add there is an important sense in which, from the outside at least, we cannot tell the difference between the silence of such a person and the silence of those who choose to passively watch on from the sidelines as an injustice unfolds. We need a theoretical framework that can distinguish these silences – distinguish disempowered silences from those that are actively chosen – and discern the political meaning that they are, rightly or wrongly, commonly understood to have.

### 3.3 CONCLUSION

We began this chapter with the goal of surveying the conception of disempowered silence that has come to predominate contemporary democratic theory. The purpose of this conception is to focus attention on structural barriers to voice and participation that undermine democracy by reinforcing relations of domination and exclusion. Democratic theorists are surely correct to characterize barriers to voice in democracy – be they economic, social, or political – as *silencing* poor and vulnerable members of society through lack of opportunities, capacities, or resources. Whereas most democratic theorists have concentrated their efforts on the troubling realities that many silent citizens face in democracies today, few have allowed themselves to look past disengagement and disempowerment being the only reasons for silent citizenship. At least part of this reluctance, I would argue, stems from the moral priority to try to eliminate disempowered

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<sup>56</sup> Young, *Responsibility for Justice*, chap 2.

silences through institutional reform. Still, we do no favours to democracy by oversimplifying. Our democratic theories should account for the full range of reasons people may have for remaining silent in politics, some of which may in fact be active and politically engaged. My aim in the following chapters is to develop the conceptual tools – a framework – required to fully understand the problems and possibilities of silence from a democratic perspective. Exploring the conception of disempowered silence serves as only the first cut. Indeed, too narrow a focus on only the disempowering consequences of silence leaves no space for theorizing about the democratic potentials of silence that may exist beyond this conception. In the next chapter, I begin the task of developing an alternative conception of silence that could better account for its democratic potentials.

## How to Win Silence and Influence People

To realize that one has the power to remain silent is linked to the understanding that one can exert some control over events – that one need not be entirely transparent, entirely predictable ...  
Sissela Bok, *Secrets*<sup>1</sup>

Silence can sometimes be a powerful expression of choice. On January 3, 2013, Congressman Mick Mulvaney attempted to unseat fellow Republican John Boehner as Speaker of the U.S. House of Representatives. How he attempted to do so was striking. When called upon to cast his vote on Boehner's candidacy, the representative from South Carolina chose to stand with his arms crossed at the back of the legislature, remaining motionless and completely silent. It would not be until the very last votes were tallied that Boehner would clear the majority he needed. The image of Mulvaney's self-described "silent protest" made national headlines, sparking rumours of turmoil and division among Republicans over the direction of Boehner's leadership.<sup>2</sup>

Consider another powerful expression of silence. In June 2013, Erdem Gündüz walked into the middle of Taksim Square, Istanbul, and stood alone, without moving or speaking, while staring resolutely at a government building draped with two Turkish flags and a portrait of Kemal Atatürk, the founder of modern Turkey. His silent vigil came after a violent police crackdown on protests against the government of Prime Minister Tayyip Erdoğan. Four protesters had been killed and dozens were arrested or

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<sup>1</sup> Sissela Bok, *Secrets: On the Ethics of Concealment and Revelation* (New York: Vintage, 1983), 38.

<sup>2</sup> Jonathan Weisman, "Boehner Retain's Speakers Post, but Dissidents Nip at His Heels," *The New York Times*, January 4, 2013, accessed April 10, 2014, <http://www.nytimes.com/2013/01/04/us/politics/new-congress-begins-with-wishes-of-comity-but-battles-ahead.html>.

hospitalized. By the afternoon, hundreds of people had joined Gündüz in his silent vigil. Thousands would be staging similar vigils in cities across Turkey by the end of the week. Authorities simply watched on, unwilling to intervene.<sup>3</sup>

My aim in this chapter is to clarify the conditions under which silence is an empowering expression of individual or collective choice. Of course, even the suggestion that silence *could* be empowering seems to be at odds with the predominant view of silence we have so far encountered in democratic theory and practice. For the most part, we do not yet understand what it would look like for silence to function as an empowerment. Neither do we yet have a clear idea as to what the normative benefits of choosing silence could possibly be. This is because, as we saw in the last chapter, when most democratic theorists think about silence, they tend to have in mind what I call *disempowered silence*: cases where individuals or groups *have been silenced*, either through the denial of formal political rights and opportunities, or through inequalities in capacities, influence, and resources, such as education, status, and wealth. Recognizing and addressing the costs of disempowered silence is, I believe, essential to strengthening democratic institutions and practices. On its own, however, I argue that the conception of disempowered silence provides us with none of the tools needed to understand what, if anything, might be normatively attractive – empowering, even – about choosing silence as a form of political engagement.

In the first section of the chapter, I begin to develop some of the tools needed by taking a closer look at a basic political and legal right at the core of most modern, liberal-

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<sup>3</sup> Ian Traynor and Constanze Letsch, “Turkey’s ‘Standing People’ Protest Spreads amid Erdoğan’s Crackdown,” *The Guardian*, June 18, 2013, accessed September 12, 2013, <http://www.theguardian.com/world/2013/jun/18/turkey-taksim-standing-protests-erdogan>.

democratic systems: the right to remain silent. Historically, the liberal right to silence has been argued to be politically empowering in at least two ways: as a means of limiting state domination, by protecting an individual's ability to refuse to cooperate with those in positions of power and authority; and, as a way of maintaining the voluntariness of political arrangements, by ensuring that individuals are not being forced to speak or participate. Though highly suggestive, I argue that the liberal formulation of the right to silence is also too detached from the contemporary realities of politics for our purposes. People can be coerced, misled, or intimidated into keeping silent. Their choices for silence can also reflect distorted perceptions of the options available to them. In the second section, I carefully distinguish these different scenarios and, in doing so, spell out the exact conditions under which we should expect silence to function as an empowerment. Choosing silence is empowering, I argue, to the extent that it expands people's options for self-determination, by enabling an opportunity for resistance in situations where options are otherwise limited. In the third section, I draw attention to the "democratic" potential of such choices for silence to contribute to norms of nondomination and inclusion – the normative meanings of democratic self-rule. A further democratic potential follows: Because it is easier to use, and it carries lower risks, when silence is protected as a right, then in principle those with fewer resources may make use of it to induce responsiveness from decision-makers and other elites. In the fourth and final section, I consider the various difficulties of trying to guarantee that a formal right to silence does not just end up masking – or, worse, legitimating – relationships of domination and exclusion.

#### 4.1 THE RIGHT TO REMAIN SILENT

Much of the focus of contemporary democratic theory is institutional. We see that democratic theorists are concerned, not just with outlining principles and ideals of democracy, but also with elaborating the institutional conditions required to make democratic forms of governance possible: competitive elections, public opinion, political representation, division of powers, formal venues that elicit feedback from citizens, and the like.<sup>4</sup> These institutional features of democracy have come to be widely appreciated, I argue, in large part because they enable and empower people's *voices* in processes of collective decision-making. So, if we are interested in understanding the conditions under which *silence* is empowering, I suggest that we adopt a similar strategy. I think that we should start by asking: What institutional features of democracy *make it possible* for people to choose silence?

The answer, it turns out, is somewhat ironic. For although democratic theorists (rightly) associate empowerment with mechanisms of voice (e.g., voting in elections, expressing preferences and opinions, debating and deliberating), the very possibility of exercising voice freely in a democracy in fact depends on the possibility of refraining from voice as one chooses. In other words, *the empowerment of voice presupposes the enablement of silence*. It is people's ability to stop talking, to remain silent, which ensures that what voice people do give to politics is freely given – “free” in the sense that their voice is neither being coerced nor compelled. If we explore the structural

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<sup>4</sup> Here I draw on Mark E. Warren's discussion of the constitutive relationship between democratic institutions and democratic norms. See Warren, *Democracy and Association* (Princeton, NJ: Princeton University Press, 2001), 69-77. For a more recent argument to much the same effect, see Jack Knight and James Johnson, *The Priority of Democracy: Political Consequences of Pragmatism* (Princeton, NJ: Princeton University Press, 2011), chap. 8.

relationship between voice and silence in greater detail, I argue that we can gain insight into exactly when and how choosing silence is politically empowering.

Nowhere, I believe, has the relationship between voice and silence been more thoroughly explored than in constitutional debates about freedom of thought and speech in the United States.<sup>5</sup> Consider, for example, the famous 1977 U.S. Supreme Court case *Wooley v. Maynard*. In *Wooley*, the Court was asked to rule on whether the state of New Hampshire could compel its citizens to display the state's motto, "Live free or Die," on their license plates. Unsurprisingly, the Court ruled against the government, claiming that it could not make obscuring the motto on the license plate a crime. More surprising, I think, was the Court's justification for its ruling. Instead of ruling, as one might expect, that forcing citizens to display the motto would violate their constitutional right to free speech, the Court claimed that it in fact violated their First Amendment *right to silence*.<sup>6</sup> In his majority opinion, Chief Justice Warren Burger explained the Court's reasoning this way:

[T]he right to freedom of thought protected by the First Amendment against state action includes both the right to speak freely and *the right to refrain from speaking at all* ... A system which secures the right to proselytize religious, political and ideological causes *must also guarantee the concomitant right to decline to foster such concepts*.<sup>7</sup>

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<sup>5</sup> Philip Pettit has made a similar observation, noting that, "freedom of speech is significant, not just in enabling people to speak their minds ... but also enabling them to be significant in their silences." He then goes on to make the more problematic claim that, "in the presence of freedom of speech" the "silent observer gets as close as makes no difference to her meaning or communicating by her silence that *she approves* of what she observes." Pettit, "Enfranchising Silence," in *Rules, Reasons, and Norms: Selected Essays* (New York: Oxford University Press, 2002), 371-372. Italics mine. In a fascinating exchange with Rae Langton, Pettit reverses his position, conceding, "[e]ven if people are free to speak out in a certain domain, there may still be various costs associated with speaking out, and these can inhibit speech and leave their silence, when are silent, disenfranchised." Pettit, "Joining the Dots," in *Common Minds: Themes from the Philosophy of Philip Pettit*, ed. Geoffrey Brennan et al. (New York: Oxford University Press, 2007), 333. While I share Pettit's original view that there exists a close relationship between the freedom of speech and the right to silence, my analysis avoids the mistake of making any further claims about the default meaning of silence.

<sup>6</sup> For an excellent discussion and overview of the *Wooley* case, as well as of debates about the right to silence in U.S. jurisprudence, see Louis M. Seidman, *Silence and Freedom* (Stanford: Stanford University Press, 2007), chap. 7.

<sup>7</sup> *Wooley v. Maynard*, 430 U.S. 705 (1977), 714. Italics mine.

Chief Justice Burger's claim, quite simply, is that the right to freedom of speech and thought set out in the First Amendment *subsumes within it* a right to remain silent. Indeed, on Burger's interpretation, the government could not coerce speech from its citizens under ordinary circumstances. The guarantee of freedom of thought and speech in a democratic society must imply the possibility that citizens could, without threat to life or livelihood, refrain from speaking their minds, and are in fact free to do so. The alternative, of course, is compulsory speech of the kind that inevitably results in self-censorship: pressuring people into publicly expressing views that do not reflect their actual opinions, beliefs, or preferences. This is why a guaranteed right to silence is imperative: "the right to remain silent is grounded primarily in a desire to avoid the individual's humiliation, demoralization, and cognitive dissonance that flows from being forced by the government to speak."<sup>8</sup>

Once we recognize silence as a right, enabled and protected in liberal democratic societies as a structural condition for voice empowerment, it becomes easier to recognize that disempowerment and disengagement are not exhaustive of the potential reasons for silence in democracies. Contemporary democratic theory notwithstanding, the right to remain silent has long been regarded in legal scholarship as an essential corollary of the basic sets of liberal rights and freedoms meant to safeguard against forms of political domination: rights including those of speech, thought, and participation, as well as legal protections from self-incrimination and rights to due process, among others.<sup>9</sup>

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<sup>8</sup> Martin H. Redish, *The Adversary First Amendment: Free Expression and the Foundations of American Democracy* (Stanford: Stanford University Press, 2013), 151.

<sup>9</sup> See, for example, Akhil R. Amar, *The Constitution and Criminal Procedure: First Principles* (New Haven: Yale University Press, 1998); Redish, *The Adversary First Amendment*; and, Seidman, *Silence and Freedom*. For a more critical appraisal of existing legal

In liberal democracies, the existence of an effective right to silence may also combine with other basic rights and empowerments to enhance the “negative” powers of citizenship – the ability of citizens to refuse those in positions of power and authority. It is partly for this reason that the right to silence appears most often in the history of legal thought as a means of blunting the threat that government poses to the individual. In its sixteenth- and seventeenth-century origins, the right to remain silent was first invoked as a means of protecting individuals from open-ended interrogations or “fishing expeditions,” which had become common practice in government-sanctioned heresy and sedition trials.<sup>10</sup> In England, prerogative courts like the Star Chamber and the High Commission could arbitrarily force people to swear an oath that, if later called upon, they would truthfully answer any questions the court might have for them. The penalty for refusing this request was public flogging. In early history of the United States, colonists explicitly rejected the English approach to interrogation out of a deep skepticism about the truthfulness of confessions obtained in situations where rights to silence were not respected. After independence, almost every state constitution included protections against involuntary confessions, even before the adoption of the U.S. Bill of Rights.<sup>11</sup>

Contemporary legal justifications of the right to remain silent make a similar case for limiting the potential for state domination by strengthening people’s ability to refuse to cooperate with authorities, especially in criminal proceedings. Arguably, the most famous example is the *Miranda* warning that law enforcement agents in the United States

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scholarship on the right to remain silent, see Marianne Constable, *Just Silences: The Limits and Possibilities of Modern Law* (Princeton, NJ: Princeton University Press, 2005), chap. 7.

<sup>10</sup> Amar, *The Constitution and Criminal Procedure*, 68-70.

<sup>11</sup> George C. Thomas III and Richard A. Leo, *Confessions of Guilt: From Torture to Miranda and Beyond* (New York: Oxford University Press, 2012), chap 4.

must recite prior to taking criminal suspects into custody.<sup>12</sup> According to the U.S. Supreme Court's 1966 *Miranda v. Arizona* decision, authorities must notify suspects about their right to remain silent and their right to the presence of an attorney during questioning. Authorities must also warn suspects that anything they do say may be used as evidence against them in a court of law.<sup>13</sup> On its face, the *Miranda* warning is a straightforward extension of the Fifth Amendment privilege against self-incrimination, intended to put "the accused on notice about the risk in speaking – and the need for caution in doing so."<sup>14</sup> Yet closer inspection of the Court's opinion in *Miranda* also reveals a deeper concern about insulating individuals against the potential for coercion during police interrogation, by providing them with the explicit opportunity to remain silent. In the Court's words:

[T]o respect the inviolability of human personality, our accusatory system of criminal justice demands that the government seeking to punish an individual produce the evidence against him by its own independent labors, rather than by the cruel, simple expedient of compelling it from his own mouth ... the privilege is fulfilled only when the person is guaranteed the right to remain silent *unless he chooses to speak in the unfettered exercise of his own will*.<sup>15</sup>

There is more to be said about the right to silence from the perspective of democratic institutions and practices. In institutional environments where conflict is desirable or to be expected – legislatures, for example – the right to silence can be

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<sup>12</sup> Although my analysis here is primarily based on Supreme Court jurisprudence in the United States, it should be noted that the right to remain silent is a crucial component of criminal proceedings in most developed liberal democracies, including Canada, France, Germany, the United Kingdom, and Australia. Where these countries differ is on the question of what judges and juries may infer if the accused exercises their right to silence. For example, in the United Kingdom, judges and juries may infer that silence is evidence of guilt. In the United States, judges and juries are explicitly prohibited from drawing such inferences. See Daniel Seidmann, "The Effects of a Right to Silence," *The Review of Economic Studies* 72 (2005): 593–614. In the next chapter, I take up the issue of the multiple interpretations that can be drawn from silence.

<sup>13</sup> *Miranda v. Arizona*, 384 U.S. 436 (1966).

<sup>14</sup> Constable, *Just Silences*, 154. Although Constable is skeptical that the *Miranda* warning is an insufficient mechanism to establish that the accused truly understands their rights, and will receive a fair trial, she argues that, "a felicitous '*Miranda* warning,' may help preserve the trial as a space of proper speech." Thus, "the contemporary American right to remain silent may indeed open up possibilities for justice." Constable, *Just Silences*, 150.

<sup>15</sup> *Miranda*, 460. Italics mine.

enabled through formal rules and procedures, often in ways that increase the political autonomy of individual members. In the case of Mick Mulvaney, for example, understanding the voting rules of House of Representatives meant that Mulvaney's "silent protest" would be widely seen as a rebuke of John Boehner. Exercising this option did not require Mulvaney to break ranks with his Republican colleagues, nor did it require him to make his opposition to Boehner a matter of official record. We can take a more general point from reflection on this case. Later in the chapter, I argue that the right to silence can empower individuals within institutions and organizations by expanding opportunities to silently protest, abstain, refuse to participate, withhold support and recognition, and engage in other tactics of silent resistance that enhance autonomy in strategic contexts of power.

To be sure, the linkage between this kind of institutionalization of rights to silence and the good of autonomy can be quite inconsistent across economic, legal, and political domains. In Canada, the United States, the United Kingdom, and other liberal democracies with laws against forced confessions, it is usually still the case that citizens can be compelled to speak before government committees, grand jury hearings, public inquires, or as a witness during legal and judicial proceedings.<sup>16</sup> So long as what they say is not self-incriminating, citizens are expected to provide truthful testimony or else can be held in contempt of the law. This practice is particularly controversial in the United States, which has a chequered history of compelling innocent people to testify in

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<sup>16</sup> Indeed, as Seidman notes, in the United States the right to remain silent in legal and judicial proceedings is almost entirely about non-self-incrimination, and "not about informational privacy – that is, the right to keep certain things secret." Seidman, *Silence and Freedom*, 74. The implication is that the U.S. government can compel testimony from its citizens if this testimony is not self-incriminating. If it is incriminating, authorities can also compel testimony by granting immunity from prosecution. Thus the right to remain silent does not preclude government-compelled speech *as such*.

excessive and unwarranted political investigations, including the infamous McCarthy trials during the early 1950s.<sup>17</sup> It is under such extraordinary circumstances that the democratic value of the right to remain silent is made clearest.

Yet, if the excesses of the McCarthy era underscore the importance of defending a robust right to silence in democratic societies, there are other core areas of democracy, such as public debate and deliberation, where the value of this right seems less obvious. This is because, as we saw above, the right to remain silent also implies the right to refuse to participate or to be answerable for one's decisions or actions, possibly in ways that hide the truth, conceal wrongdoing, mislead others, or potentially result in forms of domination and injustice. Jeremy Bentham questions (classical) liberal defenders of the right to silence on precisely these grounds. He asks rhetorically: "If all the criminals of every class had assembled, and framed a system of their own wishes, is not this rule the very first which they would have established for their security?" His conclusion: "Innocence never takes advantage of it; innocence claims the right of speaking, as guilt invokes the privilege of silence."<sup>18</sup>

As Bentham's remarks indicate, there is an irreducible tension between liberal principles and democratic norms when it comes to respecting an individual's right to silence. Liberal approaches to the right to silence are distinguished by their emphasis on the negative and protective functions a legal guarantee of silence fulfills. A robust right to silence follows from the liberal commitment to respecting the moral dignity and priority

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<sup>17</sup> See Craig R. Smith, "The Red Scare," in *Silencing the Opposition: How the U.S. Government Suppressed Freedom of Expression During Major Crises*, ed. Craig R. Smith (New York: SUNY Press, 2011).

<sup>18</sup> Jeremy Bentham, *A Treatise on Judicial Evidence*, trans. M. Dumont (London: Baldwin, Craddock, and Joy, 1825), 241.

of the individual as a private person.<sup>19</sup> It sharpens the boundaries between an individual's freedom to choose what to disclose about themselves, and those forms of disclosure that can be legitimately compelled by the state. Seana Shiffrin sums up the liberal position: "A moral agent has an interest in controlling and being able to avoid states that I will call 'performative dissonance': states of conflict or tension between what one says or appears to say and what one thinks."<sup>20</sup> Thus, for most liberals, the presumption should always be against the state compelling people to break their silence – even if in service of some broader public good.

From a democratic perspective, arguments that endorse the right to silence out of a purely liberal concern for individual freedom can be problematic.<sup>21</sup> This is because the circumstances in which individuals are free to make choices in social and political life are invariably constituted by relationships of power and mutual dependency. People's choices for silence, clearly, will be influenced by considerations of power and other vulnerabilities. These considerations may pressure people to keep silent in situations where they might otherwise speak up. If respecting an absolute infeasible right to silence means disregarding these realities, then the results may be profoundly antidemocratic. It is already far too common, for example, for those in positions of power and privilege to exercise their right to silence in order to evade public scrutiny and

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<sup>19</sup> "Compelled expression is a classic liberal taboo," Nancy Rosenblum notes. "Freedom from government censorship and constraint is a condition of liberty to speak and associate. Freedom from government-imposed obligations to profess beliefs or opinions is a condition of liberty *not* to speak and associate." Rosenblum, *Membership and Morals: The Personal Uses of Pluralism in America* (Princeton, NJ: Princeton University Press, 1998), 215.

<sup>20</sup> Seana V. Shiffrin, "What Is Really Wrong with Compelled Association?" *Northwestern University Law Review* 99 (2005): 859.

<sup>21</sup> Indeed, Isaiah Berlin goes so far as to suggest that the negative and protective freedoms championed by classical liberalism are "not incompatible with some kinds of autocracy" and are "not, at any rate, logically connected with democracy or self-government." Berlin, "Two Concepts of Liberty," in *Liberty: Incorporating Four Essays on Liberty*, ed. Henry Hardy, 2nd ed. (New York: Oxford University Press, 2002), 176-177.

accountability. “Silence serves the wealthy and powerful well,” Mark Warren writes, “and public argument is one of the few resources through which poorer and weaker members of society can exert influence.”<sup>22</sup> Uncritical acceptance of the liberal claim that silence *is a right* (and thus a choice) makes it more likely that those without resources for voice and influence in society will continue to be neglected and ignored.

We can acknowledge these dangers without dismissing the protective benefits a liberal right to silence affords. It is not the right to silence that is objectionable in most cases, I think. Rather, it is the idea that guaranteeing this right alone is sufficient for individuals to avoid relations of domination and to exercise autonomy. More care is needed to distinguish the multiple ways that power and circumstance may combine to affect people’s choices for silence. In what follows, I map out three possible ways in which inequalities in power and circumstance might lead people to actively choose silence as a response to politics.

