

Electoral Regimes and Socio-Economic Inequality: Resolving the Crisis through Political Reform

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Abstract

Electoral democracy is, by its nature, harshly competitive. Following any election, the winner acquires all political power, including the ability to control the national economy, or in some cases, even the global economy. That these ‘winners’ should choose to recreate the economy they govern in the image of the overly competitive, highly commoditized, neoliberal political system they master is hardly surprising. Therefore, in order to change the way our economies are governed – necessary, if we are to ever overcome the global recession ongoing since 2008 – we need to change the underlying political system. In particular, we need to replace our competitive political system with decision-making processes that are not formally competitive, that have, in short, no long-term ‘winners’ or ‘losers’. This can only be achieved by replacing electoral democracy with direct, mass participation, and by paying citizens to participate in political decision-making.

Introduction

More than nine-tenths of all nations currently govern their political landscape under the rules of electoral-representative democracy. This is often regarded as a positive development, because practising electoral-representative democracy is alleged to minimize conflict and strife; “ballots, not bullets” is the frequently repeated aphorism. But this facile synopsis fails to capture the absolutism inherent in this system of political organization. The rules of electoral-representative democracy are such that the political party that wins national or federal elections gains control over all of a nation’s resources until the next election, usually held four to five years later. During this time, the winner, that is the candidates or parties that are able to form a government following elections, may make whatever decisions they like; they are not obligated to take anyone else’s opinion into consideration in doing so. Of course, this basic point is fairly well-known and it is not considered unusual to refer to the ‘four-year-dictatorships’ produced by electoral politics. However, the full ramifications of those ‘four-year-dictatorships’ are rarely fully elucidated.

This paper will discuss some of the political and economic consequences that flow from the absolutist nature of elections. In doing so, it will follow in a tradition of thought that has, as we will see, been continually re-developed over several thousand years. In modern times, this tradition has been perhaps most cogently described by the German sociologist Robert Michels. Michels arguments are often summarized in the line, “who says organization says oligarchy” ; i.e. any systematic political organization offers certain actors the chance to exploit minor advantages in the service of accruing more and more power unto themselves, power

which they then seek to transfer to their (biological or intellectual) descendents.¹ Thus, under an electoral-representative system even political organizations that attempt to create a more radical egalitarian society will eventually be co-opted into behaving like pre-existing power structures and their transformative potential neutralized – the so-called ‘iron law of oligarchy’.² In Part I this paper looks at how this ‘iron law of oligarchy’ is playing out in the present-day political system. A particular focus is the strong bond that electoral-representative democracy creates between economic resources and political participation rights and the effects that this has on economic inequality. Part II of this paper examines some of the popular solutions that have been proposed to deal with the ‘crises of democracy’ that inevitably occur as the emergent oligarchy becomes more and more apparent and why they fail to take sufficient account of the strong bonds between wealth and politics. Part III proposes a more radical solution that attempts to thwart the iron law of oligarchy by disaggregating political participation and creating a strong counter-cycle in the relationship between wealth and political participation, thus altering the political system from one that drives wealth inequality to the point of crisis to one that mitigates it, thereby increasing stability.

Part I: The Iron Law of Oligarchy in Present-Day Politics

The manner in which the iron law of oligarchy worked to undermine the radical egalitarian premises of European socialist parties was a particular focus of Michels’ work. As Michels noted, the electoral system encouraged intra-party oligarchy through the party’s need to become an efficient fighting force in order to crush other parties and attain political power. This is still true today, but since the competition for political power has become more intense, the nature of these oligarchies has become broader and more firmly embedded in society as a whole. These oligarchies serve to divide society into entrenched groups of ‘winners’, who reap rewards for their electoral victory, and ‘losers’, who are forced to provide those rewards at their own expense. This lies in the very nature of elections which are used to determine each individual’s participation rights on a competitive basis.

For anyone who wins an election, political participation for the next several years comes easily. In fact, election ‘winners’ are paid a salary to devote all of their energies to political engagement; a large portion of the State apparatus is legally obliged to execute their wishes; and they are explicitly entitled to represent the nation in all of its dealings with other States. By contrast, those who ‘lose’ the elections are locked out of the political decision-making process and are not permitted to participate through the official decision-making channels. In fact, they are not even allowed to enter the Parliament, Congress or other government meeting places where they might be seen or heard. These ‘losers’ may, of course, write petitions or protest government action, but those who win election are free to ignore these missives,³ and

¹ Robert Michels, *Political Parties: A Sociological Study of the Oligarchical Tendencies of Modern Democracy*, (Eden and Cedar Paul, tr., Batoche Books, 2001) at 13, 20, 26.

² *Ibid.*, at 218 et seq. The term ‘iron law of oligarchy’ appears at 224.