#### 4.2 MAPPING THE RELATIONSHIPS BETWEEN SILENCE AND POWER

We are looking to spell out the exact conditions under which choosing silence is politically empowering – and thus potentially democratic. Our survey in the last section has given us some clues as to where to look and what to look for. We noted that the option of silence is, typically, enabled in liberal democratic systems as a structural complement to voice empowerment. We see that silence and voice are linked because the possibility of remaining silent is a condition for freely speaking and participating in politics. To have the right to silence is to have the opportunity to refuse voice or

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<sup>22</sup> Warren, *Democracy and Association*, 81.

cooperation as one chooses. So, the sorts of conditions where we should be looking for silence to be politically empowering, I argue, are conditions where the availability of silence *as a choice* expands people's options for self-determination.

We can specify these conditions of empowerment more precisely through a process of elimination. Instead of cataloguing every situation in which the choice for silence seems to function as an empowerment, we can search for the minimal conditions under which choosing silence has the possibility of being empowering. This can be most easily accomplished, I argue, by redescribing different choices for silence in politics in terms of a basic account of social power.

Following Max Weber's famous definition, social power can be understood as the "possibility within a social relationship of imposing one's own will, even against opposition."<sup>23</sup> On Weber's formulation, the primary characteristic of social power is the capacity to change what another person or group would otherwise prefer to do.<sup>24</sup> To occupy a position of *coercive* social power over someone else, it is enough to be capable of interfering in their choices – for example, by threatening them, by bribing them, or by implementing rules and policies that limit the options available to them. In general, people are less vulnerable to interference when they enjoy advantages in the relative distribution of cognitive, social, and material resources necessary to make independent choices, such as education, organization, information, time, status, and wealth. This is

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<sup>23</sup> Max Weber, "Basic Categories of Social Organization," in *Weber: Selections in Translation*, ed. W.G. Runciman, trans. Eric Matthews (New York: Cambridge University Press, 1978), 38.

<sup>24</sup> This Weberian model of power has elsewhere been described as an actor's ability to influence the "probability of an event" unfolding, versus the "probability of an event unfolding given no such action"; as the ability of an actor to "strategically constrain" another actor's "action environment"; or, more recently, as the "ability to change" what an actor "would otherwise prefer to do – i.e., change the strategy the latter would otherwise select from their opportunity set." See, respectively, Robert A. Dahl, "The Concept of Power," *Behavioural Science* 2 (1957): 214; Thomas E. Wartenberg, *The Forms of Power: From Domination to Transformation* (Philadelphia: Temple University Press, 1991), 85; and, Frank Lovett, *A General Theory of Domination and Justice* (New York: Oxford University Press, 2010), 75.

because they are less dependent on the good will of others to gain access to these resources.<sup>25</sup>

We can further formalize these observations. Adapting Weber, we can model power relationships as asymmetrical relationships of choice structured by control over resources: A has power over B just insofar as A controls access to a resource B needs or desires, *and* B is dependent on A's good will to gain access to this resource. Because A is in a position to dictate the terms of the dependency, B is vulnerable to A's interference. So, when analysing power relationships, attending to the *number* and *profile* of options is key. The more limited (or undesirable) B's options, the more likely it is that what B wilfully chooses to do is something that aligns with A's will. This said, choice still matters. Thus, even in the limiting case of a relationship of complete dependency (e.g., a slave relationship), A's power over B is contingent on B's compliance with A's commands. The slave who simply refuses to comply, even on threat of death, has effectively broken the power relationship – albeit at the considerable cost of trading this relationship for one of violence.<sup>26</sup>

Using this simple model, we can identify at least three ways in which the choice for silence might map onto an existing power relationship (with slavery as the limiting case). First, a person might choose silence as a result of *direct interference* within a power relationship, such as bribes, threats, penalties, or other methods of coercion.

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<sup>25</sup> On this point, see Philip Pettit, *On the People's Terms: A Republican Theory and Model of Democracy* (New York: Cambridge University Press, 2012), 36-40.

<sup>26</sup> Some have argued that slavery is such a “dismal choice scenario” that even the suggestion that there is a real option between compliance and noncompliance is problematic. See, Lovett, *A General Theory of Domination and Justice*, 39, 147-151. I am sympathetic to this view, but still think the distinction is useful. What reflection on dismal choice scenarios draws out, in my opinion, is subtler distinction between using sanctions to interfere in someone's choices (e.g., threats and rewards) and using force (e.g., picking you up and carrying you out of the room). Force differs from sanctions in that it bypasses a person's will entirely, stripping them of even the pretence of a choice between compliance and noncompliance. See, Jane Mansbridge et al., “The Place of Self-Interest and the Role of Power in Deliberative Democracy,” *Journal of Political Philosophy* 18 (2010): 80-82.

Second, we might imagine cases where remaining silent itself constitutes a form of *indirect interference*, by deceiving, manipulating, or otherwise misleading people about what their options actually are. Third, we can also identify cases where people might choose silence, not as a result of being threatened or in order to deceive, but as a means of *resistance to interference* within a power relationship.

Table 4.1 (below) summarizes the relevant features of each of these modes of influence and provides some examples. The table presents a rough guide for understanding the potential effects of power on people's choices for silence. As one might expect, the influence of power on choice turns out to be quite complex. In practice, people might find their choices for silence being influenced by power in multiple ways, both directly and indirectly. But mitigating the negative effects of each type of influence would require its own set of institutional responses and remedies. Thus, by distinguishing between modes of influence and examining the effects of each separately, we can identify the distinct challenges each poses to democracy. I briefly consider each mode of influence below, before ruling out the first two as unlikely to lead to empowering choices for silence.

**TABLE 4.1**  
When is Silence Empowering?

<i>Mode of influence</i>	<i>Method of influence</i>	<i>Description of relationship</i>	<i>Potential to empower?</i>	<i>Examples</i>
<b>Direct interference</b>	Threats or rewards	A removes or alters B's options, leading B to choose silence	No	Coercive threats or the use of force; penalties and punitive sanctions; bribes, rewards, or quid-pro-quo arrangements.
<b>Indirect interference</b>	Deceit or manipulation	A manipulates or deceives B about B's options, by choosing silence.	No	Withholding information; secrets; lying or omissions; propaganda, ideology, and social and cultural norms.
<b>Resistance to interference</b>	Refusal to cooperate	B chooses to remain silent to resist A's arbitrary interference.	Yes	Abstentions; civil disobedience (e.g., silent protests, vigils, marches); silent forms of resistance within organizations and institutions.

#### 4.2.1 SILENCE FROM DIRECT INTERFERENCE

First, if a person's silence has been bought, or if a person believes that they will suffer harm or injury if they do not keep silent, then we can likely identify this person's choice for silence with some *direct form of interference*.<sup>27</sup> Direct forms of interference occur most frequently when actors who enjoy advantages in the distribution of resources in society use this advantage to coerce people into keeping silent. In such cases, acts of

<sup>27</sup> For an extended discussion of the negative effects of direct interference, see Knight and Johnson, *The Priority of Democracy*, 201-204, 226-230.

direct interference do not preclude choice (as violence does), but they do limit the range of options from which people may realistically choose.

We can model the kinds of relationships that lead to direct forms of interference. Put in formal terms of power, the fact that A controls resources wanted or needed by B gives A the ability to directly interfere in B's choices, either by removing alternatives to silence or by altering the value of choosing silence. Such direct interference usually consists of a mixture of penalties and rewards, which have the effect of changing the salience of different options, motivating people to remain silent in circumstances where they might otherwise choose differently.<sup>28</sup> Typical examples are the bullying tactics used by political leaders to maintain group or party discipline, or – in the case of criminal organizations like the Mafia – the paying off of witnesses to crime and corruption. Other examples include the pressures workers often face to remain silent and suppress workplace conflict, especially when alternative employment is unavailable. Or again, those types of disempowered silence highlighted in the previous chapter as resulting from barriers that deny citizens a voice in processes of collective decision-making.

Of course, in most liberal democracies, the law generally precludes direct interference in other people's choices, especially interference of the kind represented by bribery or threats of injury. Nonetheless, as Peter Bachrach and Morton Baratz point out, even when legal protections and other empowerments are in place, it can still be the case that people find themselves “frozen in silence” when confronted by those with greater power and resources.<sup>29</sup> Indeed, people may often choose silence, not because they are

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<sup>28</sup> The underlying assumption here, of course, is that the threats or offers of reward made by a more powerful actor are perceived as credible. See Lovett, *A General Theory of Domination and Justice*, 76.

actually being interfered with, but merely because they *anticipate* interference. This choice for silence is most understandable in situations where the asymmetries in power are clear to everyone involved. In such cases, the threat of interference does not need to be made explicit for the less powerful party to feel pressured into choosing silence. Rather, simple awareness of existing power asymmetries is sufficient to create the expectation that some form of harm or injury would result from speaking up.<sup>30</sup> So, for example, the worker who remains silent about an exploitative employer for fear of losing their job is led to make this choice for silence through the anticipation of direct interference.

Sometimes, institutional rules and social norms can have a similarly constraining effect on people's choices, as we see in the previous chapter.<sup>31</sup> Take the U.S. military's now defunct policy on openly gay servicemen and women, which for nearly two decades mandated silence: "don't ask, don't tell." The effect of such a policy is analogous to instances of anticipated interference: members of the U.S. military refrained from disclosing their sexual orientation, after taking into account the severe penalties certain to be imposed for violating the policy.<sup>32</sup> Put simply, institutional rules and norms can

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<sup>29</sup> Peter Bachrach and Morton S. Baratz, "Two Faces of Power," *The American Political Science Review* 56 (1962): 949. See also, John Gaventa, *Power and Powerlessness: Quiescence and Rebellion in an Appalachian Valley* (Chicago: University of Illinois Press, 1980), 20-25.

<sup>30</sup> J.G.A. Pocock offers the following account of how the anticipation of interference might maintain an asymmetrical power relationship: "Where A has the power and B has not, it is a sign of weakness for either to take initiative, but B must take it and A need not ... once acquired, it [power] is maintained not by exertion but by inaction; not by the display of *virtù*, but by the characterless force of its own necessity." Pocock, "Ritual, Language, Power," in *Politics, Language, and Time* (Chicago: University of Chicago Press, 1989), 69. I take this description to be characteristic of relationships where those who are in superior positions of power and authority can impose their will on others without having to act or speak at all.

<sup>31</sup> For an analysis of the silencing effects of institutional rules and norms, especially for women and other marginalized groups, see Robin P. Clair, *Organizing Silence: A World of Possibilities* (New York: SUNY Press, 1998).

<sup>32</sup> Dennis F. Thompson aptly characterizes the policy of "don't ask, don't tell" as, in effect, "compelled silence": "individuals who are gay are not permitted to disclose their orientation. They may go to gay bars, designate their partners on insurance forms, and take other similar actions; but they may not announce to anyone that they are gay. If they do, they are subject to discharge and other

directly interfere with people's choices in ways that incentivize silence, particularly if these rules and norms make choosing options other than silence detrimental to a person's overall wellbeing.

In all of these cases, then, we can identify the choice for silence with various forms of direct interference that, in one way or another, have the effect of pressuring people into remaining silent. Under these conditions, it is improbable that we would find choosing silence to be politically empowering. On the contrary, whenever people are vulnerable to direct forms of interference, we are far more likely to find that their choices for silence are motivated by coercion, self-censorship, and other stifled expressions of domination and dependency.

#### 4.2.2 SILENCE AS INDIRECT INTERFERENCE

There is a second way in which choosing silence might map onto a power relationship. It is found in situations where the choice for silence has the effect of deceiving, manipulating, or otherwise misleading others. This possibility draws attention, again, to the range of negative consequences that follow from silence whenever information is unequally distributed.<sup>33</sup> In such cases, those with more complete information may exploit informational asymmetries by remaining silent on certain issues or topics in ways that *indirectly interfere* in the decision-making of other people.

Recognizing silence as a potential form of indirect interference highlights one of the chief dangers the choice for silence poses to democracy. For if A has private

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penalties." Thompson, *Restoring Responsibility: Ethics in Government, Business, and Healthcare* (New York: Cambridge University Press, 2005), 138.

<sup>33</sup> Indeed, concern about the distorting effect of informational asymmetries on people's judgement is one of the key drivers of "right-to-know" and other targeted transparency policies in the US and other developed democracies. See Archon Fung, Mary Graham, and David Weil, *Full Disclosure: The Perils and Promise of Transparency* (New York: Cambridge University Press, 2007), chap. 2. For a superb reflection on the problems and potentials of increased transparency in politics, see Bok, *Secrets*, chap. 14.

information crucial to B's options in a particular choice, then A can use control over this resource as the basis for a power relationship: either by deceiving B about the options available in a choice, or by manipulating B into making choices that – unknown to B – are detrimental to B's interests. Note that although A's silence might be seen as a utilization of power over B, the ability to choose silence is *not* what empowers A in this formulation. What empowers A, rather, is the possession of private information that can then be used to indirectly interfere in B's decision-making. The difference is subtle, but important – here, knowledge is power.

Through deception, silence can have the effect of misinforming people about an option's availability, or about the consequences that choosing an option is likely to have. Manipulation using silence goes one step further. It aims to mislead people into making choices not in their interests, sometimes without being aware that there even was a choice at all.<sup>34</sup> Such indirect interference is perhaps most damaging to democracy when those in power choose to remain silent in order to sidestep controversy, to avoid debate, or to keep government secrecy. Without access to the facts necessary for informed decision-making, democratic citizens are liable to base their judgements on unreflective beliefs, propaganda, ideology, or other insidious methods of influence that undermine the epistemic integrity of the democratic process. They could end up voting for politicians with hidden agendas, investing in companies with dubious accounting practices, or endorsing policies and programmes that pose unacknowledged public risks.<sup>35</sup>

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<sup>34</sup> On the differences between deception and manipulation see Pettit, *On the People's Terms*, 54-56.

<sup>35</sup> From the perspective of democratic theory, the worry here is not just that manipulation and deceit impair individual and collective judgement. It is also that such disempowered silence is likely to settle, over time, into forms of passive disaffection that make democratic self-government impossible. See, Mark E. Warren, "Democracy and Deceit: Regulating Appearances of Corruption," *American Journal of Political Science* 50 (2006): 160–174.

For precisely these kinds of reasons, democracies require robust public spheres that cultivate critical capacities, share information, and mobilize citizens to seek out and demand answers from those in positions of power and authority. Yet silence in society can also indirectly influence people's decision-making in less obvious ways, as we see in the last chapter. Martha Nussbaum gives the example of middleclass women in India who, despite their relative affluence, are told "never to question male authority, and taught norms of female submissiveness, silence, and innocence." One result of this "lifelong socialization and absence of information," according to Nussbaum, is that these women have no conception of having been wronged when they suffer domination, exploitation, domestic violence, and other injustices.<sup>36</sup> The widespread lack of discussion about the rights and status of women itself has the effect of preventing women's recognition of there having been any wrongdoing in the first place.

As Nussbaum's example illustrates, when the beliefs and preferences of vulnerable people reflect their adaptation to diminished possibilities of choice, then it is difficult for them to see themselves as being dominated or oppressed.<sup>37</sup> Instead, in the absence of conflicting information, they will tailor their expectations to fit into what are, objectively, bad life circumstances. This scenario perhaps comes closest to what social and political theorists call the "third face of power," to refer to distortions of people's preferences and beliefs for which no particular individual is responsible, but which end

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<sup>36</sup> Martha C. Nussbaum, *Women and Human Development: The Capabilities Approach* (New York: Cambridge University Press, 2000), 42, 139.

<sup>37</sup> Cécile Laborde describes this scenario as one of "dominated choice, whereby choosers are subjected neither to interference with their actions nor to direct coercive threats, but where (i) the options open to them are equally unattractive and (ii) their option set has been framed by an unjust ... normative order." Laborde, *Critical Republicanism: The Hijab Controversy and Political Philosophy* (New York: Oxford University Press, 2008), 120.

up reinforcing domination, oppression, and exclusion.<sup>38</sup> To the extent that the choices for silence we all make have the side effect, however unintended, of changing what another person or group would otherwise prefer to do, then this too may count as a form of indirect interference.

These cases, taken together, help to register a difficulty that people face in acquiring the knowledge necessary for autonomous decision-making. When there exist informational asymmetries between two or more parties, those with greater information may leverage this resource to their advantage. By remaining silent and withholding information, they can indirectly influence others into making decisions that are not in their best interests. More generally, lack of adequate information can undermine capacities and opportunities for critical self-reflection, indirectly leading people to hold distorted perceptions of the options available to them. In such situations, I suspect that most of us would not find choosing silence in order to manipulate or deceive others to be politically empowering. Rather, we would recognize these forms of indirect interference through silence as contributing to, if not compounding, the domination and exclusion of marginalized and vulnerable people.

#### 4.2.3 SILENCE AS RESISTANCE TO INTERFERENCE

We can identify a third way that the choice for silence might map onto an asymmetrical power relationship. Within contexts of power and mutual dependency, choosing silence can be a method of *resistance* insofar as it enables dependents to refuse the power

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<sup>38</sup> For an overview of the three dimensional conception of power, see Steven Lukes, *Power: A Radical View*, 2nd ed. (London: Palgrave Macmillan, 2005), chap. 3. Michel Foucault's work on the silencing power of institutional rules, norms, and traditions may also be interpreted in this way. Indeed, in the few places that Foucault speaks of silence explicitly, it is of the kind of silence that arises from "authorized" and "unauthorized" discourses within society. "Silence itself – the thing one declines to say, or is forbidden to name, the discretion that is required between different speakers – is less the absolute limit of discourse, the other side from which it is separated by a strict boundary, than an element that functions alongside the things said, with them and in relation to them within overall-strategies." Foucault, *The History of Sexuality, Vol I: An Introduction*, trans. Robert Hurley (New York: Pantheon, 1978), 27.

relationship.<sup>39</sup> Such silent resistance can be a passive refusal, as when a subordinate is unresponsive to the orders or commands of a superior. It can be an undemanding refusal, as when someone abstains rather than picks from among the options presented to them. It can also be an unorganized refusal, as when an individual decides to stand alone on a public square in silent protest. Nonetheless, this ability to resist can sometimes be empowering: expanding opportunities for self-determination in situations where options are otherwise limited.

We can make sense of how silence might become resistance by appealing, once more, to our simple model of power. As we see, asymmetrical power implies dependency, and dependency implies that parties with more power can interfere in the options available to parties with less. A's power over B is *diminished*, therefore, just to the extent that B has options, X, Y, or Z, which fall outside the scope of A's arbitrary interference.<sup>40</sup> Here, we can identify *silence* as one such option. Instead of picking from among options A controls, B may simply opt for silence in relation to A – choosing, in effect, to refuse A's will altogether. Crucially, this is one formulation of silence and power that does not rely on access to resources (except silence) for its success. Choosing silence counts as an empowerment only to the extent that it expands B's options enough to resist the imposition of A's will.

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<sup>39</sup> As with the other configurations of silence and power I discuss, I am not the first to theorize the potentially empowering effects of choosing silence. Most developed is Vincent Jungkunz's analysis of "insubordinate silences," which he argues can be used to "empower, protest, resist, and refuse." Though suggestive and certainly valuable, ultimately I find Jungkunz's analysis of silence problematic, not least because he conflates two very different things: the *means* through which people's choices for silence are exhibited (e.g., "a protest" or "a refusal"), and the potential effects or *outcomes* that result from people's choices for silence (e.g., "empowerment"). Jungkunz, "The Democratic Promises of Silence," *New Political Science* 34 (2012): 146-147.

<sup>40</sup> Pettit, *On the People's Terms*, 61-62. See also, Lovett, *A General Theory of Domination and Justice*, 148-149.

Note that this formulation does not amount to an argument about the empowering effects of silence *as such*. Should B's silence fail to register as resistance, for example, A may simply ignore B's choice for silence altogether. But it is an argument, I believe, for protecting and, in some cases, strengthening people's right to silence within organizations, institutions, and other relationships where individual choice risks being displaced by coercion or compulsion. For, especially in situations of mutual dependency where achieving collective goals requires a high degree of cooperation, if enabling and protecting the right to silence makes B's silence something that A cannot ignore – it makes this silence, at minimum, an obstacle to a collective outcome A wants.

We are now, finally, in a position to spell out the exact conditions under which choosing silence is politically empowering. Silence is politically empowering, I argue, to the degree that it expands B's choices, providing B with options outside of those dictated by A. If B has the option of (silently) refusing A, then A cannot rely on control over resources to secure B's compliance *in this instance*, lessening the impact of A's power advantage in the relationship. Under these conditions, the normative contribution of choosing silence is to nondomination, the primary meaning of which is to have capacities and opportunities sufficient to refuse the arbitrary dictates of others, and so to exercise autonomy.<sup>41</sup> We can identify this contribution with the one that the right to silence, discussed earlier, accomplishes in liberal democracies generally. Indeed, as I argue, the right to silence, especially when coupled with positive protections, status, resources, and

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<sup>41</sup> Henry S. Richardson, *Democratic Autonomy: Public Reasoning about the Ends of Policy* (New York: Oxford University Press, 2002), 28-36.

other supports, may reduce vulnerability to domination by preserving the possibility of refusing cooperation with those in positions of power and authority by one's choice.

None of this is to suggest, of course, that the right to silence cannot coexist with ongoing structures of domination and oppression. To hold that exercising one's right to silence can be politically empowering is neither to downplay the severity of dominating and oppressive conditions, nor to underestimate their resiliency. On the contrary, the fact that the right to silence is being chosen *to resist* already acknowledges a backdrop of some disadvantage. In the next section of the chapter, I propose that we try to further sharpen our understanding of when, and how, resistance through silence is empowering by considering some of the ways that resistant silences can advance basic norms of democracy.

#### 4.3 SILENCE-BASED EMPOWERMENT

Political resistance is empowering only when combined with inducements. This is to say that, to be influential, resistance must be capable of exacting costs.<sup>42</sup> These costs might be quite marginal – slightly fewer votes, say – or they might be quite substantial – as in the threat of a general strike. Resistance through silence, I am arguing, can be one potentially effective method for exacting costs on organizations, institutions, and other kinds of social or political relationships. Because choosing silence can be a means of refusing cooperation, it can also be a means of disrupting collective decisions and

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<sup>42</sup>Cf. Jungkunz, "The Democratic Promises of Silence." For an extended discussion of the necessary connection between influence and inducement, especially in situations of asymmetric power, see Jack Knight, *Institutions and Social Conflict* (New York: Cambridge University Press, 1992), chaps. 5-6. See also, Frances Fox Piven's discussion of "disruptive power" in *Challenging Authority: How Ordinary People Change America* (New York: Rowman and Littlefield, 2008), chap. 2; and, Knight and Johnson, *The Priority of Democracy*, 224-225.

actions. It can be used to impose one's own will, through abstaining or through withholding support or recognition, for example. Or it can be used to empower a more specific message and place it before a public audience, through silent protests, sit-ins, and vigils, among other strategies.

Silent resistance can make collective decisions and policies unworkable, precisely because the organization of collective action depends on the willing cooperation (or at least acquiescence) of most of those involved, most of the time. Decision-makers can therefore be forced to attend to resistant choices for silence in ways that ultimately induce greater accountability and responsiveness. When decision-makers *do* respond, I argue, we can then see silence not only as empowering, but also as potentially furthering basic democratic norms of nondomination and inclusion.

We can bring these democratic potentials of silence into sharper focus by exploring a few concrete examples. To start, consider how choosing silence can advance democratic norms even in circumstances where democratic rights and empowerments are comparatively weak. The silent vigils held across Turkey in 2013 provide an example. As mentioned earlier, the vigils began in Taksim Square, Istanbul, following a violent crackdown on antigovernment protests that resulted in the death of four protesters and dozens of arrests. One man, Erdem Gündüz, walked onto the square and began to hold silent vigil, staring resolutely at a government building.<sup>43</sup> His decision inspired thousands to join him and hold their own silent vigils in cities across Turkey. Afterwards, Gündüz

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<sup>43</sup> Evidently, the practice of silent vigils is quite common in Turkey. Zeynep Gülrü Göker has explored another famous series of silent vigils – “the Saturday Vigils” – that were held in Turkey during the late 1990s. The vigils were organized by the female relatives of political dissidents who had gone missing under suspicious circumstances, and they were successful at raising public awareness about this alarming trend. See Göker, “Presence in Silence: Feminist and Democratic Implications of the Saturday Vigils in Turkey,” in *Social Movements, Mobilization, and Contestation in the Middle East and North Africa*, ed. Joel Beinin and Frédéric Vairel (Stanford: Stanford University Press, 2011).

explained that he saw silence as a means of continuing to dissent despite police threats. “I’m nothing,” he stated, “the idea is important: why people resist the government. The government doesn’t want to understand, didn’t try to understand why people are on the streets. This is really silent resistance. I hope people stop and think “what happened there?”” When asked for the government’s response, Deputy Prime Minister Bulent Arinc conceded: “This is not an act of violence. We cannot condemn it.”<sup>44</sup>

In Taksim Square, the silent vigils were conspicuous enough to keep the public spotlight on the protesters, but indirect enough to avoid provoking a more violent confrontation with authorities. Because silence lacked the immediately discernable content of a disobedient voice, police were reluctant to intervene. This enabled protesters to continue to assert a public presence. It also became an effective method for protesters to empower their message, by disrupting the routine activities of authorities and bystanders and forcing them to pay attention to the protests. The transformative potentials of silent resistance show up, *not just* in the effects of such resistance in refusing power, but *also* in developing an oppositional consciousness among both protesters and members of the broader public. When marginalized and vulnerable groups of citizens find themselves without a seat at the table, as it were, silent resistance can be the only means available to them to place their demands on the public agenda and focus people’s attention on issues, identities, or injustices that might otherwise find no place in mainstream discourse.

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<sup>44</sup> Majid Mohamed, “Turkey Unrest: ‘Standing Man’ Inspires Hundreds with Silent Vigil in Taksim Square,” *The Independent*, June 19, 2013, accessed August 12, 2013, <http://www.independent.co.uk/news/world/europe/turkey-unrest-standing-man-inspires-hundreds-with-silent-vigil-in-taksim-square-8663201.html>.

These considerations suggest some important features of silence relevant to democratic norms. Where options for voice are limited, resistant choices for silence can translate into powers of influence of the kind that are essential to democracy and public deliberation. Additionally, choices for resistant silence have a much lower threshold for effective use than voice. Part of the reason, mentioned previously, has to do with resources. Since the exercise of voice in politics is often highly resource intensive, options for voice overwhelmingly favour individuals and groups with greater resources, including education, status, organization, and wealth. By contrast, choosing silence does not require access to resources and, even though silence may sometimes be ignored or result in neglect, those silences that register as resistance within a social or political relationship – thereby exacting costs – typically demand a response (e.g., silently refusing directives, abstaining from verbal agreements, withholding support or recognition, remaining unresponsive in public spaces).

Social psychologists suggest a second reason that silent resistance may sometimes be preferable to voice has to do with risk.<sup>45</sup> Where conflict is likely, a resistant silence can be a safer way for people to impose themselves, simply because their motives will be ambiguous enough to be deniable. “It is essentially a “stealth” tactic that affords users incredible power over their targets, while allowing them to deny using it.”<sup>46</sup> In addition to maintaining plausible deniability, resistance through silence also *lessens* the chance of

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<sup>45</sup> See, for example, Judee K. Burgoon and Norah E. Dunbar, “Nonverbal Expressions of Dominance and Power in Human Relationships,” in *The SAGE Handbook of Nonverbal Communication*, ed. Valerie Manusov and Miles L. Patterson (Thousand Oaks: SAGE, 2006); Namkje Koudenburg, Tom Postmes, and Ernestine H. Gordijn, “Resounding Silences: Subtle Norm Regulation in Everyday Interactions,” *Social Psychology Quarterly* 76 (2013): 224–241; Kipling D. Williams, *Ostracism: The Power of Silence* (New York: Guilford Press, 2001); and, Kipling D. Williams, “Ostracism,” *The Annual Review of Psychology* 58 (2007): 425–452.

<sup>46</sup> Williams, *Ostracism*, 83.

retaliation.<sup>47</sup> It helps to conceal a “hidden transcript” of dissent or opposition, to borrow a phrase from James Scott.<sup>48</sup> Of course, it is always possible to have authoritarian responses even to silent resistance (e.g., imprisoning dissidents, forbidding public meetings, threatening a person’s livelihood or security). But there are risks to authoritarian responses as well: they can damage allegiance to the authority and escalate the conflict, often in unforeseen and unpredictable ways.<sup>49</sup>

All other things being equal, then, we are far more likely to find that decision-makers have incentives to anticipate silent resistance before it escalates, and to respond through dialogue rather than coercion. This is because even silent resistance can do significant damage to an organization or relationship. In the workplace, for example, workers’ fears about economic retaliation can limit all options for voice, leaving silent resistance as the only means available to draw attention to issues or concerns. But choosing silence can still be an effective inducement for responsiveness, as when a silently uncooperative workforce causes an entire corporate organization to perform poorly in a competitive marketplace.<sup>50</sup>

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<sup>47</sup> Koudenburg, Postmes, and Gordijn, “Resounding Silences,” 226. See also, Williams, *Ostracism*, 67-68.

<sup>48</sup> James C. Scott, *Domination and the Arts of Resistance: Hidden Transcripts* (New Haven: Yale University Press, 1990). Much of Scott’s work is devoted to exploring how people experience and resist domination in everyday life. In particular, Scott catalogues the various covert strategies – “arts of political disguise” – that subordinated groups have adopted to subvert relationships of domination. Though Scott does not theorize silence as a form of resistance directly, he does make passing reference to “a well-timed silence” being “an instance of a broader class of thinly veiled dissent” that includes “any communicative act intended to convey an indistinct and deniable sense of ridicule, dissatisfaction, or animosity.” Scott, *Domination and the Arts of Resistance*, 155. A similar attention to covert forms of resistance can be found in Gaventa, *Power and Powerlessness*.

<sup>49</sup> Sidney Tarrow notes that there is a well-established link between state toleration for “quieter” forms of resistance and the de-escalation of police violence, even in authoritarian settings. Political authorities are more tolerant of peaceful forms of protest and more willing to let such protests continue without intervention. The rise of “peaceful protest management” can be a double-edged sword, however: “On the one hand, it provides a relatively risk-free means of giving large numbers of people the sense that they are acting meaningfully on behalf of their beliefs. But on the other hand, it deprives organizers of the weapon of outrage. Violent and capricious police who throw sincere young protesters into jail are easier to mobilize against than are reasonable-sounding public authorities.” Tarrow, *Power in Movement: Social Movements and Contentious Politics*, 3rd ed. (New York: Cambridge University Press, 2011), 173. See also, Donatella della Porta, *Clandestine Political Violence* (New York: Cambridge University Press, 2013).

<sup>50</sup> This example is adapted from Warren, *Democracy and Association*, 186.

Here, I think, we can draw a more general connection between the empowering effects of silent resistance and the democratic norm of inclusion. When the choice for silence is enabled and protected as a right, then those with fewer resources (and thus greater vulnerabilities) can use silence to obstruct collective decisions and actions at lower cost and lower risk of retaliation. To the extent that such choices for resistant silence can exact costs in way that induces responsiveness within organizations, institutions, and other relationships, decision-makers have incentives to inquire into the motives of those who are silent *before* silence poses an obstacle, and to provide them with greater opportunities for voice. This, in turn, ensures that what silences do persist are those that have been verified as approval, satisfaction, or support, rather than disempowerment or latent discontent. In this way, the effects of choosing silence can contribute to democratic inclusion. Choosing silence can provide a low-cost, (sometimes) low-risk means for people to influence collective decision-making, even in situations where they are otherwise without options for influencing those decisions.

In the history of the United States, the lower costs and lower risks of silence perhaps explain why silence has so often been deployed in conjunction with voice as a strategy for drawing in marginalized agendas from the peripheries of society. Strategies of silent resistance featured prominently in the National Women’s Party’s fight for women’s suffrage, which was spearheaded by a dedicated group of “Silent Sentinels” who sought to symbolize women’s “voicelessness” by standing silently outside the White House, six days a week, from 1917 until 1919.<sup>51</sup> Similarly, W.E.B. Du Bois and the

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<sup>51</sup> Belinda A. Stillion Southard, “Militancy, Power, and Identity: The Silent Sentinels as Women Fighting for Political Voice,” *Rhetoric and Public Affairs* 10 (2008): 401–419.

National Association for the Advancement of Colored People famously organized a “Silent Parade” of 8,000 in New York to pressure U.S. President Woodrow Wilson to fulfill a campaign promise to legislate federal anti-lynching laws.<sup>52</sup> As strange as it might at first sound, strategies of silent resistance can be an indispensable tool for raising social and political injustices to the level of public consciousness. They can be used to confound prevailing public expectations of a particular group, precisely because a quiet refusal or failure to vocally communicate dissent in a manner that is expected can, almost paradoxically, *heighten* the salience of a demonstration.<sup>53</sup> Strategies of silent resistance can also provide dominated and excluded members of society with a means of influencing democratic politics in ways that, ideally, prompts the kind of broad public dialogue that leads to greater inclusion and responsiveness.

In addition to the benefits that can be obtained through silent resistance, we can also think about how silence-based forms of empowerment might be transformative in ways that advance other democratic goods, such as mutual recognition, solidarity, feelings of trust and reciprocity, or a basic sense of community and common purpose. It may be tempting to focus only on the oppositional dynamics that underlie silent resistance as political empowerment. But insofar as political empowerment is not always a matter of refusing power, but also of raising public consciousness, we should consider

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<sup>52</sup> Alessandra Lorini, *Rituals of Race: American Public Culture and the Search for Radical Democracy* (Charlottesville: University of Virginia Press, 1999), 240-247. For an excellent discussion of the internal deliberations that went into the NAACP’s decision to organize the Silent Parade, see Megan Ming Francis, *Civil Rights and the Making of the Modern American State* (New York: Cambridge University Press, 2014), 72-78.

<sup>53</sup> Here, it is important not to equate the benefits of silent resistance I am pointing to with the more substantive, *moral* opposition to violence and violent forms of political resistance found in theories of civil disobedience. Civil disobedience constitutes a distinct normative approach to resolving political conflict, which may or may not involve the use of silence, depending on the objective. In Gene Sharp’s exhaustive survey of strategies of civil disobedience, for example, silence “as a method of expressing moral condemnation” is mentioned only briefly as one of almost two hundred distinct methods of nonviolent protest. Sharp, *The Politics of Nonviolent Action*, ed. Marina Finkelstein (Boston: Porter Sargent, 1973), 170-171. See also, Kimberley Brownlee, *Conscience and Conviction: The Case for Civil Disobedience* (New York: Oxford University Press, 2012); and, Dustin Ells Howes, “The Failure of Pacifism and the Success of Nonviolence,” *Perspectives on Politics* 11 (2013): 427–446.

how silence might be used to express *commonalties* as well as to communicate opposition or difference. Under certain circumstances, collective expressions of silence can be inclusive; sending a political message precisely because, in coming together in silence, participants bracket their differing interests, identities, and points of view. When this happens, the emphasis shifts to what unites people rather than divides them. Silent vigils, for example, can have the effect of simultaneously drawing attention to specific experiences injustice or exclusion, while also underscoring a deeper collective sense of condemnation, grief, remembrance, or even support, depending on context. Such collectively empowering expressions of silence can often be crucial to transforming people's attitudes as part of a more general strategy of public consciousness-raising.

In sum, properly framed, we can think of silence as potentially underwriting democracy through several empowering effects. Thinking of the right to silence allows us to see how the choice for silence can function as a hedge against political domination, as a refusal of cooperation that expands possibilities for self-determination. The protection of the right to silence in liberal democracies – an institutional complement to voice empowerment – authenticates that voice is neither being coerced nor compelled. Within contexts of power, where voice is difficult or dangerous, the choice for silence also has strategic value when its meaning is ambiguous enough to leave room for multiple interpretations – giving those who resist authority the cover of plausible deniability. In relationships of asymmetrical power, the choice for silence contributes to nondomination by preventing more powerful parties from arbitrarily dictating the decisions and actions of subordinates. Finally, because the option for silence is, typically, available regardless of resources and often carries lower risks, it may also contribute to inclusion by providing

those with fewer resources with a modicum of influence in processes of collective decision-making. In doing so, choices silence may in fact be seen as transforming relationships of domination and exclusion in ways that contribute to basic democratic goods.

#### 4.4 HOW RESILIENT IS SILENCE-BASED EMPOWERMENT?

My aim throughout this chapter is to draw out the conditions under which choosing silence is politically empowering and to identify the democratic norms – nondomination and inclusion – that such choices for silence might advance. But there is a lingering sense that we run the danger of overstating the democratic potentials of silence. Even granting there are conditions under which choosing silence can be empowering, as I argue, it remains difficult to draw any general conclusions about these democratic potentials across all cases. Indeed, against the possibility of generalizing is the reply that any normative benefits of silence – empowering effects of choosing silence – can neither be assumed in practice, nor inferred from the mere presence of a formal right to silence, which by itself just as often masks relationships of domination and exclusion, as protects against them. Conceding that silence can sometimes be politically empowering, we might still object: But is silence a very resilient form of empowerment?

This line of questioning raises two distinct but related worries. The first has to do with the background conditions that are necessary for the right to silence to be real and effective as a political empowerment. As an essentially negative right, it has been noted that the right to silence does not provide enough protection for people who suffer domination and exclusion. It does nothing to ameliorate the underlying social and

material circumstances that make domination possible within social and political relationships. Nor does the presence of a formal right to silence tell us, from the outside looking in, what is motivating people to choose silence within a given relationship. If the right to silence is to be a resilient form of empowerment, then people's choices for silence must be both uncompromised by domination and unconditioned by the negative reactions of others. Philip Pettit has more recently taken this view. He argues that if there is "any possibility of check or coercion in response to speech," then "[n]o matter the context, people's silence will communicate nothing, since it can always be taken to reflect their lack of freedom."<sup>54</sup>

More worrying, perhaps, is the argument that the right to silence does not address the susceptibility of people's silence to being twisted and distorted by those in positions of power and authority. It is true that the ambiguity of silence can allow for multiple interpretations, enabling subordinates to mask their true intentions. But ambiguity is not always a good thing, especially in a democracy. By choosing silence over voice, subordinates may also be ceding discretion to determine what meanings follow from their silence. As Danielle Allen notes, there is always a danger of "errors in how individuals interpret the silence of others: taking as affirmative a silence that is in fact negative, in the first case; or taking as negative a silence that may be affirmative, in the second."<sup>55</sup> The risks of misinterpretation can be particularly high within relationships of power and dependency, where more powerful parties may have incentives to draw favourable inferences from silence – at least favourable for themselves. Lack of control over the

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<sup>54</sup> Pettit, *On the People's Terms*, 202.

<sup>55</sup> Danielle Allen, "Anonymous: On Silence and the Public Sphere," in *Speech and Silence in American Law*, ed. Austin Sarat (New York: Cambridge University Press, 2010), 116.

received meaning of silence can undermine people's attempts to communicate through silence. Rae Langton spells out the concern: "To have one's words twisted into their opposite can be worse, perhaps, than to say nothing; likewise, to have one's silent disapproval twisted into approval can be worse, perhaps, than to have one's silence a neutral blank." Thus, "if enfranchised silence has its enemies, they include not only the absence of free speech but the presence of a too sanguine assumption that silence is already enfranchised."<sup>56</sup>

We do not yet have the complete set of tools we would need to respond to these worries. For now, we can note that although it is difficult to draw any definitive conclusions about the *meaning* of silence across all contexts, it is certainly *possible* for silence to be politically empowering. This being said, in order to judge whether a particular choice for silence is empowering, without simply appealing to the fact that silence is enabled as a formal right, we shall need a much more fine-grained understanding of the communicative implications of choosing silence in different contexts. Only then, I argue, will we be in a position to draw general conclusions about the democratic potentials of silence.

#### 4.5 CONCLUSION

This chapter has sought to model the conditions under which the choice for silence itself is politically empowering. We began our search for those conditions by looking at the options for remaining silent that are typically enabled and protected in liberal democratic systems through the right to silence. We found that silence and voice are, in fact,

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<sup>56</sup> Langton, "Disenfranchised Silence," 214.

structural complements in liberal democratic societies, since the guarantee of the option to remain silent is a basic condition that must be met for people to freely speak and participate in politics. That the empowerment of voice *presupposes* the enablement of silence in liberal democracies, I argue, gives us good reason to attend to political consequences that choosing silence is likely to have.

When we *do* attend to the political consequences of silence, I argue, we see that as much as silence can be a means of refusing cooperation with authorities, it can also be a means of disrupting collective decisions and actions, even when power is unequal. We also see that choosing silence can be a method for resisting domination, but just to the extent that it expands options for autonomy and self-determination. What is more, such resistant choices for silence can, in certain circumstances, induce dialogue and force collective decision-making to be more accountable and responsive. Thus, when a choice for silence can empower people to influence collective decision-making – especially people who are otherwise without options for influencing those decisions – then silence arguably supports democracy.

To be clear, these normative benefits of silence are not a given. We arrived at them inductively, reflecting on specific instances where silence was used as a means of influence in politics. The multiple relationships that exist between silence and power can be mapped in order to identify the conditions under which silence can be empowering. But we would still need to know much more about the implications of choosing silence in order to draw any general conclusions about its normative benefits. We need to conceptualize the generic communicative effects of different types of choices for silence,

so that deeper normative judgements can then be made about the democratic potentials of these choices. In the next chapter, I take up this task.

## How to Do Things with Silence

Silence sometimes expresses more than any speech. Nothing is so equivocal.

Montesquieu, *The Spirit of the Laws*<sup>1</sup>

In his canonical William James lecture series, *How to Do Things with Words*, John Austin argues that in *saying* something we are also always *doing* something. When the speaker of a legislature declares, for example, “The bill is passed!” the performance of this declaration constitutes the fact that the bill has passed. Similarly, when a politician like, say, U.S. President George H.W. Bush, makes a campaign promise – “Read my lips: No new taxes” – his pronouncement is all that is required to make it true that a promise has been made. Austin’s central insight is that words are not just vehicles for describing reality. Words can usher in new realities through the very act of being spoken – announcing intentions, establishing relationships, setting expectations, and obliging people to take responsibility for what they say and do. Austin famously labels these uses of words “speech acts,” and he encourages us to “consider how many senses there may be in which to say something is to do something, or in saying something we do something, or even *by* saying something we do something.”<sup>2</sup>

Whereas Austin sought to clarify what could be done with words, my goal in this chapter is to clarify what can be done with silence. To achieve this, we need concepts that capture the various “things” people might communicate through their choices for silence.

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<sup>1</sup> Charles de Secondat Montesquieu, *The Spirit of the Laws*, ed. Anne M. Cohler, Basia C. Miller, and Harold S. Stone (New York: Cambridge University Press, [1748] 1989), 198.

<sup>2</sup> John L. Austin, *How to Do Things with Words* (Oxford: Clarendon Press, 1962), 108.

Our analysis in the previous chapter identifies the conditions under which choosing silence is an empowering form of political engagement. We see that silence can be a method for resisting domination and exclusion within institutions, organizations, and other important social and political relationships. It can enable opportunities for self-determination in ways that advance basic norms of democracy. The problem, however, is that we have no means to generalize these democratic potentials of silence beyond a few select cases. Since the meaning of silence can often be ambiguous and open to multiple interpretations, it is difficult to be sure what the communicative implications of choosing silence will be. Nonetheless, I argue here that it is still possible to generalize about silence's communicative implications so long as we draw the right distinctions. This chapter extends our theoretical framework for understanding silence to account for its generic communicative features. I develop a typology of communicative silence to ground our expectations about the democratic potentials and dangers to democracy that different choices for silence might pose.

I begin the first section of the chapter outside of the domain of democratic theory, with a discussion of the characteristic features of silence as a form of communication. Most of the raw materials we require to conceptualize the communicative implications of silence can be found in recent work in pragmatics and the philosophy of language. One prominent approach in this literature is to conceive of people's choices for silence as speech acts, along the lines advanced by Austin. This strategy has an intuitive appeal, but I argue that it neither captures nor explains what most distinguishes silence as a form of communication. Silence is unlike speech – and, indeed, any linguistic form of communication – in that it is incapable of conveying propositional content. Our choices

for silence gain meaning and significance only through the *inferences* that other people make. In the second section, I explore Robert Brandom's more promising inferentialist approach to understanding meaning and communication. Central to this approach is the idea that the meanings of our words and actions are determined by how they fit within some larger chain of inferences. It turns out that much the same holds true of our choices for silence: an expression of silence can have implicit meaning or significance because of what it entitles other people to infer based on context. I argue that if we can map the generic form and function of the different inferences that can be drawn from silence, we can construct a typology that gives us a sounder basis for expecting certain choices for silence to result in certain identifiable communicative implications. In the third section, I distinguish four types of communicative silence using this strategy. I call them *affective*, *demonstrative*, *emulative*, and *facilitative* communicative silence. In the fourth and fifth sections of the chapter, I elaborate each type of communicative silence, and outline the possible benefits and dangers for democracy that each represents. I conclude that all four types of communicative silence can be empowering forms of political engagement in a democracy. What makes them empowering, under certain conditions, is their contribution to basic democratic norms of nondomination and inclusion.