³ For example, in the USA, the White House has as a matter of policy committed itself to issue an official response to online petitions that receive a certain number of signatures (currently 100 000 signatures within 30 days). However, there is no requirement for the response to address any of the points raised in the petition or provide additional information to the petitioners. In fact the right to petition derives from the First Amendment, which stipulates only that citizens have the right to petition. The Supreme Court has ruled that governments do

the costs of effective political organization are difficult to sustain.⁴ By legitimizing the political power held by a few individuals, elections effectively close off the possibility for collective citizen participation. This has been well-known since electoral-representative came into modern use. James Madison, Fourth President of the United States of America and key architect of the modern electoral system of government proclaimed in its praise:

“It is clear that the principle of representation was neither unknown to the ancients nor wholly overlooked in their political constitutions. The true distinction between these and the American governments, lies IN THE TOTAL EXCLUSION OF THE PEOPLE, IN THEIR COLLECTIVE CAPACITY, from any share in the LATTER”⁵

Since following every election, the people as a collective voluntarily resign their right to directly participate in politics, competition naturally ensues over procuring the scarce resource that political power has become. This competition is often said to be a hallmark of democracy, and in popular imagination it is widely considered to be a fair way of determining the best qualified ‘winner’.

But this belief is predicated on the misconception that every race starts again from scratch and that the competitors enter the field of competition with only the advantages that they personally have accrued in life through their own talents and labour. However, just as Michels laid out, seriously contesting elections requires a great deal of organization, and under these circumstances, small advantages become, over time, great ones, especially as they accrue intergenerationally.⁶ This in turn, means that competition becomes more intense and the rewards and punishments for success and loss ever more dramatic, while effective resource monopolization becomes more important to one’s chances of success. Those who wish to compete successfully must attempt to shift the burden of providing these resources away from themselves and onto other members of society. In addition, the pressure to compete leads to opening up new fronts or proxy wars in an effort to gain a marginal advantage. This raises the costs of competition, as competitors seek to not only directly do battle with each other, but also to secure secondary arenas which can be turned against their competitors in more indirect ways and at a high marginal cost. It is argued here that there are at least four inter-related fronts on which a modern electoral competition is fought, and that a brief overview of these fronts provides us with a better insight into exactly how the iron law of oligarchy is playing out in electoral politics today.

not have to listen to or respond to such petitions (*Minn. Bd. Commun. for Colleges v. Knight* 465 U.S. 271 (1984)). In Britain, if an e-petition collects 100 000 signatures, an MP may bring the issue up for debate before the Backbench Business Committee, and the Committee may decide to allot time to discuss the issue during backbench time in parliament (“E-Petitions and the Backbench Business Committee” (www.parliament.uk) <http://www.parliament.uk/business/committees/committees-a-z/commons-select/backbench-business-committee/e-petitions/>), accessed 16 December 2014.

⁴ See eg. Alasdair Roberts, *The End of Protest: How Free-Market Capitalism Learned to Control Dissent* (Cornell University Press, 2013); Malcolm Gladwell, “Small Change: Why the Revolution will not be Tweeted” *New Yorker* (1 October 2010) available at http://www.newyorker.com/reporting/2010/101004fa_fact_gladwell

⁵ *The Federalist Papers*, No. 63; Madison’s original capitals.

⁶ Michels, note 1, at 13 et seq.

Elections: A War on Four Fronts

The First Front: Elucidating a Popular Platform

The first front in the political competition is the only front that is generally perceived to exist by the voting public. It lies in elucidating a popular platform to campaign on. Every candidate or party must decide whether they nominally support higher taxes or lower taxes, legalization of recreational drugs or a narcotics crackdown, rehabilitation or a tough stance on crime, armed conflict or diplomacy, etc., etc. This is familiar territory, and if for some reason, political competition could be limited to this ‘front’, the opportunity for organizational oligarchy would, indeed, be minimized and therefore forced to develop at a much slower pace in a more insecure environment. Even here, however, the capacity for organizational oligarchy is present, as parties and candidates employ focus group facilitators to find and present policies that can be made to resonate with voters,⁷ a tactic that demands considerable coordination and resources to utilize effectively.

The Second Front: Maximizing Vote-Seat Ratio

As previously mentioned, political power is a very scarce resource in modern electoral democracies, far more scarce than is commonly perceived – sitting representatives at any one time constitute only between ca. 0.0003% and 0.005% of all registered voters.⁸ This has a severe impact on the quality of electoral competition. When representation consists of such a small fraction of the total population, the relationship between the popular vote and electoral outcomes becomes excessively compressed and loses accuracy. The result of this compression-induced inaccuracy is that the number of votes that a party wins sometimes bears almost no relationship to the number of seats it procures in the legislature. To take just one example: In 1983, the British Conservative Party won one seat in Parliament for every 32 777 votes cast in its favour, while the Social Democrats won one only seat for every 338 860 votes it received.⁹ As this example so eloquently demonstrates, a good vote-seat ratio can have a greater impact on a party’s chances of success than the number of votes it actually obtains at the polls. In fact, it is common, especially in first-past-the-post voting systems, for a party to win more than 50%