### 5.1 CAN SILENCE BE A SPEECH ACT?

This chapter aims to tackle some of the most challenging questions we face in building a democratic theory of silence. We are looking to develop a set of conceptual tools to account for the possible communicative implications of people's choices for silence in politics. Any plausible accounting, I believe, must be able to explain how different expressions of silence could, each in their own way, be understood as a form of

communication. These expressions may be as varied as abstaining from voting, refusing recognition and cooperation, or standing in silent protest. For an explanation to be both comprehensive and relevant from a democratic perspective, it must provide us with a detailed map of the communicative consequences that we should expect from, and associate with, different types of choices for silence. How, then, should we think of silence as a form of communication? Or, more precisely, what form of communication does silence take?

The most straightforward answer to this question, perhaps, might be to conceive of communicative silences as a special kind of speech act, along the lines of those first theorized by John Austin.<sup>3</sup> This answer has a certain intuitive appeal, I think. Austin's basic argument is that in speaking we are also always acting. We use our words in practice to perform specific actions – for example, to advise, to frighten, to demand, to promise, to persuade, and, more generally, to alter the attitudes and beliefs of those around us. In analyzing these various speech acts, Austin distinguishes the act of saying something from what we do *in* saying something. The act of saying something – expressing a proposition (e.g., “George Bush is running for President”) – is what Austin calls a *locutionary act*. What we do *in* saying something – the asserting, the claiming, the promising, the persuading, and so forth – is what he calls an *illocutionary act*. Austin distinguishes both of these from what happens as a *consequence* of saying something, which he calls a *perlocutionary act* (e.g., your frowning at my assertion that George Bush is running for President).

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<sup>3</sup> A number of scholars working in linguistics and the philosophy of language have broadly taken this approach to silence. See, among others, Michal Ephratt, “The Functions of Silence,” *Journal of Pragmatics* 40 (2008): 1909–1938; Adam Jaworski, *The Power of Silence: Social and Pragmatic Perspectives* (Newbury Park, CA: Sage, 1993), 81–90; Muriel Saville-Troike, “The Place of Silence in an Integrated Theory of Communication,” in *Perspectives on Silence*, ed. Deborah Tannen and Muriel Saville-Troike (Norwood, NJ: Ablex, 1985), 10–11; and, Deirdre Wilson and Dan Sperber, *Meaning and Relevance* (New York: Cambridge University Press, 2012), 98–101.

Now, none of the examples of speech acts Austin considers involve silence in any significant way. But Austin does allow, for instance, that in hurling a tomato at a political rally one can express a protest, just as in tapping a stick one can express a threat. So, Austin does allow that certain performances can have an expressive or illocutionary force, even if performed without words.<sup>4</sup> What is more, the intended meanings of these performances and others like burning a flag, chaining oneself to an oilrig, or taping one's mouth shut will usually be clear to everyone involved, regardless of whether they are performed silently or not.<sup>5</sup> And, not only will the intended meaning of such performances usually be clear, but these performances would also qualify as a form of constitutionally protected "speech" in most liberal democracies, including under the First Amendment in the United States.<sup>6</sup> So, if flag burnings, oilrig chainings, and mouth-tapings can all be speech acts in this extended sense, then why not silence?

One reason to doubt that choosing silence could be likened to a speech act, I argue, is that it is not at all obvious what *difference* silence makes to the perceived meaning of an action. Take Austin's example of tapping a stick to make a threat. The fact that someone remains *silent* while tapping a stick at me makes no difference to their meaning. I would feel threatened by their action alone. On the other hand, consider a second scenario in which the person tapping the stick at me also shouts: "You forgot your

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<sup>4</sup> Austin, *How to Do Things with Words*, 110-118. Here, I am following Rae Langton in drawing a connection between Austin's examples of "wordless" speech acts and the thought that, likewise, "silence could be a speech act, an illocution." Langton, "Disenfranchised Silence," in *Common Minds: Themes from the Philosophy of Philip Pettit*, ed. Geoffrey Brennan et al. (New York: Oxford University Press, 2007), 200.

<sup>5</sup> Note that the same is also true of many nonverbal forms of communication, including body language, facial expressions, gestures, posture, and other signs or symbols that come to acquire a conventional meaning or significance in practice. Insofar as these nonverbal forms of communication require the positive performance of an action, they could easily be made to count as "speech acts" according to most pragmatic conceptions of language. Silence distinguishes itself from other forms of nonverbal communication, on my view, in that it is essentially the "nonperformance" of an action. For reasons that will become clearer as my analysis unfolds, I think it is misleading to characterize silence as a speech act, although it might still be useful to do so with other forms of nonverbal communication. For an opposing view, cf. Kris Acheson, "Silence as Gesture: Rethinking the Nature of Communicative Silences," *Communication Theory* 18 (2008): 535-555.

<sup>6</sup> On this point, see Judith Butler, *Excitable Speech: A Politics of the Performative* (New York: Routledge, 1997), chap. 1.

cane!” In this scenario, the additional information supplied through these words has the effect of changing the meaning that the stick tapping has for me. I go from perceiving this person’s actions as a threat to perceiving them as a thoughtful gesture. We can take a more general lesson from these two scenarios. To do something *without* words, I suggest, is just to do that thing. Silence does not add to or change the meaning of an action in the way that words do.

Reflecting on this lesson helps to draw out a crucial distinction between speech and silence more generally. Choices for silence alone are incapable of generating the same sort of independent communicative effects as speech acts, because unlike speech, silence cannot convey specific propositional content.<sup>7</sup> This point is important, but I think far too easy to overlook: Silence does not provide a vocabulary for positive political communication – it cannot be used to reference new ideas, to raise claims, to take a position, to debate, to deliberate, or to critically examine reasons for one’s actions.

This leads us to a second reason to suspect that it would be inaccurate to characterize silence as a speech act. We cannot give our silence a meaning or significance simply by *intending* that others will take it to have one, as we arguably could with our speech acts.<sup>8</sup> Rather, it is the decisive role of social and institutional rules and norms that define the meaning of silence in a given setting. Our ability to communicate through silence presupposes a context or institutional set-up in which the choice for silence can be *matched* with some content that spells out the public meaning of choosing silence. My intention to communicate dissent, say, by choosing to remain silent in the presence of

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<sup>7</sup> Though the quote is sometimes misconstrued, this is precisely what Ludwig Wittgenstein had in mind when he famously wrote, “What we cannot speak about we must pass over in silence.” Wittgenstein, *Tractatus Logico-Philosophicus* (New York: Routledge, [1921] 2002), 85.

<sup>8</sup> Cf. Wilson and Sperber, *Meaning and Relevance*, 101-103; and, Jaworski, *The Power of Silence*, 84-85.

others turns on whether or not silence “counts” as dissent in their eyes. It is simply unintelligible without some overlapping agreement about silence’s meaning or significance.

Sometimes, it is enough for silence to play off of prevailing expectations to be perceived as meaningful, as when a group of normally noisy and vocal protesters confounds its audience by remaining quiet while marching. At other times, the presence of explicit directives or institutional rules and norms does the trick: meetings that conclude with, “Are there any objections?”; wedding ceremonies that instruct potential objectors, “Speak now or forever hold your peace”; campaign ads that advise voters, “Remember: silence is consent!” – all are ways of clarifying the meanings that will be inferred from silence under the relevant circumstances.<sup>9</sup> Though it often goes unnoted, many core democratic institutions and practices rely on similarly fixed understandings of the implications of choosing silence. Silence is taken as tacit consent in the case of low voter turnout, public debate, and legislative decisions and actions, for example. Silence is also, typically, a default “opt-in” to government services, union memberships, and public goods, and, depending on the legal system, it may even be interpreted as evidence of innocence or of guilt in the courtroom.

When we consider these and similar examples, however, it becomes apparent that people’s intentions in choosing silence are, quite often, secondary to the public meaning that gets attributed to silence under the relevant circumstances. This, of course, is not to suggest that knowing a silent person’s intentions is irrelevant. On the contrary, knowing a person’s intentions is essential to determining what meanings, if any, we should draw

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<sup>9</sup> I owe many of these examples to Langton, “Disenfranchised Silence,” 199-201.

from their silence. We should like to know, for instance, if this person is *actively* choosing silence to advance some personal interest or goal.<sup>10</sup> We should want to distinguish such cases from those in which a person is *inattentively* silent – wholly apathetic or unaware of the significance that their remaining silent has for others. Unfortunately, from the perspective of democratic institutions and practices, the difference between an *active* and *inattentive* silence is, typically, not a primary consideration in determining the public meaning that silence may come to have in a particular setting.

We are left with a troubling conclusion. Without carefully attending to the inferences that those in positions of power and authority may draw from people's silence, there is a high risk that those inferences will not match the intentions behind the silence, just because there is an institutional context (or popular narrative) that justifies making such inferences. We all know, for example, that citizens have the right to vote in a democracy. So, if they do not vote, it is readily concluded that these silent citizens are assenting to the consequences of those who do. It does not seem to matter – at least, as far as our folk understanding of voter abstention is concerned – that making such an inference is for the most part arbitrary and unwarranted. Nonetheless, when people choose to remain silent in politics, they cede considerable discretion to determine what public meanings follow from their silence.

I think this conclusion, though troubling, is less radical than it might first appear. There is no doubt that choosing silence can be a significant form of communication. But

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<sup>10</sup> T.M. Scanlon's discussion of intentionality is especially helpful here. Scanlon notes that the term can be used in both a wider and a narrower sense. In the wider sense, when we describe someone as acting "intentionally," what we mean is simply that this person is consciously aware of what they are doing (or not doing, for that matter). In the narrower sense, to describe someone as acting with "intention" is to suggest that this person's actions are a part of larger plan to achieve a desired end. Scanlon, *Moral Dimensions: Permissibility, Meaning, Blame* (Cambridge, MA: Harvard University Press, 2008), 10-12. I would add that someone's actions could also be described as "intentional" when motivated by only half-formed goals, such as a vague sense of anxiety or unease.

it is still easy to miss what is uniquely problematic about silence – namely, its susceptibility to misinterpretation – especially if we conceive of communicative silences in the usual way, equating expressions of silence to a kind of speech act. Focusing on the inferential consequences of choosing silence presents a more promising way of capturing and understanding this problem. In what follows, I sketch out an alternative inferentialist approach to conceptualizing the communicative implications of silence.

## 5.2 TOWARDS AN INFERENTIAL THEORY OF COMMUNICATIVE SILENCE

We are interested in finding an approach better suited to explaining the implications of people’s communicative choices for silence. To get a sense of the kind of approach we are after, consider an alternative view of communicative silence found, of all places, in the work of Thomas Hobbes. Hobbes is clearly no democrat, but he is nevertheless notable for arguing, among other things, that the stability of social and political institutions could only be secured by fixing the public meanings of people’s choices, including their choices for silence.<sup>11</sup> Hobbes’ worry is that differences in the meanings people give to words and concepts could become a source of deep division and conflict within society. His solution is to reject the idea that private intentions should play any role in determining the public meaning of people’s choices, arguing instead that these meanings should be set according to the inferences they entitle others (especially the Sovereign) to draw. Hobbes writes:

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<sup>11</sup> For an overview of Hobbes’ view of language, see Sheldon S. Wolin, *Politics and Vision*, Expanded Ed. (Princeton, NJ: Princeton University Press, [1960] 2004), 230-235. For a more detailed discussion, see Philip Pettit, *Made with Words: Hobbes on Language, Mind, and Politics* (Princeton, NJ: Princeton University Press, 2008).

Signes by Inference, are sometimes the consequence of Words; sometimes the consequence of Silence; sometimes the consequence of Actions; sometimes the consequence of Forbearing Action: and generally a signe by Inference, of any Contract, is whatsoever sufficiently argues the will of the Contractor.<sup>12</sup>

Whether or not Hobbes is right to disregard what we intend our choices to mean (he is not), I want to suggest that his insistence on fixing the public meanings of choices contains two important insights. The first is that public meaning can be drawn, not only from what people choose to do or say (their speech acts), but *also* from what they quietly refuse or fail to say (their silence) – for, as Hobbes writes elsewhere, “so little labour being required to say No, it is to be presumed that in this case he that saith it not, [he] consenteth.”<sup>13</sup> Following this observation, Hobbes’ second insight is that we do not control the public meanings of our choices. The meanings that our choices have for other people – including the meanings of our choices for silence – is set, from person to person, by structured patterns of inference.<sup>14</sup>

Without trying to push the comparison too far, I want to suggest that a more sophisticated version of Hobbes’ view of meaning and communication can be found in recent approaches to the philosophy of language, specifically in the *inferentialist approach* to language developed by Robert Brandom. Brandom’s approach, I argue, is particularly useful for theorizing how silence might become a form of communication. Whereas Austin helps us to see how speaking can be a kind of acting, Brandom helps us to see how the opposite can also be true: By *not acting*, we can also be expressing

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<sup>12</sup> Thomas Hobbes, *Leviathan*, ed. Richard Tuck (New York: Cambridge University Press, [1651] 2003), 92.

<sup>13</sup> Thomas Hobbes, “How by Language Men Work upon Each Other’s Minds,” in *Human Nature and De Corpore Politico*, ed. J.C.A. Gaskin (New York: Oxford University Press, [1650] 1999), 77.

<sup>14</sup> As Pettit explains, Hobbes frames human reasoning in terms of our ability to “ratiocinate” or inductively recognize “patterns of inference” between the words and concepts we use. Reasoning, on Hobbes’ view, is “inherently inferential” and “consists in seeing that one proposition entails another, and on that ground, in moving from an acceptance of the first proposition to an acceptance of the second, or from a rejection of the second to a rejection of the first.” Pettit, *Made with Words*, 42-43.

something. The problem, however, is that what is expressed through such silence lacks meaning or significance unless propositional content can be supplied through inference, as Hobbes also understood.

### 5.2.1 AN INFERENTIALIST APPROACH TO MEANING

Brandom provides us with a framework for understanding how our choices for silence might come to acquire propositional content.<sup>15</sup> One of Brandom's central claims is that the meaning of the words and concepts we express is determined by the inferential relationships these expressions have with surrounding words and concepts. Meaning, in this practical sense, is not a function of what a word or concept denotes. It is, rather, a matter of grasping the logical connections that exist *between* expressions: How our use of one word or concept (e.g., "ice") commits us to acknowledging other, related concepts (e.g., "frozen water"), while excluding others (e.g., "warmth").

To get an intuitive sense of how Brandom's inferentialist account applies in the political domain, start with a familiar case from electoral politics. Suppose I decide to attend a political rally for a certain politician running for the presidency. When I listen to this politician make a promise while giving their campaign speech – "Read my lips: No new taxes" – there is a sense in which I understand the practical meaning of the politician's words only if I also understand the role these words might play in some larger set of inferences. That is, I must have an idea of how words like "no," "new," and

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<sup>15</sup> My discussion of inferentialism here and below draws on Brandom's *Making It Explicit: Reasoning, Representing, and Discursive Commitment* (Cambridge, MA: Harvard University Press, 1994), as well as on commentary found in Joseph Heath, *Following the Rules: Practical Reasoning and Deontic Constraint* (New York: Oxford University Press, 2008), 122-130; Rebecca Kukla and Mark Lance, "Yo!" And "Lo!": *The Pragmatic Topography of the Space of Reasons* (Cambridge, MA: Harvard University Press, 2009), chap 1-2; and, Bernhard Weiss and Jeremy Wanderer, eds., *Reading Brandom: On Making It Explicit* (New York: Routledge, 2010). For an excellent illustration of how Brandom's framework might be applied to a range of issues in contemporary democratic theory, see Michael A. Neblo, *Between the Theory and Practice of Deliberative Democracy* (New York: Cambridge University Press, 2015), chap 2. See also, Thomas Fossen, "Taking Stances, Contesting Commitments: Political Legitimacy and the Pragmatic Turn," *The Journal of Political Philosophy* 21 (2013): 426-450.

“taxes,” all hang together in the politician’s statement in a way that presupposes and implies certain further inferences.

Already, for instance, I must be aware of some of the unstated grounds, or premises, that would entitle this politician to make a promise to me. Their promise about taxes presumes that I know that they are running for office, that they would be in a position to affect taxes if elected, and perhaps that there are far too many taxes at present. Other premises might similarly render the politician’s promise credible in my eyes. Going forward, I also need to have a sense of the implicit consequences, or conclusions, that follow from the politician’s promise. For instance, I should know that it is appropriate to now attribute the commitment to them that, if elected, there will be no new taxes.

Now, suppose this commitment is decisive for me when casting my ballot, as well as for a majority of other voters. Our politician is successfully elected to office. When they then turn around and introduce a new tax, I am understandably upset. I realize that the politician’s words were unreliable. I may even begin to doubt that they understood what “no new taxes” meant – for it is difficult for me to imagine what else their grasp of the phrase could consist of other than a promise.<sup>16</sup> In fact, I may infer much more than this. I may now take myself as having good reason to hold the politician responsible for breaking their promise to me, for example, by petitioning for a recall election. On the other hand, there are other inferences to which I may just help myself. For instance, if I were to conclude on the basis of the politician’s broken promise, “He must be a

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<sup>16</sup> On the question of promising, see Brandom, *Making It Explicit*, 163-165. See also, Heath, *Following the Rules*, 121-122.

socialist,” I would be making an unwarranted inference – a conclusion I have no good reason to draw under the circumstances.

Though a more detailed discussion of Brandom’s inferentialist approach is beyond the scope of this dissertation, the basic idea here is that what we communicate, and what we take other people to be communicating, is a question of knowing what a given word or expression enables us to do (to infer) under different circumstances – “what else it commits [us] to, what commitments it entitles its audience to, what would count as a justification of it, and so on.”<sup>17</sup>

### 5.2.2. *THE INFERENTIAL CONSEQUENCES OF COMMUNICATIVE SILENCE*

One of the most attractive features of an inferentialist account of communication, I think, is that it opens up the possibility that we might communicate things to other people without intending this or making it explicit. Our choices can have *implicit* meaning and significance because of what they entitle others to infer about us in a relevant situation. My decision to break a promise, for example, has a certain meaning – it implies something significant, say, about my attitude towards keeping promises – whether or not it is my intention to communicate this. Similarly, in more political contexts, people may attach great significance to the company I keep, the causes I support, or the candidates I publically endorse, insofar as these choices also implicitly communicate something about my unstated beliefs, judgments, or preferences.<sup>18</sup>

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<sup>17</sup> Brandom, *Making It Explicit*, 173.

<sup>18</sup> It is in this sense, for example, which economists and political scientists most commonly speak of people’s choices as being “expressive,” whether in the marketplace (e.g., the expression of choice through the purchasing of goods and services) or in electoral systems (e.g., the expression of choice through voting for a particular candidate or political party). See, Geoffrey Brennan and Alan Hamlin, *Democratic Devices and Desires* (New York: Cambridge University Press, 2000); and, Alexander A. Schuessler, *A Logic of Expressive Choice* (Princeton, NJ: Princeton University Press, 2000).

Often, I argue, the same inferential logic also holds with our choices for silence. Other people may count a quiet refusal or failure to say something when expected as a kind of implicit expression with inferential implications. What makes this so, on the account I have been sketching, is that we may choose silence in an inferential context – a workplace, a courtroom, a legislature, an election – that has established rules and norms for making sense of silence. Other people can render our choices for silence intelligible because they know the inferences they are entitled to draw from silence under the circumstances. The implicit meaning of silence thus follows from the recognition that choosing silence licenses others to now believe certain things about us, or to treat us in certain ways.

To see this, consider another hypothetical example. Suppose that at the close of a union meeting, the chairperson turns to the audience and announces, “We will convene again next Tuesday at 4:00 and your attendance is mandatory. Are there any objections?”<sup>19</sup> I remain silent in response, as do my fellow union members. From the chairperson’s perspective, it seems perfectly appropriate to infer from silence – our apparent choice to not object – that there are, in fact, no objections. Our silence seems to communicate our acceptance of the chairperson’s proposal. It is recognized as a tacit commitment to showing up next Tuesday at 4:00.

Notice that I just spoke of *recognition* as playing a key role in determining when silence counts as an implicit expression. This claim is potentially provocative in two ways. For one, it implies that not every choice for silence is meaningful. It also implies that it is insufficient to simply *intend* silence to be meaningful (as followers of Austin

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<sup>19</sup> A. John Simmons presents this example in a discussion of the conditions that would be required for tacit consent to a group proposal to be legitimate. See Simmons, “Tacit Consent and Political Obligation,” *Philosophy and Public Affairs* 5 (1976): 274–291.

might argue). Rather, recognition of the meaning or significance of silence depends on the choice for silence being an “ostensive stimuli.” To do so, according to cognitive linguists Deirdre Wilson and Dan Sperber, silence must succeed at somehow commanding its audience’s attention or capturing their imagination – at provoking them, as it were, into making an inference.<sup>20</sup>

It follows, first, that silence is something an audience can fail to notice. When the context in which silence is chosen is closely framed and focused, then the audience will readily recognize that choice for silence as communication. But when the context in which silence is chosen is less well structured and defined, then the choice for silence might be either overlooked or, even when it is noticed, remain ambiguous and open to multiple interpretations. This perhaps explains why, in more informal settings, people will often supplement their silence with banners, signs, and other positive communicative acts in order to convey a more targeted, issue-specific message. It also perhaps explains why those who are most commonly subjected to silence in everyday life – family members, co-workers, politicians, state authorities – will recognize silence as communication only if the context enables them to infer its likely message.

Second, it also follows that the significance of silence is something an audience can disagree with or be mistaken about. To return to the earlier example of the union meeting, silence after a call for objections may communicate agreement from a chairperson’s perspective, but in fact may not from mine. Perhaps I was distracted when the call for objections was made, or perhaps I did not wish to be the only person to raise an objection. There might be multiple, competing perspectives on what remaining silent

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<sup>20</sup> Wilson and Sperber, *Meaning and Relevance*, 100. Wilson and Sperber go on to make the more dubious claim that the meaning of someone’s choice for silence is determined by their intentions in choosing silence. But we do not have to accept this, I think, to see that the choice for silence must be *recognized* by an audience in order to be construed as meaningful or significant.

really commits me to, and whether or not I am responsible for upholding these commitments. How should disagreements of this kind bear on the significance of my silence? Can our choices for silence have communicative implications that we do not ourselves acknowledge?

From an inferentialist perspective, answering these questions boils down to a matter of what Brandom calls *deontic scorekeeping*. The idea here is this: What I really commit to, for example, when I am silent at the union meeting, does not depend on just what *I see* as following from silence. It also depends on what *others see* as following from silence – on how silence changes the “score,” as it were, of what commitments they may now attribute to me.<sup>21</sup>

When communicating, Brandom argues that we try to keep a running tab on each other’s commitments, just as we also try to keep track of our own.<sup>22</sup> So, if a disagreement ever arises over our respective scores – if, for example, others take my silence to imply commitments that I do not acknowledge – we can work to uncover the source of this discrepancy via a “game of giving and asking for reasons.” That is, we can “make explicit” things that were previously unstated and implicit.<sup>23</sup> For instance, if you confront me about why I did not attend the union meeting, I might inform you that because I was

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<sup>21</sup> Brandom summarizes the concept of deontic scorekeeping: “Practitioners take or treat themselves and others as having various commitments and entitlements. They *keep score* on deontic statuses [commitments and entitlements] by attributing those statuses to others and undertaking them themselves. The significance of a performance is the difference it makes to the deontic score – that is, the way in which it changes what commitments and entitlements the practitioners, including the performer, attribute to each other and acquire, acknowledge, or undertake themselves.” Brandom, *Making It Explicit*, 166.

<sup>22</sup> Note that this makes scorekeeping, and language use and communication in general, “doubly perspectival,” in Brandom’s terms. That is, people will each, from their own perspective, attribute commitments and entitlements individually – meaning that there will, almost always, be a difference of opinion as to what the “score” is at any given moment. See Heath, *Following the Rules*, 127. Thomas Fossen rightly points to the agonistic consequences of viewing communication this way, for it implies that, “what anyone is genuinely committed to is [always] assessed differently from different perspectives.” Fossen, “Taking Stances, Contesting Commitments,” 444.

<sup>23</sup> According to Brandom, most of the commitments we attribute to others in fact remain implicit, and are never challenged. “Often when a commitment is attributed to an interlocutor, entitlement to it is attributed to it as well, *by default*.” In practice, such commitments are normally considered “innocent until proven guilty – taken to be entitled commitments until and unless someone is in a position to raise a legitimate question about them.” Brandom, *Making It Explicit*, 177. Italics mine.

preoccupied, I did not realize that my silence had communicated a commitment to attending the meeting. Or it might turn out that you wrongly attributed this commitment to me because you were unaware of some important detail – say, that I decided to quit the union altogether. Whether these reasons are convincing enough to excuse me from my commitments is a different issue. The point is only that we can, in principle, clarify such misunderstandings by following up on silence with dialogue: laying out the inferences that led us to draw different conclusions from silence.

Before turning to develop this inferentialist approach to understanding communicative silence in greater detail, it is worth pausing for a moment to highlight some of its considerable explanatory payoffs. In particular, I believe that it can help us to diagnose what can go wrong when people choose to remain silent within organizations, institutions, and other kinds of social and political relationships. Because, as we have seen, the meanings that are attributed to silence will differ from person to person, and because, in reality, these relationships will often be characterized by various asymmetries, there will always be opportunities for more powerful parties to infer meanings from silence that advantage them in some way. The result may be that people have incurred commitments or obligations in the eyes of others that they do not themselves acknowledge. At the limits, people may even find themselves on the hook for decisions and actions that they in fact oppose.

Put this way, the real problem that communicative silences present for democratic theorists, I argue, is how to understand the generic patterns of inference that different types of choices for silence generate. We should be looking to design political institutions capable of anticipating and supporting the right kinds of inferences from silence, while

disabling those that are false or inappropriate. What we need is a means of translating the theoretical insights of the inferentialist approach into a practical map that guides our judgments about what the likely communicative implications of silence will be in any given context. In the next section, I develop this map.

### 5.3 A TYPOLOGY OF COMMUNICATIVE SILENCE

We have finally arrived at a relatively precise understanding of communicative silence. Communicative silences, I argue, are nonlinguistic communications that are *inferred* as a consequence of the perception of silence as an expression of choice. I use the term “expression” loosely here, as strictly speaking, silence is not an expression at all – it is, I claim, nothing more than quiet inaction. Nevertheless, choices for silence can be communicative just because the perception of silence, specifically the perception of silence as an active choice, has communicative implications. Or, rephrasing slightly, silence is quiet inaction; but quiet inaction becomes communication when an audience infers meaning from it, taking it (rightly or wrongly) to be a kind of expression.

When democratic theorists want to answer the question of how beneficial a choice for silence is for democracy, they need a means to distinguish the probable implications of choosing silence in a way that makes it easier to judge whether silence supports or undermines basic democratic norms.<sup>24</sup> But given the immense range of meanings that can

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<sup>24</sup> There have been a number of attempts to typologize silence from disciplines outside of democratic theory and political science. But most of these attempts strive for a level of detail that is unnecessary for our purposes here. Richard L. Johannesen, for example, lists almost twenty-five distinct meanings of silence in everyday interaction. Thomas J. Bruneau takes a different approach, categorizing communicative silences according to three major forms – psycholinguistic, sociocultural, and interactive – with numerous sub-functions. See, respectively, Johannesen, “The Functions of Silence: A Plea for Communication Research,” *Western Speech* 38 (1974): 25–35; and, Thomas J. Bruneau, “Communicative Silences: Forms and Functions,” *Journal of Communication* 23 (1973): 17–46. I argue that the distinctions I draw – while complex – provide a much better way of mapping the communicative implications of silence, not least because, in the end, it reduces to a classification of four ideal types. For the purposes of democratic theory, I believe we can get by with a relatively small typology. For an argument against organizing silence into formal categories, see Jaworski, *The Power of Silence*, 29–34.

attach to silence in politics, how can we hope to draw distinctions in a way that will not just result in an endless list?

We can make use of the inferentialist approach to communicative silence developed in the previous section to answer this question. We now know that any communicative implications of silence derive from *inferences* about the internal preferences, judgments, or commitments that a person's choice for silence entitles. Thus, if we wish to know what the likely implications of a given choice for silence will be, we should pay attention to the *patterns of inference* likely to be drawn from silence under the relevant circumstances. Following this strategy, we can trace out the generic forms that these inferences might take, as well as the generic functions that these inferences might serve. We can then conceptualize ideal-types of communicative silence as a combination of these two dimensions – inferential form and inferential function.

Table 5.1 (below) distinguishes the general characteristics of communicative silence. Working across the table from left to right, we can first note that every inference has a *direction*: it goes either from or to a given choice for silence. This enables us to identify two generic *forms* of inference: *disclosive* and *regulative* (Table 5.1, second column). When an inference is drawn *from* a person's choice for silence it is *disclosive*. *Disclosive forms* of communicative silence are taken as revealing information about the internal attitudes or commitments of the person choosing silence. By contrast, *regulative forms* of communicative silence lead a person *to* choose silence. They capture situations where someone infers that they ought to remain silent under the circumstances, according to prevailing institutional rules or social norms.

We can also note how the impact of an inference functions in one of three general ways (Table 5.1, third column). Inferences about silence can function as *imperatives* that are understood as a command, as *declaratives* that are understood to reveal personal information, or as *prescriptives* that are understood to be about how one ought to behave in a given situation.

Combining categories of form and function, we arrive at four ideal-types of communicative silence (Table 5.1, first column): *affective*, *demonstrative*, *emulative*, and *facilitative* communicative silence.<sup>25</sup> This typology is not necessarily exhaustive. Nor does it tell us, with absolute certainty, the precise meaning of any specific choice for silence – indeed, there may always be silences with meanings that are stubbornly, perhaps fundamentally, polysemic, especially across cultural or religious communities and other identity groups, for example.<sup>26</sup> What the typology does do, however, is begin to systematically identify the generic communicative implications we should expect from, and associate with, different types of choices for silence. In practice, it may turn out that the implications drawn from a given choice for silence reflect a mixture of several different ideal-types. Isolating each ideal-type and analyzing it separately, however, allows us to locate places where we would expect specific types of communicative silence to yield specific outcomes. We thus have a sound theoretical basis for assessing

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<sup>25</sup> To be clear, the four ideal-types of communicative silence I conceptualize here are only meant to identify theoretical expectations that relate to generic inferential consequences of communicative silence. It would be a mistake to think of these ideal-types as causal claims – that is, as explaining the motivations behind silence in a particular case. Such an explanation would require the sort of careful empirical work that is well beyond the scope of this dissertation. What the typology might do, however, is provide a set of hypotheses about people’s motivations for choosing silence, which could then be further investigated.

<sup>26</sup> On this point, it is worth noting that this typology can easily accommodate the observation that silence takes on different meanings in different cultural settings. Since the typology is tracking the general form and function of the patterns of inference silence generates, and not the content that is read into silence at any given instance, we can remain agnostic about the precise meaning of silence, even across changing cultural contexts. For an excellent survey of the different meanings silence has in different cultures, see Acheson, “Silence in Dispute.”

**TABLE 5.1**  
Types of Communicative Silence

<i>Type of Silence</i>	<i>Communicative implications of silence</i>		
	<i>Form of Inference</i>	<i>Function of Inference</i>	<i>Examples</i>
<b>Affective Silence</b>	Disclosive	Imperative	Silent abstentions, protests, sit-ins, vigils, and marches; choosing silence to punish or shame (e.g., the “silent treatment”).
<b>Demonstrative Silence</b>	Disclosive	Declarative	Choosing silence to signal agreement, or tacit consent; silent abstentions to signal information (e.g., unspoken preferences).
<b>Emulative Silence</b>	Regulative	Imperative	Collective moments of silence; institutional rules and social norms mandating silence (e.g., the silence of a library).
<b>Facilitative Silence</b>	Regulative	Prescriptive	Silence for listening; silence out of civility, tact, or politeness (e.g., turn taking in conversation).

where the benefits and dangers to democracy lie with respect to different types of communicative silence.

In the remainder of the chapter, I work to “politicize” this typology by providing a brief overview of each ideal-type of communicative silence, as well as examples from ordinary social and political life. These examples, as illustrations, help to highlight the

specific democratic contributions and dangers unique to each of type of communicative silence. But, again, the appropriate criteria for judging the communicative implications of choosing silence, I argue, are whether and how far these choices advance basic democratic norms of nondomination and inclusion.

#### 5.4 THE DISCLOSIVE FORM OF COMMUNICATIVE SILENCE

Our typology led us to distinguish communicative silences according to the direction of the inferences they generate. With communicative silences that are disclosive in form, the direction of inference runs *forward* from a person's choice for silence to an audience. This form of silence entitles other people to draw inferences from the silence, on the basis that this choice is perceived to be targeted or deliberate. It warrants an audience to attribute, by inference, implicit attitudes, judgments, or commitments to the silent person. Communicative silences of the disclosive form can be further specified as one of two ideal-types based on the function that they serve: affective silence and demonstrative silence. I elaborate each in turn.

##### 5.4.1 AFFECTIVE SILENCE

First, people can communicate reactive attitudes like anger, blame, indignation, and opposition by remaining silent in the presence of others.<sup>27</sup> They may do so in an effort to influence the behavior of others. They may also do so in an effort to punish others for behavior they deem to be unacceptable or inappropriate. Often, they will continue to remain silent unless or until the offending party is persuaded to behave differently. I call

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<sup>27</sup> Here, I am drawing on Peter Strawson's famous conception of "reactive attitudes," which captures the attitudes we display when holding others responsible for their actions or choices. Such reactive attitudes may be positive (e.g., praise, gratitude, empathy) or they may be negative (e.g., condemnation, blame, resentment, pity). The important point for my purposes is that reactive attitudes make implicit demands on people they target. See Strawson, "Freedom and Resentment," in *Freedom and Resentment and Other Essays* (New York: Routledge, 2008).

this *affective silence*. It captures those communicative silences that aim to sanction someone for failing to meet a specific expectation we have of them.

Conceptually, affective silences are distinguishable by the *imperatives* they imply. When silence is chosen to affect an audience's behavior, the message that audience infers from silence is equivalent to an order or command. This inference works through the audience's recognition of silence as a punishment. It provides the recipient with a reason or incentive to comply with the punisher's wishes. A central example is the experience of receiving the "silent treatment." When I fail to do as you ask, you might have warrant to punish me for this failure by refusing to speak to me until I do. Inferring from your silence that you are upset, I may then reach out, apologize, or belatedly do as you had originally asked. The affective use of silence plays a key role here in communicating your expectations of me; when effective, it gives me a reason to change my behavior by imposing a punitive sanction (i.e., continued silence) for noncompliance.

To be sure, the considerable emotional and psychological costs the silent treatment can inflict on friends, family members, colleagues, and many others, is one reason for caution when discussing the potential benefits of affective silence for democracy. Among these costs to recipients are "reductions in feelings of belonging, self-esteem, control, and meaningful existence."<sup>28</sup> On the other hand, we can identify clear cases in politics where the use of affective silence might seem unobjectionable (even laudable) from the perspective of democratic norms. Someone might express contempt for hateful speech by refusing to dignify it with a response, for example, or by coolly

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<sup>28</sup> Kipling D. Williams, *Ostracism: The Power of Silence* (New York: Guilford Press, 2001), 97. Williams, a social psychologist, bases his conclusions on several interviews and clinical studies of the long-term effects of receiving the silent treatment from friends and family. He finds that individuals with lower self-esteem and fewer personal resources to negotiate social conflict are more likely to resort to the silent treatment to communicate their displeasure. Individuals with higher self-esteem are more likely to speak up when they are angry and more willing to break off a relationship entirely (i.e., exit) if they do not get their way.

refraining from verbally escalating a conflict.<sup>29</sup> Jeremy Waldron advocates such uses of affective silence “to convey the sense that the bigots are isolated, embittered individuals.”<sup>30</sup> He argues, in effect, that principled choices for silence can influence others by communicating personal expectations about what is and what is not acceptable behavior.

Similarly, the use of affective silence might also be democratically justifiable in cases where people lack capacities for more vocal resistance owing to their vulnerabilities – poverty, lack of security, and other conditions that limit choice. As we see in the previous chapter, with the silent vigils in Turkey in particular, collective expressions of silence in the form of silent protests, sit-ins, or marches can provide dominated or oppressed groups with a relatively risk-free means of placing their demands on the public agenda. Such silent tactics, I would argue, amount to an implicit mode of communication aimed at eliciting public recognition: “Pay attention to me, or I will continue to stand here, resolutely silent.” They demand a response by disrupting the normal activities of opponents, bystanders, and authorities – albeit, in a passive and indirect manner. Protesters’ silence can in this way affect members of a relevant audience by forcing them to take notice, follow-up, and try to make sense of the issues that underlie this silence. There point here is that while the implications of affective silences may be democratically suspect in certain cases, not only might this be untrue in others, but it might also be the case that, if used strategically, expressions of affective silence will end

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<sup>29</sup> Aubin Calvert helpfully suggested this example to me.

<sup>30</sup> Jeremy Waldron, *The Harm in Hate Speech* (Cambridge, MA: Harvard University Press, 2012), 95-96. Waldron goes on: “it is not at all clear that public engagement is the sole appropriate response [to hate speech]; nor is it at all clear that driving this message underground is an altogether bad thing.”

up inducing greater attention and responsiveness from those in positions of power or authority. In the end, it all depends.

#### 5.4.2 DEMONSTRATIVE SILENCE

Another type of communicative silence, also disclosive in form, is what I am calling *demonstrative silence*. Whereas with affective silences people can communicate their expectations of others, with demonstrative silences they can communicate propositional attitudes, including their beliefs, desires, and commitments. They can do so simply by choosing silence in a context in which the choice for silence will be understood as evidence or proof of their otherwise unstated views.<sup>31</sup>

The distinguishing conceptual feature of demonstrative silences is that they function like *declaratives*. When someone chooses silence to demonstrate something about themselves to an audience, the audience infers that this silence amounts to an implicit personal statement. It counts as evidence of this person's underlying attitude toward some proposition – a belief they hold, a preference they have, a commitment they have now made, and so on. What makes this so, from the audience's perspective, is that there is a clear understanding about what choosing silence might indicate about a person under the relevant circumstances. Consider a prototypic case of demonstrative silence. If you ask me a direct question and I respond with silence, my response licenses you to draw certain conclusions about me given the context. Perhaps you might conclude that my silence tacitly affirms my support for a proposal you have just put to me. Or, perhaps it simply raises doubts about my enthusiasm. Whatever your conclusion, the general point

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<sup>31</sup> Here, again, Strawson's discussion of reactive attitudes is instructive. Whereas the kinds of reactive attitudes that ground affective silences disclose non-propositional feelings directed towards others (e.g., anger, blame, condemnation), the propositional attitudes that ground demonstrative silences disclose personal commitments towards some proposition (e.g., a belief, a preference, a decision). See, Strawson, "Freedom and Resentment."

is that my choice for silence can be demonstrative of a deeper, unspoken attitude I possess.

In almost all cases of demonstrative silence, the choice for silence communicates not by placing demands upon its audience (using the sanctioning force of silence to induce responsiveness, as with affective silence), but by revealing information about the person choosing silence. It is left up to the audience to then decide what to do with this information (i.e., whether or not to make an inference).

From a democratic perspective, this analysis highlights the serious danger, noted earlier, that may arise from all types of communicative silence, but is particularly acute with choices of demonstrative silence. Because demonstrative silences are wholly dependent on the inferences of other people for their meaning and significance, when we choose this type of silence we also cede a great deal of discretion to determine what follows. The danger here is that the perceived meaning of our silence might become detached from its original intent. Examples are numerous, but women's experiences of silence, of quiet inactions that are systemically misconstrued or misinterpreted, perhaps most poignantly underscore this risk. As we see in previous chapters, it is all too common for the silence of women to be twisted into a demonstration of approval or consent, when in fact their silence means the opposite.<sup>32</sup>

We can note a similar concern about the dangers of demonstrative silence in contemporary theories of representative democracy. Similar to Hobbes, who saw silence as tacitly authorizing political representation, populist politicians like Richard Nixon have often claimed the authority to speak on behalf of a so-called "silent majority" of

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<sup>32</sup> See Langton, "Disenfranchised Silence," 214.

society, by opportunistically inferring approval, support, and tacit consent from the demonstrated silence of passive citizens.<sup>33</sup> Because political elites and other powerful actors will always have incentives to draw favorable inferences from choices for demonstrative silence – from decisions to not vote, to inaction on pressing public problems like, say, climate change, to passivity within organizations or other kinds of relationships – it is essential, from a normative perspective, that those who choose silence possess the means to clarify and contest interpretations of their silence. I return to this issue in the next chapter, where I argue that misinterpretations of silence in the political domain are best addressed through careful institutional design.

This being said, it would be a mistake to conclude that uses of demonstrative silence offer no advantages in democratic contexts. For example, demonstrative silences can provide a means for people to signal their preferences, beliefs, or commitments to others while keeping these strictly “off the record.” Cheryl Glenn makes the rhetorical advantages of such a strategy clear: “silence can be used tactfully, purposefully, but without the kind of spoken, one-to-one confrontation that can be witnessed by others or regretted later.”<sup>34</sup> Remember the case of U.S. Congressman Mick Mulvaney, discussed at the start of the previous chapter. For Mulvaney, the choice for silence during the roll call vote on John Boehner’s reelection as Speaker of the House of Representatives was a careful, guarded challenge to Boehner’s candidacy. His silence was demonstrative of an unspoken preference for opposing Boehner’s reelection, encouraging fellow Republicans

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<sup>33</sup> Margaret Canovan argues that appeals to the “silent majority” are an especially common rhetorical device among populists and political demagogues: “Populism is not just a reaction *against* but an appeal *to* a recognized authority,” she writes. “Populists in established democracies claim that they speak for the ‘silent majority’ of ‘ordinary decent people,’ whose interests and opinions are (they claim) regularly overridden by arrogant elites, corrupt politicians, and strident minorities.” Canovan, “Trust the People! Populism and the Two Faces of Democracy,” *Political Studies* 47 (1999): 4-5. See also, Nadia Urbinati, *Democracy Disfigured: Opinion, Truth, and the People* (Cambridge, MA: Harvard University Press, 2014), chap 3.

<sup>34</sup> Cheryl Glenn, *Unspoken: A Rhetoric of Silence* (Carbondale: Southern Illinois University Press, 2004), 38.

to do the same, without placing this opposition on his voting record. It invited Republicans to infer that silence carried the weight of principle, while leaving open the possibility of reconciliation with Boehner in a way, perhaps, which a more vocal confrontation would not.<sup>35</sup> Such demonstrative silences can be a useful tactic for signaling preferences and commitments to an audience in highly strategic settings – legislatures, for example – while hedging against the costs of failure.<sup>36</sup>

## 5.5 THE REGULATIVE FORM OF COMMUNICATIVE SILENCE

Setting aside disclosive communicative silences, there is second form of communicative silence identified in our typology: what I call the regulative form of silence. With communicative silences that are regulative in form, the direction of inference runs *backwards*, from the institutional rules or social norms relevant to a particular situation to a person's choice for silence. People choose a regulative form of communicative silence when it is appropriate or expected for them to remain silent. When people deviate from the expectations of a regulative form of silence, they expose themselves to costs generated by various informal and formal sanctions. Though still communicative, choosing a regulative form of silence expresses not so much a person's internal attitude, as it does their compliance with some external rule or norm.<sup>37</sup> By noting the function of

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<sup>35</sup> On this point, it is worth noting that one week after Mulvaney's much publicized silent protest, he and John Boehner met privately to resolve their political differences. This meeting arguably would not have been possible had Mulvaney been more vocal and explicit in his opposition to Boehner's candidacy from the outset.

<sup>36</sup> The demonstrative use of silence that I am pointing to here bears a striking resemblance to rational-choice models of "cheap talk." In these models, talk is cheap when actors send costless, nonbinding, nonverifiable messages in an effort to alter the beliefs of a target audience, while avoiding making any firm commitments one way or the other. See Jack Knight and James Johnson, *The Priority of Democracy: Political Consequences of Pragmatism* (Princeton, NJ: Princeton University Press, 2011), 130-131.

<sup>37</sup> This said, we could also imagine cases where a person chooses a regulative form of silence, not for external reasons, such as fear of sanction, but for internal reasons, such as because obeying the particular rule or norm coheres with principles that they already adhere to. See, Frank Lovett, *A General Theory of Domination and Justice* (New York: Oxford University Press, 2010), 106-108. One example of an "internal reason" for choosing a regulative form of silence is the Quaker religious practice of collective silent prayer.

the inferences that leads people to choose silence in a given situation, we can identify two types of communicative silence that are regulative in form: emulative silence and facilitative silence.

#### 5.5.1 EMULATIVE SILENCE

As noted, people can choose silence and thereby communicate their compliance with specific institutional rules or social norms. Such rules and norms may give people reasons to remain silent on particular topics or in particular settings. Likewise, they may entitle some people to speak instead of others, or not at all. Once internalized, they may also establish common expectations about the consequences of breaking one's silence in a relevant situation. When silence is an expression of a decision to behave in accordance with prevailing rules and norms, I call this *emulative silence*.

At a conceptual level, emulative silences follow from the acknowledgement of an *imperative*. The logic here is simple: If an institutional rule or social norm calls for silence under certain conditions, acknowledging this is a reason for someone to infer that they shall remain silent under those conditions. When this person actually does as expected – when they emulate silence under the specified conditions – this confirms their acknowledgement of the rule or norm in question. Failure to acknowledge a rule or norm demanding silence, on the other hand, may be punished with sanctions or other punitive measures aimed at enforcing compliance (see also my discussion of the “constraining effects” of rules and norms in Chapter 4). A familiar example here is the rules of a library. When I enter a library, I infer an obligation to emulate the silence of those around me. I know that silence is a rule particular to libraries – “Silence!” – and that it is

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For a discussion, see Richard Bauman, *Let Your Words Be Few: Symbolism of Speaking and Silence in Seventeenth-Century Quakers* (New York: Cambridge University Press, 1983).

commonly expected that this rule be observed. Indeed, violating the rule would lead to informal sanctions against me, such as shushing or dirty looks. The point, in this example, is that acknowledging the rule that one must remain silent in libraries is what gives me a reason to remain silent when I enter a library.<sup>38</sup> Emulative silence communicates my acknowledgement of this rule and my inference that *now* is the time to abide by it.

At first glance, the democratic benefits of emulative silences appear to be almost non-existent – arising, as they often do, from compliant choices for silence within underperforming, corrupt, or oppressive organizations and institutions. For example, corporate scandals such as those involving Enron, WorldCom or, more recently, AIG, Bear Stearns, and Lehman Brothers, are possible only within organizational cultures where emulative silence has become a norm, especially with respect to internal conflict, bad news, and negative information.<sup>39</sup> In such cases, “the imposed silence of ‘business as usual’” makes speaking out difficult, a difficulty that can be compounded because it would violate the hard-won personal trust and confidence of close colleagues, shareholders, and clients.<sup>40</sup> The same is sometimes true of bureaucracies and government agencies. As sociologist Eviatar Zerubavel notes, expectations of loyalty and solidarity

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<sup>38</sup> Here, I am drawing on Robert Brandom’s helpful discussion of social roles and rule-following. See Brandom, *Articulating Reasons: An Introduction to Inferentialism* (Cambridge, MA: Harvard University Press, 2000), 90-91. See also, Rebecca Kukla and Mark Lance’s excellent analysis of the critical role of “acknowledgement” in giving expression to the uptake of a particular rule or norm. Kukla and Lance, *The Pragmatic Topography of the Space of Reasons*, 145-152.

<sup>39</sup> See Dennis F. Thompson, *Restoring Responsibility: Ethics in Government, Business, and Healthcare* (New York: Cambridge University Press, 2005), chap. 11. The problem of overcoming organizational norms of silence has spurred a vast and growing literature, especially in organizational management theory. For a good overview, see Jerald Greenburg and Marissa Edwards, eds., *Voice and Silence in Organizations* (Bingley: Emerald Group, 2009).

<sup>40</sup> Sissela Bok, *Secrets: On the Ethics of Concealment and Revelation* (New York: Vintage, 1983), 214.

within these institutions can mean that “silence breakers” face being “ridiculed, vilified, and often even ostracized” for betraying the team.<sup>41</sup>

But although choices for emulative silence may reinforce conformist rules and norms in many cases, we should also note that not all cases of emulative silence are necessarily bad from a democratic viewpoint. Consider the symbolic practice of respecting a “moment of silence” as part of collective expressions of condemnation, grief, mourning, or remembrance. In the United States, President Barack Obama led the country in a moment of silence in the wake of the 2011 shooting of Congresswoman Gabrielle Giffords and, again, after the 2012 shootings in Newtown, Connecticut.<sup>42</sup> In both cases, this emulative silence helped to foster a sense of solidarity in condemning gun violence. It reminded citizens of their shared relationships with each other, drawing them out of their private individual lives. In this way, we might also think of emulative silence as a potential medium for emphasizing commonalities that, in the proper context, can cause people to pause and reflect upon the underlying beliefs and values that unite them.<sup>43</sup>

### 5.5.2 FACILITATIVE SILENCE

A final type of communicative silence, also regulative in form, arises from a commitment to respecting interpersonal norms of civility, tact, and politeness when interacting with

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<sup>41</sup> Eviatar Zerubavel, *The Elephant in the Room: Silence and Denial in Everyday Life* (New York: Oxford University Press, 2006), 72.

<sup>42</sup> David Herszenhorn, “Obama Leads Nation in Moment of Silence,” *New York Times*, January 10, 2011, accessed February 16, 2011. <http://thecaucus.blogs.nytimes.com/2011/01/10/obama-leads-nation-in-moment-of-silence/>; and, “Updates on Connecticut Shooting Aftermath,” *New York Times*, December 20, 2012, accessed January 3, 2013. <http://thelede.blogs.nytimes.com/2012/12/20/updates-on-connecticut-shooting-aftermath-2/>.

<sup>43</sup> Benjamin Barber alludes to the potential for silence to strengthen collective solidarity, noting in passing that, “one measure of healthy political talk is the amount of *silence* it permits and encourages, for silence is the precious medium in which reflection is nurtured and empathy can grow. Without it, there is only the babble of raucous interests and insistent rights vying for the deaf ears of impatient adversaries.” Barber, *Strong Democracy: Participatory Politics for a New Age* (Los Angeles: University of California Press, 1984), 174-175. Although the passage is certainly suggestive, Barber unfortunately declines to develop these points about silence in greater detail. Nevertheless, I take Barber’s remarks here as a gesture towards the potential of what I am calling emulative silence in fostering collective solidarity and strengthening social bonds.

others. As many scholars have noted, it is an important aspect of basic social competence that people know when to keep silent to avoid needlessly giving offense or embarrassing someone else. Knowing when to keep silent is also integral to listening and taking turns in conversation. I call this *facilitative silence*.

Conceptually, choices for facilitative silence involve the acknowledgement of a *prescriptive*. When facilitating a social interaction prescribes silence, acknowledging this gives someone a reason to infer that they ought to remain silent in order for that interaction to succeed. By remaining silent as prescribed, this person expresses their commitment to respecting the interpersonal norms governing the interaction. Of course, they might not want to remain silent, or might do so inconsistently – sometimes interrupting or speaking over others, for example – but when they do these things they would be considered to have behaved rudely.<sup>44</sup> They might then feel guilty, make excuses, or even apologize. A prime example here is conversational turn taking. When I engage you in a conversation, it is normally expected that we take turns speaking and remaining silent in order to listen and avoid interrupting one another. Our mutual acknowledgement of this norm communicates that we are both polite and considerate conversation partners. It conveys the implicit message: “We know that it is rude to interrupt, so we are restraining ourselves.”<sup>45</sup> Choosing silence out of respect for the norms of conversational turn taking facilitates our interaction by allowing our exchange to progress.

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<sup>44</sup> On the politeness and language use, see Penelope Brown and Stephen Levinson, *Politeness: Some Universals in Language Usage* (New York: Cambridge University Press, 1987). Christopher Karpowitz and Tali Mendelberg note that there are often drastic gendered differences when it comes to politeness norms, especially when it comes to men interrupting or talking over women. See Karpowitz and Mendelberg, *The Silent Sex: Gender, Deliberation, and Institutions* (Princeton, NJ: Princeton University Press, 2014), chap 8.

<sup>45</sup> See Douglas Robinson, *Introducing Performative Pragmatics* (New York: Routledge, 2006), 130.

Like emulative silences, facilitative silences indicate an understanding of what is appropriate behavior in a particular social situation, although there are subtle but crucial differences. With facilitative silences, the motive for remaining silent follows from a preexisting commitment to respecting certain norms of conduct. Thus, if someone ignores a norm that would prescribe facilitative silence, this situation can be repaired with a simple reminder of their standing commitment to respect this norm (e.g., “You know that you ought to be quiet, remember?”). Emulative silences, by contrast, are the result of imperatives that give people a reason to remain silent that they did not already have, by effectively ordering them to do it (e.g., “Be quiet!”).<sup>46</sup>

Respecting facilitative silences also raises a distinct set of practical concerns about what should or should not be said in polite company.<sup>47</sup> There is an obvious tension between the idea of remaining silent out of a concern for facilitating social interaction, on the one hand, and the reality that such norms of tact and politeness can deter people from engaging in difficult but necessary public conversations. As we see in Chapter 3, democratic theorists have long been suspicious of demands for greater civility and politeness in politics for precisely this reason. Arguments that counsel silence in the interest of “getting along” can end up silencing marginalized voices and suppressing injustices, restricting public discourse to the norms of “an exclusive gentlemen’s club” by condemning those who would ask uncomfortable questions or rudely speak out of turn.<sup>48</sup>

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<sup>46</sup> On the subtle differences between prescriptives and imperatives, see Kukla and Lance, *The Pragmatic Topography of the Space of Reasons*, chap. 5.

<sup>47</sup> I borrow this way of framing the problem of politeness in political deliberation and decision-making from Mark Warren. See Warren, “What Should and Should Not Be Said: Deliberating Sensitive Issues,” *Journal of Social Philosophy* 37 (2006): 163–181. Similar arguments about the facilitative role of silence in bracketing sensitive or difficult political issues are found in Mark Kingwell, *A Civil Tongue: Justice, Dialogue, and the Politics of Pluralism* (University Park: University of Pennsylvania Press, 1995), 219–221; and, Cass R. Sunstein, *Designing Democracy: What Constitutions Do* (New York: Oxford University Press, 2001), 58–61.

Yet while it is clear that facilitative silences can narrow the parameters of public debate and deliberation in problematic ways, recent commentators have not let it pass unnoticed that such choices for silence can also be crucial to practices of listening and mutual recognition. Susan Bickford's insightful analysis of the importance of listening in a "diverse, unequal social order," identifies silence "as one of the conditions for, or inevitable correlates of, genuine listening."<sup>49</sup> While Andrew Dobson similarly notes that listening of the kind that promotes mutual recognition and respect "requires a particular sort of attention, often rooted in silence."<sup>50</sup> The role that silence has come to play in Truth and Reconciliation Commissions ('TRCs') in Canada, South Africa, and elsewhere is particularly suggestive in this regard. In Canada, the TRC was tasked in 2008 with collecting testimony from victims of the government-sponsored residential school system.<sup>51</sup> As a fact-finding body, one of the primary goals of the TRC is to encourage Canadians to make themselves silent in order to hear and bear witness to the stories of survivors, former teachers, and staff – facilitating "deep listening," as Paulette Regan puts it, about the profound pain caused by the forced assimilation and other abuses suffered by Canada's indigenous peoples.<sup>52</sup> In doing so, the TRC relied on the facilitative function of communicative silence in order to make space for the voices of victims, and

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<sup>48</sup> John S. Dryzek, *Deliberative Democracy and Beyond: Liberals, Critics, Contestations* (New York: Oxford University Press, 2000), 169. See also, Lynn M. Sanders, "Against Deliberation," *Political Theory* 25 (1997): 347–376; and, Iris M. Young, "Activist Challenges to Deliberative Democracy," *Political Theory* 29 (2001): 670–690.

<sup>49</sup> Susan Bickford, *The Dissonance of Democracy: Listening, Conflict, and Citizenship* (Ithaca: Cornell University Press, 1996), 141, 153.

<sup>50</sup> Andrew Dobson, *Listening for Democracy: Recognition, Representation, Reconciliation* (New York: Oxford University Press, 2014), 177.

<sup>51</sup> Truth and Reconciliation Commission of Canada, "'Our Mandate,'" October 10, 2013, accessed November 2, 2013. <http://www.trc.ca/websites/trcinstitution/index.php?p=4>.

<sup>52</sup> For a critical discussion of the democratic functions of TRCs in promoting public recognition of social and political injustices, see Aletta J. Norval, *Aversive Democracy: Inheritance and Originality in the Democratic Tradition* (New York: Cambridge University Press, 2007), 196–210.

to promote awareness and recognition of the Canadian government's role in this national tragedy.

## 5.6 CONCLUSION

To conclude, let me first make clear what I have *not* done in this chapter. My goal in this chapter has not been to develop a full-blown theory of communicative silence. Such an endeavor would go well beyond the intended scope of this dissertation. Instead, what I have done is taken an inferentialist approach to understanding silence in order to map out the communicative implications that we should expect from different types of choices for silence. On this basis, I develop a typology of communicative silence that tells us what the probable consequences of a given choice for silence in politics is likely to be.

Though many of the examples of communicative silence I discuss are recognizable facets of ordinary social life, of course not all of them are useful to generalize to the domain of politics. Most of us do not, for example, give our elected officials the “silent treatment” – at least not in any straightforward sense. Nonetheless, based on our typology, we can provide an indication as to what are the potential democratic contributions of each type of communicative silence. *Affective* communicative silences, we see, can be used to deliver a specific, targeted message that forces public attention and responsiveness. *Demonstrative* communicative silences can empower when used to strategically signal preferences, opinions, or commitments in a way that is less costly and, in most cases, “off the record.” *Emulative* communicative silences can be used to foster a sense of collective solidarity between people and strengthen their social bonds. *Facilitative* communicative silences, finally, can be used to

promote mutual recognition and understanding through listening and other interpersonal goods. Taken as a whole, then, this typology of communicative silence gives us a broad sense of the range of “things” that people can do with their silence in democratic politics.

Using the working conception of communicative silence developed in this chapter, as well as the conception of disempowered silence and the normative criteria of nondomination and inclusion from previous chapters, we can now assemble a framework through which to theorize about silence. We can now start to build a democratic theory of silence. The next chapter illustrates how this framework – and, in particular, our conceptions of disempowered silence and communicative silence – might be applied to more practical questions of democratic institutional design and reform.

## Silence and Democratic Institutional Design

What kind of offer do we have to make to get the abstainers  
into the political system?

E.E. Schattschneider, *The Semisovereign People*<sup>1</sup>

Elected politicians claim to speak for the silent majority of citizens. They gain this privilege because decision-making in modern mass democracies requires a fundamental division of labour. We authorize our elected representatives to speak and act on our behalf with the understanding that, every so often, we will check back in and vote. In the interim our silence gives permission to infer certain things about us. U.S. President Richard Nixon famously drew attention to this fact when he first popularized the term “silent majority” in a speech given against the “vocal minority” protesting the war in Vietnam. “The great silent majority of Americans – good people with good judgements who stand ready to do what they believe is right – immediately responded,” Nixon would later say after being reelected. “The [silent] majority gave its consent, and the expressed will of the people made it possible for the government to govern effectively.”<sup>2</sup>

Most of us will be familiar with Nixon’s famous speech, but perhaps less familiar with what it implies. It highlights a gap that often exists between what we intend our silence to mean, and what it is in fact taken to mean. This is the unique danger of engaging in politics through silence. This chapter represents the culmination of our thinking about silence as a form of communication in democratic politics. Given the

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<sup>1</sup> Elmer E. Schattschneider, *The Semisovereign People: A Realist’s View of Democracy in America* (Boston: Wadsworth Publishing, [1960] 1975), 102.

<sup>2</sup> Richard M. Nixon, “President Richard M. Nixon Rallies ‘the Silent Majority’ to Support the War in Vietnam,” in *Lend Me Your Ears: Great Speeches in History*, ed. William Safire (New York: W.W. Norton, 2004), 985.

inherent dangers of silence as communication, how might silence be protected so that its communicative benefits could be made to feature more prominently in democratic theory? How might the democratic potentials of silence be designed in to democratic institutions alongside voice empowerments to improve practices of democracy?

To answer these questions, we can apply insights from the theoretical framework we have developed over the course of this dissertation. We can search for concrete, targeted mechanisms that clarify the conditions under which silence is chosen – separating disempowered from communicative silences. We can then propose a corresponding series of reforms aimed at disabling false or inappropriate inferences from being drawing from silence within different democratic institutions. There is no need to limit the scope of institutional mechanisms that might serve our purposes. On perhaps the simplest definition, an institution is merely a set of rules or “humanly devised constraints,” which gives structure to a social or political relationship.<sup>3</sup> Institutional rules set out who can do what to whom, for what purpose, to what end, and what happens when the rules are broken. Our overarching goal here is to design democratic institutions so as to reliably protect and underwrite the expressive dimension of people’s choices for silence in democratic politics.

The first section of the chapter begins with a reflection on the structural relationship between voice and silence within democratic institutions. I note the fact the right to silence is an institutional complement to voice empowerment. Since the choice for silence, in this sense, will be a generic feature of most democratic institutions, we

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<sup>3</sup> Douglass C. North, *Institutions, Institutional Change, and Economic Performance* (New York: Cambridge University Press, 1990), 3. See also, Elinor Ostrom, *Understanding Institutional Diversity* (Princeton, NJ: Princeton University Press, 2005), 16-19; and, Jack Knight and James Johnson, *The Priority of Democracy: Political Consequences of Pragmatism* (Princeton, NJ: Princeton University Press, 2011), chap. 1.

should want to take steps to protect it by lowering the likelihood that it is misrepresented or abused. In the second section, I list two functional requirements that any democratic institution would have to satisfy in order to safeguard people's choices for silence: (a) the formal right to silence must be enabled and protected by the institution; and, (b) silence must be made to impose costs upon decision-making within the institution. Only when both of these requirements are met, I suggest, can choices for silence reliably function in ways that are compatible with democratic norms of nondomination and inclusion. In the third section, I propose a series of mechanisms that would satisfy these functional requirements, and illustrate how they might be applied to three different institutional domains within modern democratic systems: electoral systems, representative relationships, and deliberation in collective decision-making.

#### 6.1 SILENCE AS AN INSTITUTIONAL COMPLEMENT TO VOICE

The most common answer to the problems that silence presents for democratic institutions is unsatisfying because it misses something.<sup>4</sup> Its premise is that silence within the political domain is almost always *disempowered silence* – a reflection of failed or absent institutional empowerments for voice. Based on this common understanding we, as institutional designers, should focus our efforts solely on reforms specifically targeted at overcoming disempowered silences within democratic systems. This is sound design advice, as far as it goes. Indeed, a moment's reflection on the troubling silences of marginalized and vulnerable groups excluded from the democratic process, makes it apparent that a top priority should be to address the underlying causes of disempowered

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<sup>4</sup> For a good discussion of different approaches to democratic institutional design, see Robert E. Goodin, "Institutions and Their Design," in *The Theory of Institutional Design*, ed. Robert E. Goodin (New York: Cambridge University Press, 1996). See also, Adrian Vermeule, *Mechanisms of Democracy: Institutional Design Writ Small* (New York: Oxford University Press, 2007), chap. 1.

silence. Such silences can exact considerable costs on democratic institutions and practices, as we have seen. They can discourage people from speaking up and contributing their preferences and opinions. They can deflect public attention from important issues and injustices. They can prevent people from organizing and acting collectively. All of which, in effect, can lead people to passive forms of cynicism, distrust, and disaffection that undermine the democratic system as a whole. Thus, it is perfectly appropriate that democratic theorists focus on minimizing the antidemocratic consequences of silence through voice-based mechanisms of institutional reform, including in the design of electoral systems (e.g., voting, electoral representation), formal sites of governance (e.g., legislatures, bureaucracies, courts), public spheres (e.g., public discussion and opinion formation), and civil society (e.g., issue advocacy, campaigns, protests), such that people's voices will, ideally, translate into greater influence over collective decisions and policies.<sup>5</sup>

I do not think that our design considerations should stop at addressing *only* the problems caused by disempowered silence, however. Too narrow a focus on solving problems of disempowered silence through voice-based mechanisms can lead democratic theorists to overlook *other problems* that silence presents for institutional design. It can also lead us to forget the basic fact that voice is only “democratic” when there exists the possibility of remaining silent. We have already seen that there is a close correlation between empowerments for voice and people's freedom to refuse to participate in collective decisions and actions. The presence of an effective right to silence within

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<sup>5</sup>For a survey of voice-based institutional proposals aimed at overcoming disempowered silences in democratic systems, see my discussion of external and internal silencing in Chapter 3. For an overview of institutional innovations geared towards encouraging popular participation and oversight, see Graham Smith, *Democratic Innovations: Designing Institutions for Citizen Participation* (New York: Cambridge University Press, 2009).

democratic institutions is a structural condition that authenticates that people's voices are being neither coerced nor compelled. Voice in collective decision-making is only authentic, and only has motivating force, to the degree that it is voluntary. Indeed, the democratic legitimacy of any collective decision presupposes that parties to the decision could have remained silent, but have chosen not to do so. I take this point to be an important reminder that silence is just as much an institutional complement to voice empowerment, as it is an indication of various disempowerments.

Once we begin to focus on the necessity to protect the right to silence within democratic institutions, we significantly expand the range of practical concerns that silence raises. Our attention to the communicative implications of silence in the last chapter suggests that problems arise from the *inferences* that are drawn from people's choices for silence. Without knowing for certain how silence will be interpreted in a given institutional setting, we cannot be certain that exercising the right to silence will always be empowering, or will even be minimally compatible with basic norms of democracy.

We are apt to underestimate the sheer number of inferences that people's choices for silence could communicate. This is especially true, I argue, within institutional domains where the inferential context in which silence is chosen is too broad or left undefined. When a person abstains from voting, for example, they unwittingly expose themselves to the risk that the implications of this choice will be misinterpreted or torn out of context. Populists like Nixon, for instance, often make claims on behalf of the so-called "silent majority," construing self-serving inferences from silence. Because whatever content that is read into silence follows from what is, essentially, a *negative*

choice – to abstain, to refuse cooperation, to withhold support, to remain quietly inactive, and so on – *if* and *when* expressions of silence are recognized within an institution, this puts the onus of interpretation onto that institution (or its members, representatives, or decision-makers). It is this distinctive feature of silence as communication, I believe, that makes silence so uniquely problematic from the perspective of democratic institutional design.

The theoretical framework I have developed makes it possible to identify institutional mechanisms that can account for the expressive dimension of people’s choices for silence. If we want design recommendations that can accommodate silence as a form of communication, we cannot assume that the patterns of inference that different types of choices for silence generate will be stable and fixed. Nor can we assume that asymmetries in power and circumstance will not play a significant role in deciding *who* gets to determine the meaning of silence. Given these realities, our goal from a design perspective should be to institute “securities against misrule,” to borrow a phrase from Jon Elster.<sup>6</sup> This begins, I think, by acknowledging that genuine communication through silence is a particularly fragile achievement. *Because* silence can produce multiple inferences, and *because* there are powerful political actors who will opportunistically exploit this multiplicity, we should want to design democratic institutions in such a way that it is less likely that false or inappropriate inferences will be drawn from silence.

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<sup>6</sup> Knight and Johnson, *The Priority of Democracy: Political Consequences of Pragmatism*. Jon Elster, *Securities Against Misrule: Juries, Assemblies, Elections* (New York: Cambridge University Press, 2013). According to Elster, this approach institutional design – which traces back to Bentham – prioritizes minimizing “passion, interest, bias, and prejudice,” by focusing on structuring the environments in which citizens and decision-makers interact. To do so, this approach advocates using “tools of ignorance, secrecy, publicity, randomization, and rotation.” Elster, *Securities Against Misrule*, 12. As will become apparent as my analysis unfolds, I borrow from this approach the idea the relationship between citizens and decision-makers should be structured so as to avoid “misrule.”

To guard against this possibility, I argue that we need to take seriously the kinds of inferences elected officials and other elites are entitled to draw from silence in different institutional settings. Within each setting, we should look for rules or procedures that would serve to clarify the background conditions under which a person's choice for silence is made, such that the institution in question anticipates and supports practices that draw the right kinds of inferences from silence, while discouraging those that do not. We can make a start by spelling out some minimal functions with respect to silence that any well-designed democratic institution would be required to perform.

## 6.2 WHAT IS REQUIRED TO INCLUDE SILENCE IN INSTITUTIONAL DESIGN?

We are interested in listing the functional requirements that democratic institutions would have to meet in order to protect people from unwarranted inferences from their political choices for silence. We can derive these requirements from our previous analysis of the conditions under which choosing silence is politically empowering. Our ambition should be to formulate requirements that are determinate enough to provide guidance in selecting mechanisms of institutional design that can account for communicative implications of silence. In order to lower the likelihood that mistaken inferences are drawn from people's choices for silence, I propose two requirements that any institution would have to satisfy: (a) the institution must enable and protect the formal right to silence; and, (b) decision-making within that institution must be structured so as to be responsive to the communicative implications of people's choices for silence. Only institutions that meet both requirements (a) and (b), enabling and protecting silence as a choice and linking its

consequences to institutional decisions, can contribute to democracy by enhancing norms of nondomination and inclusion.

Consider, first, the recommendation that democratic institutions should be designed to function in ways that enable and protect the right to silence. Understood as an institutional complement to voice empowerment, we can think of the right to silence as a basic element of democratic institutional design, referring to opportunities to refuse voice or cooperation as one chooses. The right to silence limits the potential for political domination by marking out private zones of social, economic, and interpersonal autonomy, which are, typically, underwritten in modern liberal democracies through the legal system. As we have seen, certain fundamental liberal rights – those of speech, thought, participation, and due process, for example – presuppose the guarantee of a robust and well-functioning right to silence. Within democratic institutions and practices, the right to silence becomes particularly important, I argue, when people’s choices are vulnerable to coercion or compulsion, owing most often to inequalities in power and circumstance that restrict the options from which they may realistically choose.

The second design recommendation is to restructure decision-making procedures within democratic institutions, such that decision-makers have incentives to respond to silence and to be attentive to what, if anything, it communicates. To accomplish this, I argue, the choice for silence must register as imposing a cost on that institution – it must be made to count in terms of, for example, fewer votes, less active or vocal supporters, silently refusing orders or instructions, and so on. It is only when these costs are significant enough – up to and including the point of disabling a collective decision

entirely – that there is a distinct incentive for decision-makers to follow up and clarify the motives behind the choice for silence.

The key point, for our purposes, is that when the right to silence is properly linked to institutional costs, then institutional decision-making mechanisms are forced to be structured in such a way that silence cannot be easily dismissed, neglected, or ignored. This, in turn, transforms the function of the right to silence within that institution. It becomes, not just a formal safeguard against domination, but a *method* for influencing collective decisions and policies. More importantly, it also serves to clarify the background conditions against which silence becomes salient *as a choice*, instead of a potential indication of inattention or disempowerment. Once institutionalized, it may also induce proactive responsiveness by giving decision-makers reasons to be attentive to silence *before* it poses an obstacle, and to provide greater opportunities for voice and dialogue.

To be sure, both of the functional requirements that I am proposing may also be viewed as empirical hypotheses, which will hold to varying degrees in practice, depending on how they are implemented.<sup>7</sup> Nonetheless, when collective decision-making is structured so that the conditions under which silence is chosen are clear to everyone involved, and there also exist clear incentives to follow up and respond to silence, then, I argue, the choice for silence becomes a consistently effective communicative device – a choice capable of triggering a more substantive exchange between those who are silent and those in positions of power and authority.

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<sup>7</sup> Indeed, as Elinor Ostrom reminds us, “there is a danger ... that project planners searching for the “right” design will try to build a one-size-fits-all project supposedly based on the design principles.” Ostrom, *Understanding Institutional Diversity*, 270

We can find some precedent for the hypothesized effects of these two design requirements in actually existing democratic institutions and practices. One obvious example is found in deliberative bodies such as parliaments and legislatures, where formal rules and procedures that allow for silence are usually built directly into decision-making. This enables lawmakers to strategically abstain from decisions, but in a manner that clearly indicates that such silence is intentional.<sup>8</sup> Depending on the number of votes needed to pass a piece of legislation, and the particular decision-rules of the legislature, silently abstaining from a vote on a law could also contribute to its defeat. In a different vein, courts and other judicial mechanisms – to take a familiar example – will often lock-in the inferences that will be drawn by legal authorities from a choice for silence. They make it clear to an accused – through, for example, reading them their *Miranda* rights – that certain implications would (or would not) be seen as immediately following from their remaining silent.

Examples such as these are illustrative of how institutions could incorporate and protect people’s choices for silence. But I believe that they also serve to raise an important point of caution. To preserve the liberal spirit of the right to silence, we must be careful that in the process of institutionalizing this right, we do not end up just reducing silence to a single meaning. There must be limits placed on just how far any institutional mechanism should go in order to fix the communicative implications of silence. In the extreme, if the inferences decision-makers are entitled to draw from

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<sup>8</sup> Adrian Vermeule attributes such “strategic nonparticipation” to the institutionalization of absolute majority rules in many legislatures, meaning that “both absence and abstention [are treated] as equivalent to a negative vote.” As we also noted in Chapters 4 and 5, such “strategic ambiguity” can give abstainers a safer option for dissenting from their party – as “it will often be unclear whether the abstention was genuinely motivated by [other] reasons or by opposition to the measure on the merits.” Vermeule, *Mechanisms of Democracy*, 137.

silence are too narrow, too predefined, then choosing silence just becomes another form of compelled speech.

Proposals for institutional reform looking to account for the communicative implications of silence should thus aim for a target somewhere between the two extremes of this spectrum: They should aim to implement mechanisms that clarify that silence *is* a choice, thus narrowing the inferences that can be drawn from silence, and do so without trying to resolve the meaning of silence by reducing it to a simple binary (e.g., an expression of approval or disapproval). Here, I think we do well to remember that our goal, as institutional designers, is to *secure* people's choices for silence *against* unwarranted inferences – not to draw definitive conclusions about its political meaning or significance within specific institutions, organizations, or other relationships.

Before turning to a discussion of some specific design proposals that I suggest would meet the functional requirements listed above, let me stress two caveats. First, no single proposal could guarantee on its own that people's choices for silence will be empowering in ways that are reliably consistent with democratic norms. I believe that such fine-grained judgments are best made on a case-by-case basis, using the conceptual tools developed over the course of the last two chapters, including our typology of communicative silence. Second, I want to stress that nothing in my analysis is meant to dissuade democratic theorists from designing supplementary mechanisms of voice and participation into democratic systems. To suppose that there exists an inherent trade-off between silence- and voice-based mechanisms is mistaken. On the contrary, I would argue that sustained reflection on how both kinds of mechanisms can, together, enhance norms of democratic self-rule can help us to conceive of new possibilities for democratic

governance and reform. But this larger conversation goes far beyond the limited scope of this dissertation. Below, I confine myself to simply illustrating how attention to the communicative implications of silence might be made into a basic element of democratic institutional design.

### 6.3 DESIGNING SILENCE INTO DEMOCRATIC SYSTEMS

What institutional mechanisms would satisfy the functional requirements I have proposed to protect the communicative implications of silence? To answer this question, I highlight three areas of modern liberal democratic systems where securing silence against unwarranted inferences can be, and should be, a basic design consideration. My goal is to give a sense of the possibilities for institutional design that we open up by taking seriously the kinds of inferences that political actors are entitled to draw from silence in different institutional environments. None of the design proposals I examine are entirely new. But by examining these proposals through the lens of silence, we can find new justifications for them, suggestive of ways that democratic institutions could be reformed to better anticipate and support the use of communicative silence in politics.

#### 6.3.1 *ABSTENTION AND ELECTIONS*

First, securing people's silences against unwarranted inferences should be a central concern in the design of electoral systems. At least since the work of Anthony Downs, one of the enduring puzzles in the study of elections is to explain what motivates people to turnout and vote.<sup>9</sup> Voting, after all, is a taxing activity in terms of time, attention, and other resources, and it is not always clear that the benefits of voting outweigh the costs.

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<sup>9</sup> Anthony Downs, *An Economic Theory of Democracy* (New York: Harper and Row, 1957).

The most popular motive people have for voting is the perception that their vote will somehow make a difference. On the other hand, the most powerful reason for abstaining is the perception that there is *no* difference between electoral options. Indeed, over the last fifty years, empirical studies of voting behaviour across the developed democracies consistently report a negative correlation between voter turnout rates – and, in particular, rates of abstention – and public perceptions of electoral competitiveness.<sup>10</sup> When the number of distinctive candidates and parties contesting an election is smaller, and thus perceptions of the competitiveness of an election are weaker, then abstention rates tend to rise dramatically.<sup>11</sup>

From a design perspective, the problem with uncompetitive elections – or, at least, elections where competition is limited – is that they fail to incentivize any responsiveness to the silence of abstainers. Elected representatives have no reason to devote their efforts to attending to abstainers and gathering information about them, precisely because their silence does not register electorally. Indeed, without people willing to exercise the sort of “voice” that is expressed and counted in votes, the effectiveness of elections as a device for soliciting input and feedback declines. This is one reason why uncompetitive elections such as plebiscites, or single-party electoral districts, are generally thought to be “undemocratic”: left with no alternatives but to

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<sup>10</sup> The most comprehensive study of abstention rates and electoral competition to date is Mark N. Franklin, *Voter Turnout and The Dynamics of Electoral Competition in Established Democracies Since 1945* (New York: Cambridge University Press, 2004). Franklin uses a database covering 55 years of elections in 22 different countries – 356 elections in all. He finds that, in general, “competitive elections increase turnout, whereas uncompetitive races (which may result from natural causes, such as realignments, but which in the United States have more recently resulted from the efforts of politicians to insulate themselves from election verdicts) have adverse effects on turnout.” Franklin, *Voter Turnout*, 111.

<sup>11</sup> See James Adams, James Dow, and Samuel Merrill III, “The Political Consequences of Alienation-Based and Indifference-Based Voter Abstention: Applications to Presidential Elections,” *Political Behavior* 28 (2006): 65–86; Steven Callander and Catherine H. Wilson, “Turnout, Polarization, and Duverger’s Law,” *Journal of Politics* 69 (2007): 1047–1056; and, Frederik Ugglå, “Incompetence, Alienation, or Calculation? Explaining Levels of Invalid Ballots and Extra-Parliamentary Votes,” *Comparative Political Studies* 41 (2008): 1141–1164. Jan Leighley and Jonathan Nagler sum up the key findings of this literature: “individuals’ decisions to *not* vote likely reflect the choices that they are offered as opposed to any particular individual characteristics typically used to explain not showing up at the polls.” Leighley and Nagler, *Who Votes Now? Demographics, Issues, Inequality, and Turnout in the United States* (Princeton, NJ: Princeton University Press, 2014), 123.

silently abstain, voters lack sufficient options on the ballot to signal and enforce what they want from their representatives. V.O. Keys recognized this point long ago: “The blunt truth is that politicians and officials are under no compulsion to pay much heed to the classes and groups of citizens who do not vote.”<sup>12</sup>

Ideally, electoral systems should provide a range of distinctive choices across candidates and parties sufficient to forestall the silence of electoral abstention.<sup>13</sup> But short of this ideal, once we understand the logic of silence in uncompetitive elections, we can look to design mechanisms into electoral systems that link abstentions to electoral outcomes in such a way that representatives have incentives to follow up and respond to abstainers. One established, though imperfect, mechanism for doing so is *compulsory voting rules*. This would clarify the conditions under which voters are silent in elections by making attendance at the polls mandatory on election day, albeit without requiring voters to mark or even accept their ballot.<sup>14</sup>

That I advocate for this proposal is perhaps surprising, because in countries like Australia, Brazil, and Belgium, compulsory voting is usually seen as a means of *prohibiting* silence in elections.<sup>15</sup> But this is actually not the case. In fact, choosing silence is *not* prohibited under compulsory voting. Rather, what is prohibited is the sort of disempowered or inattentive silences that we identify as resulting from people becoming discouraged with their limited electoral options. What is compelled, quite simply, is

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<sup>12</sup> V.O. Keys, *Southern Politics in State and Nation* (Knoxville: University of Tennessee Press, 1949), 527.

<sup>13</sup> One response to this problem has been to argue for the reform of two-party systems (typically through the adoption of a PR-system), which would have the effect of making smaller parties more competitive electorally, and thus multiplying the number of parties competing for people’s votes. Estimates about the gain in turn out from switching from a majoritarian to proportional electoral system at variously 3, 7, and 12 percent. See Jonathan Louth and Lisa Hill, “Compulsory Voting in Australia: Turnout with and without It,” *Australian Review of Public Affairs* 6 (2005): 25–37.

<sup>14</sup> See Arend Lijphart, “Unequal Participation: Democracy’s Unresolved Dilemma,” *The American Political Science Review* 91 (1997): 1–14.

<sup>15</sup> Jason Brennan and Lisa Hill, *Compulsory Voting: For and Against* (New York: Cambridge University Press, 2014), chap. 5.

people's presence at the polls in order to make a choice, which is registered in the marking (voice) or refusing (silence) of their ballot. If people abstain during this process, it is made clear that their silence is an active expression of choice.<sup>16</sup> Further, the implications of this choice for silence are tied to electoral outcomes insofar as it registers *as a choice* – as an opt-out, a blank or declined ballot, and so on.

Proponents of compulsory voting often praise the benefits of this mechanism for inducing high and socially even voter turnout, especially across marginalized or underrepresented groups, such as racial and cultural minorities and the poor.<sup>17</sup> While I agree that these benefits are considerable, I do not think that we even need to appeal to higher voter turnout to justify compulsory voting. Recasting the problem of electoral abstention as one of protecting the inferential implications of voters' silence provides a more basic justification for this design proposal. When voting is compulsory, winning candidates or parties cannot overlook the silence of abstainers. Nor can self-serving politicians and groups in society publically claim to act as representatives of silent citizens, by misrepresenting their silence as evidence of approval, support, or tacit consent. Instead, voter silence becomes a communicative basis for directing representatives to seek out abstainers, to inquire into their numerous possible motives for silence, and to ask for their input in order to make electoral gains in the future.<sup>18</sup> Lisa Hill endorses of version of this argument. "Positive abstention conveys vitally important information to politicians, potential politicians, and other voters," she suggests, "it

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<sup>16</sup> Cf. Ben Saunders, "The Democratic Turnout 'Problem,'" *Political Studies* 60 (2012): 306–320.

<sup>17</sup> For example, Lijphart, "Unequal Participation."

<sup>18</sup> Evidently, the Australian Electoral Commission tracks, records, and analyse blank or deliberately spoiled ballots after each election in attempt to interpret their meaning. I take this example to be highly suggestive of one way in which compulsory voting could induce decision-makers to follow-up and respond to the silence of electoral abstention. See "Informal Voting," *Australian Electoral Commission*, July 15, 2015, accessed October 20, 2015, [http://www.aec.gov.au/voting/informal\\_voting/](http://www.aec.gov.au/voting/informal_voting/).ln

communicates that there is a constituency of citizens whose votes are up for grabs and that an, as yet, unavailable electoral alternative needs to be framed.”<sup>19</sup> In this way, silence generates not just actionable information for prospective candidates and parties, but also positive incentives for responsiveness from incumbents.

To be sure, compulsory voting has its critics.<sup>20</sup> But it is worth underscoring that the justification I present for this reform is novel, as far as I am aware, in that it strives to enable and protect a robust right to silence within democratic systems. In doing so, it anticipates most standard objections to compulsory voting. Annabelle Lever, for instance, raises the familiar worry that proposals for compulsory voting would undermine people’s ability to control the meaning of their political choices, by forcing them to make a choice. “Precisely because we have so little control over the circumstances of our vote, and the ways in which it will be used and interpreted by others, the ethics of voting is by no means as simple as proponents of compulsion suppose.”<sup>21</sup> Yet this objection falls short, I think, in its concern *only* for securing the meaning of people’s vocal political participation from misinterpretation. As I argue, there is even greater reason to be concerned about the *lack of control* that people often have over the circumstances of their silence, and the political meanings that will be read into that silence.

By designing electoral systems so that they directly link the silence of abstention to electoral outcomes, we can protect the communicative consequences of silence from

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<sup>19</sup> Lisa Hill, “Turnout, Abstention, and Democratic Legitimacy,” in *Compulsory Voting: For and Against* (New York: Cambridge University Press, 2014), 142. That said, Hill remains sceptical of arguments about the communicative value of silence (taking it to be an argument against compulsory voting): “If it [silence] is a form of political communication in this context (it can be in other contexts), it is certainly a rather incoherent form of political expression compared with voting, which, at the very least, communicates a message about partisan preferences.” Hill, “Turnout, Abstention, and Democratic Legitimacy,” 144.

<sup>20</sup> See, among others, Jason Brennan, “Should We Force the Drunk to Drive?,” in *Compulsory Voting: For and Against* (New York: Cambridge University Press, 2014); Annabelle Lever, “Compulsory Voting: A Critical Perspective,” *British Journal of Political Science* 40 (2010): 897–915; Ben Saunders, “The Democratic Turnout ‘Problem.’”

<sup>21</sup> Lever, “Compulsory Voting: A Critical Perspective,” 910.

opportunistic misinterpretations. For democratic theorists, the remaining question, I think, is whether the preferences of some voters to not be compelled to show up at the polls to make a choice is outweighed by a broader interest in an electoral system that is responsive to *all* of voters' choices, including choices for silence that would otherwise go unregistered in elections.

### 6.3.2 TACIT CONSENT AND REPRESENTATION

Second, to the extent that implementing compulsory voting proves impracticable, as institutional designers, we should be more narrowly concerned about the role of silence within ongoing relationships of democratic representation. For better or for worse, democratic representation is often predicated on a certain kind of silence – the silence of tacit consent.<sup>22</sup> Built into any representative relationship is an unequal division of labor between elected officials and citizens. The size, scale, and complexity of modern democracies make it necessary for citizens to transfer a great deal of responsibility for decision-making to authorized agents who are better positioned to make decisions on their behalf.<sup>23</sup> When democratic representation “works,” it enables constituents to remain silent, confident that their own interests and those of their representative are aligned. If they remain satisfied, constituents will likely see no need to turnout and vote again,

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<sup>22</sup> David Runciman labels this silence at the heart of representation the “non-objection” criterion. He argues that *legitimate* representation presupposes that those who are the target of representative claims are *capable* of objecting to what is done in their name. Thus, the resulting “non-objection” criterion, “is essentially a negative account of what constitutes the activity of representation – representation takes place when there is no objection to what someone does on behalf of someone else ... The non-objection criterion allows a kind of latent presence for the represented, *such that their silence can be taken as a form of assent* ... where that silence is broken, and explicit objections are voiced, representation starts to break down.” David Runciman, “The Paradox of Political Representation,” *The Journal of Political Philosophy* (2007): 95. See also, Lisa Disch, “Toward a Mobilization Conception of Democratic Representation,” *American Political Science Review* 105 (2011): 107; and, Hanna F. Pitkin, *The Concept of Representation* (Los Angeles: University of California Press, 1967).

<sup>23</sup> See Andrew Rehfeld, “Towards a General Theory of Political Representation,” *The Journal of Politics* 68 (2006): 1–21; and, Nadia Urbinati and Mark E. Warren, “The Concept of Representation in Contemporary Democratic Theory,” *The Annual Review of Political Science* 11 (2008): 387–412.

especially if they perceive that there is little risk of their incumbent being defeated.<sup>24</sup> Following this logic, silence can be readily understood as tacit consent to representation.

If an elected representative has done well, or is perceived by a majority to have done well, then it may be perfectly appropriate for constituents to signal their satisfaction through silence, at least in the absence of any discernable contestation. But silence can also be dangerously misleading. Earlier, we took note of the startling degree to which social and economic inequalities can distort democratic representation. We saw that there is bound to be disempowered silence that accumulates along with the satisfied silence of tacit consent – disempowered silence that stems from apathy, ignorance, or disaffection about constituents’ interests not being well-served by their representative. Jane Mansbridge frames the problem as one of sorting the reasons that an incumbent remains in power unopposed in a relatively silent constituency: “Incumbency, in short, can indicate either genuine constituent satisfaction or constituent disempowerment.”<sup>25</sup> How might we reform institutions to distinguish the kinds of silence that underlie a given representative relationship?

Considered from the perspective of institutional design, the key challenge, I argue, is to identify reforms that could differentiate choices for silence within a constituency, in order to prevent false or inappropriate inferences of tacit consent. To do so, we should canvass institutional mechanisms that would that would clarify the circumstances under which members of a constituency are choosing silence. Without such a mechanism, it is problematic to expect marginalized and disadvantaged

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<sup>24</sup> Jane Mansbridge, “A ‘Selection Model’ of Political Representation,” *The Journal of Political Philosophy* 17 (2009): 389-392, and, “Clarifying the Concept of Representation,” *American Political Science Review* 105 (2011): 622n4.

<sup>25</sup> Mansbridge, “A ‘Selection Model’,” 390.

constituents to organize and voice their objections to representation, especially if they lack resources for participation or find themselves in an information environment that makes personal contact with their representative unlikely. On average, silent constituents – especially those who are less wealthy and educated – are simply less likely to participate in those forms of organization that *could* exact pressure on their representative, such as community and civic associations, local media, opinion polls, town halls, and business and professional networks.<sup>26</sup> As one U.S. Representative explained to Richard Fenno: “These people are not joiners. Not one in 300 is a member of any group or organization. They are unreachable ... It’s so transient, you don’t know who you represent.”<sup>27</sup> In such an information vacuum, the messages democratic representatives hear in “safe” or uncontested constituencies are, quite often, only those of an elite and privileged few. This inevitably skews representation towards the interests of the powerful, wealthy, and organized minority of constituents, since there are no incentives for representatives to reach beyond these groups.

If the majority within a constituency is silent because they are truly satisfied, and will remain so as long as nothing of importance is at stake, we require a design that ensures that the attention of those constituents is instead brought back to politics every election cycle.<sup>28</sup> The ideal design will induce even an unchallenged incumbent to continually attend to the silence of their constituency. Notwithstanding the effects of

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<sup>26</sup> Kay L. Schlozman, Sidney Verba, and Henry E. Brady, *The Unheavenly Chorus: Unequal Political Voice and the Broken Promise of American Democracy* (Princeton, NJ: Princeton University Press, 2012), chap. 11. See also, Dara Z. Strolovitch, *Affirmative Advocacy: Race, Class, and Gender in Interest Group Politics* (Chicago: University of Chicago Press, 2007).

<sup>27</sup> Richard F. Fenno, *Home Style: Members in Their Districts* (Boston: Little, Brown and Company, 1978), 235. See also, Larry M. Bartels, *Unequal Democracy: The Political Economy of the New Gilded Age* (Princeton, NJ: Princeton University Press, 2008), 280-281; and, Meredith Rolfe, *Voter Turnout: A Social Theory of Political Participation* (New York: Cambridge University Press, 2012), chap. 8.

<sup>28</sup> Cf. Mansbridge, “A ‘Selection Model’ of Political Representation,” 391.

compulsory voting on consistently motivating voter turnout in elections, I argue that another solution for this particular problem is to “manufacture” competition in uncontested constituencies. To accomplish this, I argue, we could introduce quorum rules or *minimum thresholds* for voter turnout. Implementing a minimum turnout threshold would provide a stimulus to both elected officials and their constituents by requiring that a certain percentage of eligible voters in a constituency – or, if necessary, a certain percentage of underrepresented segments of that constituency – show up at the polls on election day in order for the results to be valid. Any turnout less than the minimum threshold would force a reelection in that constituency, giving would-be supporters of the incumbent a compelling reason to turnout and vote instead of remaining silent.

This institutional reform responds to our initial problem. Faced with the possibility of causing a reelection, constituents who would tacitly consent to the incumbent can no longer risk silence. This narrows the inferences that can be drawn from silence, effectively limiting the ways it can be misinterpreted. For their part, representatives would have additional incentives to broaden their coalition of supporters and mobilize them to ensure that turnout reaches the minimum threshold. On the other hand, marginalized and disadvantaged constituents would have a ready, low-cost method for clearly drawing attention to deficits of representation. With turnout thresholds in place, the choice for silence becomes weightier: by simply remaining silent, disaffected voters could be empowered to block the reelection of an unchallenged incumbent that does not serve their interests, transforming silence into a method of influence.

Surprisingly, there is little precedent for instituting minimum turnout thresholds in regular democratic elections. There are, however, a number of cases in which such

thresholds have been applied to constitutional referendums and plebiscites in countries like Denmark, Sweden, Poland, Italy, and Portugal.<sup>29</sup> In these contexts, minimum turnout thresholds are employed to prevent powerful minorities and special interests from passing unpopular laws through direct legislation, because the likelihood of low voter turnout for such initiatives is greater. Stephen Tierney also points to a significant democratic benefit. He suggests that turnout thresholds in referendums may allow for a “myriad of voices in society to have a chance to be heard and to influence decision-making,” by “requiring higher levels of agreement [that] can encourage the building of a broader consensus before an agreement is reached, which may in turn require participants to be more deliberative in their dealings with others.”<sup>30</sup>

My proposal for minimum turnout thresholds would, of course, require more detail. Its point, however, should be clear. It is an attempt to give institutional structure to the multiple inferences that can be drawn from silence within relationships of representation. It would serve as a reform that could distinguish between the genuine satisfaction of silent constituents and the disempowered or inattentive silences of marginalized and disadvantaged members of a constituency. Because democratic representation necessarily involves an unequal division of labor that, in practice, will often be magnified by material and social inequalities, representative relationships should be buttressed by institutional mechanisms that protect the communicative consequences of people’s choices for silence from unwarranted inferences. For democratic theorists, a reform to implement turnout thresholds would clarify the conditions under which silence

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<sup>29</sup> See Stephen Tierney, *Constitutional Referendums: The Theory and Practice of Republican Deliberation* (New York: Oxford University Press, 2012), 277-280.

<sup>30</sup> Tierney, *Constitutional Referendums*, 275.

is an active expression of choice within a representative relationship, helping to guard against mistaken presumptions of tacit consent. Institutionally, this also lessens the dangers of chronic incumbency in uncontested constituencies, providing an alternative mechanism for alerting elected representatives to deficits of representation.

### 6.3.3 *CONSENSUS AND DELIBERATION*

A third area where the goal of protecting silence raises problems of institutional design has to do with consensus-oriented deliberation. As an ideal, the virtue of deliberation is that it enables conflicts between competing interests and perspectives to be considered before a collective decision is made, either through the building of consensus around common interests, or through reasoned disagreement, bargaining, and compromise. Consensus decision-rules, in particular, are sometimes argued to increase incentives for deliberation, since under these conditions the dissent of participants must be vocalized in order to be included.<sup>31</sup> The need to ultimately arrive at a unanimous agreement can force participants to attend to each other's contributions, and to attempt to persuade one another of the merits of their own position through a careful exchange of reasons. Though consensus may at times be difficult to achieve, this reality can motivate participants to work harder to negotiate a decision all can endorse. If and when collective decision is reached through consensus – based on the genuine agreement of everyone involved and without coercion – then it is inherently legitimate.<sup>32</sup>

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<sup>31</sup> See, for example, Joshua Cohen, "Deliberation and Democratic Legitimacy," in *The Good Polity*, ed. Alan Hamlin and Philip Pettit (New York: Basil Blackwell, 1989); Jon Elster, "The Market and the Forum: Three Varieties of Political Theory," in *Deliberative Democracy: Essays on Reason and Politics*, ed. James Bohman and William Rehg (Cambridge, MA: MIT Press, 1997); Jürgen Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Democracy*, trans. William Rehg (Cambridge, MA: MIT Press, 1996); and, Jane Mansbridge, *Beyond Adversary Democracy* (Chicago: University of Chicago Press, 1980), chap. 18.

<sup>32</sup> See Mark E. Warren, "Institutionalizing Deliberative Democracy," in *Deliberation, Participation and Democracy*, ed. Shawn Rosenberg (New York: Palgrave Macmillan, 2007), 277-278.

Consensus decision-rules have long been a feature of protest and social movements, since decision by consensus is often held to be more “democratic” than its alternatives, such as a simple majority vote. Consensus decision-rules are also increasingly vital to establishing the public credibility of deliberative bodies, many of which are tasked with providing expert recommendations but lack the ability to independently implement or enforce them.<sup>33</sup> Examples of expert bodies with consensus-oriented deliberation at their core include, among others: the Intergovernmental Panel on Climate Change (IPCC); regional and international organizations such as the North Atlantic Treaty Organization (NATO), the World Trade Organization (WTO), and the European Union (EU); as well as juries or assemblies that aim transform ordinary citizens into experts, such as the British Columbia Citizens’ Assembly on Electoral Reform (BCCA).<sup>34</sup>

It is important for these expert bodies to engage in a frank and open exchange of ideas so that all aspects of a given issue are considered. It is equally important, however, that these deliberations eventually reach a consensus. The outward appearance of disagreement or partisanship within these deliberative bodies can undermine their authority. Their recommendations must therefore be received as a single, unanimous expert opinion. Consensus instils confidence in the broader public – making a credible case to both citizens and elected officials that expert opinion about a particular issue is undivided after a careful weighing of facts and arguments. This feature can be especially

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<sup>33</sup> See Thomas Christiano, “Rational Deliberation among Experts and Citizens,” in *Deliberative Systems: Deliberative Democracy at the Large Scale*, ed. John Parkinson and Jane Mansbridge (New York: Cambridge University Press, 2012). On the use of consensus decision-rules in non-governmental organizations and deliberative bodies, see Christopher F. Karpowitz and Tali Mendelberg, *The Silent Sex: Gender, Deliberation, and Institutions* (Princeton, NJ: Princeton University Press, 2014), 342-347.

<sup>34</sup> Mark E. Warren and Hilary Pearse, eds., *Designing Deliberative Democracy: The British Columbia Citizens’ Assembly* (New York: Cambridge University Press, 2008).

important for informing democratic decision-making in difficult policy domains, where the issues are often technically complex, highly sensitive, or ideologically polarizing (e.g., healthcare, climate change, or trade agreements).

Despite the advantages, trying to achieve consensus through unanimous decision-rules also carries dangers for deliberation, specifically because it trades on silence. Consensus-oriented deliberation tends to diminish the possibility of serious disagreements being aired because it relies primarily on what Philippe Urfalino calls the “rule of non-opposition.” Instead of voting on a decision to be adopted by the group, “[t]he outcome of the decision depends on the will of each participant, whether or not to contest the proposal.” The result, Urfalino notes, is that “even if most participants remain silent and only a few explicitly manifest their approval – that proposal becomes the decision.”<sup>35</sup> In other words, if deliberators harbour any opposition or disagreement, they *must* vocalize it, since their silence is demonstrative of tacit consent according to consensus decision-rules.

The narrowing of silence to a single binary meaning can be problematic from the perspective of institutional design. The danger is that consensus decision-rules can in fact stifle debate and deliberation by, perversely, incentivizing the suppression of vocal dissent. In practice, deliberators may face subtle pressures to silently acquiesce to what they perceive to be the emerging majority position.<sup>36</sup> They will be keenly aware, for

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<sup>35</sup> Phillippe Urfalino, “The Rule of Non-Opposition: Opening Up Decision-Making by Consensus,” *The Journal of Political Philosophy* 22 (2014): 326–327.

<sup>36</sup> Indeed, Dianne Mutz finds that where consensus-rules are in place, participants in a deliberation will just “avoid potentially controversial topics in favour of more practical tasks, thus giving group members a diminished appreciation for the difficulty of reaching a conclusion when handling divisive issues.” Mutz, *Hearing the Other Side: Deliberative versus Participatory Democracy* (New York: Cambridge University Press, 2006), 90. See also, Timur Kuran, *Private Truths, Public Lies: The Social Consequences of Preference Falsification* (Cambridge, MA: Harvard University Press, 1995). Cf. Karpowitz and Mendelberg, who suggest that consensus decision-rules can, in fact, *equalize* power in deliberation under certain circumstances, such as when the number of female deliberators is low. Karpowitz and Mendelberg, *The Silent Sex*, 343-347.

example, of prevailing group dynamics, including any asymmetries of power, and how these factors trade off against existing loyalties, deference, or simply the desire to somehow get to a consensus.<sup>37</sup> Without a mechanism to distinguish the true motivations behind silence, the integrity of any recommendations that result from consensus-oriented deliberation will be suspect. There is a real potential to produce false consensus on policy issues where there exists continuing disagreement.

The specter of false consensus should prompt us to search for designs that could verify that the silence that underlies an apparent consensus in deliberation is genuine. Here, our concern is not so much to link silence to the outcomes of decision-making, as we have with previous design recommendations, but rather to reform the deliberative process to include a mechanism that would clarify the *status* of that link – that the choice for silence is, truly, an indication of consensus. The ideal design should parse silence roughly along the same lines that we have distinguished silence conceptually. It should separate disempowered silences that can arise out of pressures to conform or self-censor from silences that are communicative of assent.

Recent proposals that deserve more attention, in my opinion, suggest a reform to introduce *iterative voting procedures* into deliberation, not as a device for reaching a final decision (as voting normally is), but rather as a means of anonymously registering disagreement at various stages as deliberation unfolds.<sup>38</sup> Alfred Moore and Kieran O’Doherty argue that this sort of “deliberative voting” can function as a kind of sorting

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<sup>37</sup> Cass Sunstein, for example, argues for enlisting “silence, on certain basic questions, as a device for producing convergence despite disagreement, uncertainty, limits of time and capacity, and (most important of all) heterogeneity.” Sunstein, *Designing Democracy: What Constitutions Do* (New York: Oxford University Press, 2001), 51. To my mind, the line between using silence to facilitate agreement and enforcing to suppress disagreement would remain quite blurry.

<sup>38</sup> Alfred Moore and Kieran O’Doherty, “Deliberative Voting: Clarifying Consent in a Consensus Process,” *The Journal of Political Philosophy* 22 (2014): 302–319. See also, Robert E. Goodin, *Innovating Democracy: Democratic Theory and Practice After the Deliberative Turn* (New York: Oxford University Press, 2008), chap. 6; and, Urfalino, “The Rule of Non-Opposition.”

device. “[It] serves ... to make explicit the reason for going along with a deliberative acceptance that has already – and only provisionally – been achieved.”<sup>39</sup> Iterative voting allows for the signalling of disagreements in a way that avoids the prospect of more vocal confrontations that might otherwise disempower deliberators. Because it is both anonymous and nonbinding, it enables unconvinced participants to force another round of deliberation and consensus building without risking any backlash that they might otherwise fear.

Integrating iterative voting into the deliberative process would be quite straightforward. Generally speaking, a given deliberation would be broken down into distinct phases or “rounds” of discussion. At the end of each round, participants would be given the chance to anonymously vote for or against a particular proposition, which would then be recorded along with a collective group statement about the issue. The purpose of the vote is to signal to everyone involved where group opinion in fact lies. If a persistent agreement is evident, then further deliberation may be necessary to produce a genuine consensus (if this is still desirable). What is important, however, is that when iterative voting procedures are in place, participants are prevented from being misled into making false or inappropriate inferences about the silence of others. Silence cannot be misread as consensus when, in reality, there is little or no agreement.

If we accept that consensus has its place as an element of deliberative decision-making, then it is incumbent upon us to design-in procedures to distinguish when consensus is false from when it is authentic. Iterative voting, I suggest, provides a safeguard in consensus-oriented deliberation that can insulate participants from pressures

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<sup>39</sup> Moore and O’Doherty, “Deliberative Voting,” 312.

to self-censor and conform. Though iterative voting may slow down deliberation in practice, it makes consensus building less coercive. For democratic theorists, the trade off to consider here, I think, is whether the imperative of quickly reaching a consensus in deliberation overrides the need to ensure that whatever consensus is eventually reached is genuine.

#### 6.4 CONCLUSION

This chapter has proposed a series of targeted institutional reforms that could protect the silence of citizens from false or mistaken inferences. My hope in doing so was to provide an initial sense of range of possibilities for democracy that we open up once the problems and potentials of silence are clearly understood. I began by suggesting a minimum set of requirements that any democratic institution would have to meet in order for silence to reliably function within it in ways consistent with basic democratic norms. To illustrate how these requirements might be satisfied in practice, I outlined some specific mechanisms that could be implemented within different institutional domains, including electoral systems, representative relationships, and democratic deliberation. These mechanisms (and others like them) have the potential to lower thresholds for political influence, to evoke responsiveness from decision-makers and other elites, and to improve processes of collective decision-making. The feasibility of actually implementing these mechanisms, of course, depends on several other factors not considered here, including the trade offs that can exist between silence and voice, between voluntariness and compulsion, as well as between other democratic goods. But recognizing that, from the perspective of society and its institutions, the disempowered silences of citizens can be, and often are, virtually indistinguishable from communicative silences, I argue that our

goal going forward should be to design silence into democratic systems such that it is properly anticipated and supported.

## Conclusion

Silence can be a plan  
rigorously executed...  
It is a presence  
it has a history a form

-Adrienne Rich, *Cartographies of Silence*<sup>1</sup>

What is the meaning and significance of silent citizenship in democracies today? We began this dissertation with a series of observations about the changing circumstances of politics across the developed democracies. Public support for democratic principles is broad and deep. Yet by a host of relevant empirical measures, large numbers of citizens are growing quiet. They are less willing to vote, to volunteer in their communities, to show their support for political campaigns, or to seek out and contact their political representatives. They are less likely to pay attention to their government, and more likely to judge them to be incompetent, untrustworthy, or even corrupt when they do. They are turning away from institutionalized channels for voice and participation, because they no longer feel that their voices are heard in ways that make a difference. Explaining these shifting patterns of participation and nonparticipation challenges our current understanding of silent citizenship in democratic theory and practice.

### 7.1 THE ARGUMENT IN BRIEF

In this dissertation, I have argued that democratic theorists must expand their conception of silence in order to keep pace with shifts in the nature and form of silent citizenship. What we need, I have suggested, is a democratic theory of silence. In Chapter 2, I

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<sup>1</sup> Adrienne Rich, "Cartographies of Silence," in *The Dream of a Common Language, Poems: 1974-1977* (New York: W.W. Norton, 1978), 16.

claimed that the foremost impediment to building such a theory is an implicit assumption within democratic theory about the necessary role of voice for democratic self-rule. This “vocal ideal” has important implications for how silence is thought about and theorized (or not) from a democratic perspective. In particular, when democratic theorists think about silence in democracy, they tend to think about it in terms of the absence of voice, and thus associate silence with deficits of democracy. For this reason, silent citizenship is thought to be indicative of only disengagement and disempowerment, not least because silent citizens are seen as unable or unwilling to take on the burdens of voice. Within contemporary democratic theory, this has had the unfortunate consequence that theorists know little, if anything, about what silence accomplishes in politics.

Of course, if democratic theorists are wary of what they think silent citizenship represents, it is for very good reasons. In Chapter 3, we saw that democratic theorists are (rightly) focused on the structural barriers citizens can often face in participating and being heard in politics, including growing socioeconomic inequalities, patterns of prejudice and discrimination, and political inattention and misinformation. The conception of silence that emerges from these and similar findings is what I call *disempowered silence*. The danger of disempowered silences, we saw, is that they can reinforce and deepen domination and exclusion, taking a considerable toll on democratic systems – epistemically, ethically, and in terms of democratic legitimacy. Understanding these costs of disempowered silence provides us with considerable insight into the stakes involved in theorizing about silent citizenship from a democratic perspective. While acknowledging the antidemocratic consequences that follow from disempowered silence

are profound, I suggested that this conception should not preclude us from searching for reasons for silent citizenship that may as yet be unaccounted for.

In Chapter 4, I took up this search by pursuing the thought that silence could also, under certain circumstances, be an active expression of choice. I noted that, in fact, choices for silence are enabled and protected in most developed liberal democratic systems through the political and legal guarantee of a right to silence. What is more, we learned that exercising this right to silence can be politically empowering in at least two ways: by providing an option for one to refuse to cooperate with authorities; and, by preventing one's participation from being coerced or compelled. These potentials hint that disempowerment and disengagement might not be the *only* possible reasons for silent citizenship in democracies. Indeed, we saw how choosing silence can be a method for resistance that expands options for self-determination in a number of settings, ranging from legislatures, to corporate organizations, to public squares. Additionally, within institutional environments where opportunities and resources for voice are unequal or scarce, we noted another potential: it can be used by those who would otherwise lack the influence to induce responsiveness, with little risk to themselves. Insofar as this silence imposes a cost on decision-makers and other elites, it can, in fact, create incentives for them to follow-up and provide for voice. These observations led us to a conception of *communicative silence* that seems opposed to the conception of disempowered silence that predominates contemporary democratic theory.

In Chapter 5, we then developed a set of conceptual tools able to account for the various things people can communicate through their silence. The resultant conception of communicative silence describes how a conscious resistance to vocal participation has an

expressive dimension. We organized this expressive dimension into four distinct types of communicative silence. Silences that are used to sanction someone else in order to deliver a message we termed *affective* communicative silence. Those that can be used to reveal information about one's self such as preferences, commitments, or beliefs we called *demonstrative* communicative silences. Other silences that would be used to adhere to the imperatives of institutional rules or norms we referred to as *emulative* communicative silences. Finally, those silences that display conformity with prescriptions of social interaction, such as civility, tact, or listening, we described as *facilitative* communicative silences. In making these distinctions, I argued that we could begin to identify the possible ways in which the silence of citizens could also, quite possibly, be forms of political engagement. What is more, with this typology, I suggested that we now had in our possession a map that tells us what political consequences to expect from different types of choices for silence under different circumstances.

When we gather all of these reflections together, I argue, we find ourselves with all of the components required to assemble a framework for understanding the problems and possibilities that citizens' choices for silence present for democracy. In other words, we have a framework upon which to build a democratic theory of silence.

What might that democratic theory of silence look like when fully fleshed out? Here, I can only gesture towards some possibilities. One thing that a democratic theory of silence must do, I believe, is to specify how the design of existing democratic institutions – be they electoral or representative – ought to be reformed to accommodate silent citizenship, ideally in ways that induce decision-makers and political elites to follow-up and respond to silence.

Of course, no single design proposal directly follows from the framework that we have built. In Chapter 6, however, I specified two functional design requirements that any design proposal would have to meet in order for silence to be reliably enabled and protected within a given institution. I then sketched out a series of mechanisms – compulsory voting, minimum turnout thresholds, iterative voting procedures – to give us a sense of how silence could be institutionalized in ways that would meet our design requirements. Each of these proposals is an example of the sorts of reforms that a full-scale democratic theory of silence might produce.

## 7.2 CONCLUDING REMARKS

Beyond questions of institutional design, there is another far more ambitious project that, I believe, a democratic theory of silence must undertake. A truly comprehensive democratic theory of silence would be able to offer an ideal normative account of the proper places and functions of silence within a democratic system. It would be able to offer us generalized guidance about where the problems and potentials of silence lie in a given political setting. To build such a comprehensive theory, I argue, would require marshalling the conceptual resources developed in this dissertation – the conception of disempowered silence, the conception of communicative silence, as well as the normative criteria – in order to identify exemplary uses or (or misuses) of silence, their effects, and the democratic ends they might serve. My arguments in this dissertation offer only a preface to this more ambitious project.

The traditional understanding of silent citizenship – embodied by the conception of disempowered silence – remains important insofar as it draws our attention to

instances where certain voices have been marginalized and excluded from the democratic process. Yet such deficits of democracy do not exhaust the many reasons that citizens may have for remaining silent in democratic politics. Nor should deficits of democracy exhaust the meanings and significance that the concept of silence has within contemporary democratic theory.

Fully conceived, silence can be seen not only as evidence of disempowerments that erode choice, but also, and just as importantly, as expressions of choice in politics. When silence is symptomatic of the erosion of choice within democratic systems, or functions to deny capacities and opportunities to make choices, then silence clearly undermines democracy. But when choosing silence empowers people to influence collective decision-making, then silence supports democracy. The problem, for which my dissertation aims to formulate a solution, is to conceptualize the generic effects of different choices for silence, so that normative judgments can then be made about the democratic potentials of these choices. To the extent these potentials are identified and translated into institutional design, I conclude that silence may provide an alternative channel for registering choice in collective-decision-making, improving responsiveness, competitiveness, and inclusion in democratic systems by strengthening bonds of authorization and accountability between citizens and democratic institutions.

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