⁷ Frank Luntz is the acknowledged leader in this field. An overview of his services and clients can be gleaned from his business website: Luntz Global: It’s Not What You Say, It’s What They Hear, available at: <http://www.luntzglobal.com>. A more analytical view of the role played by focus groups and platform formulation is provided by Ursula Breitenfelder, Christoph Hofinger, Isabella Kaupa, and Ruth Picker “Fokusgruppen in politischen Forschungs- und Beratungsprozess” (2004) 5(2) *Forum: Qualitative Social Research*, available at: <http://www.qualitative-research.net/index.php/fqs/article/view/591/1283>

⁸ There are 308 members in the Canadian House of Commons (“About the House of Commons” (Parliament of Canada) <http://www.parl.gc.ca/Parlinfo/compilations/HouseOfCommons.aspx?Menu=HoC>, and just over 24 million registered voters in Canada (“Voter Turnout at Federal Elections and Referendums” (Elections Canada) <http://www.elections.ca/content.aspx?dir=turn&document=index&lang=e§ion=ele>). In the US, there are 435 members of the House of Representatives and 100 Senators (“Members of Congress” (GovTrack.US) <https://www.govtrack.us/congress/members>) with 222 million eligible voters (Michael P. McDonald, “2012 General Election Turnout Rates” (United States Elections Project) <http://www.electproject.org/2012g>). In Ireland, 3.2 million registered voters elect 166 members of the Dáil (“Voter Turnout Data for Ireland” (International Institute for Democracy and Electoral Assistance) <http://www.idea.int/vt/countryview.cfm?CountryCode=IE>).

⁹ William Irvine “Additional Member Electoral Systems” in Arend Lijphart and Bernard Grofman (eds) *Choosing an Electoral System: Issues and Alternatives*, (Praeger Publishers, 1984), 165 at 165.

of the seats in Parliament with far less than 50% of the popular vote. The rules of the representative, electoral system are, however, such that a party that wins more than 50% of seats may go on to form the government, and when a political party becomes the government of a nation, it does not wield 40% or 50% of all political power in the nation, but 100%.¹⁰ Thus very small advantages in the number of votes received can be translated into an enormous differential in real political power when one party wins the right to form the government locking out all others. In fact, due to the skewing that ensues whenever representative-voter ratios are very high, it is possible for a party to win the election, form the government and wield 100% of political power in a country, even if *another* party or candidate wins the popular vote.¹¹ Perhaps the most famous example is the 2000 US Presidential election where Democratic candidate Al Gore won the popular vote with 48.38% of registered voters casting their ballot in his favour, while his rival George W. Bush received 47.87% of the popular vote, but nonetheless became President.¹² While this type of outcome (a so-called ‘manufactured majority’) is most common to first-past-the-post systems and the single transferable vote,¹³ it is possible to achieve under any electoral system, including the personalized proportional vote and the pure proportional vote.¹⁴ There is, thus considerable incentive for politicians to

¹⁰ I have chosen to call this a ‘relative manufactured majority’. In Canada between 1945 and 2011, 40% of all federal elections were won by relative manufactured majority. Over the same time period in Britain, every government that has not been formed by absolute majority or coalition has been formed by relative manufactured majority (or relative manufactured minority, as the case may be). Even the American President is often chosen by relative manufactured majority; Harry Truman, John F. Kennedy and Richard Nixon all became president without achieving an absolute majority of the popular vote, while in 1860 Abraham Lincoln became President with only 39.8% of the popular vote (Richard Rose ‘Electoral Systems: A Question of Degree or of Principle?’ in *Choosing an Electoral System*, 73 at 74.).

¹¹ I have chosen to call this an ‘absolute manufactured majority’. In Britain absolute manufactured majorities occur about 1/5th of the time (Stuart Weir, ‘Primary Control and Auxiliary Precautions: A Comparative Study of Democratic Institutions in Six Nations’ in Beetham (ed) *Defining and Measuring Democracy* (SAGE, 1994) 112 at 124; Feargal McGuinness, Richard Cracknell, Martin Davies & Mark Taylor, ‘UK Election Statistics: 1918-2012’, Research Paper 12/43 (7 August 2012), House of Commons Library, at 7.

¹² ‘2000 Presidential Electoral and Popular Vote’ (Federal Election Commission, December 2001) <http://www.fec.gov/pubrec/fe2000/elecpop.htm>.

¹³ Regarding outcomes in first-past-the-post systems, see above footnotes 11 and 12. The single transferable vote is used in Ireland, Tasmania and the Australian Senate. Manufactured majorities occurred about 1/3 of the time in the Australian Senate and about 20% of the time in Ireland (David Farrell and Ian McAllister, ‘Through a Glass Darkly: Understanding the World of STV’ in Bowler and Grofman (eds.) *Elections in Australia, Ireland and Malta under the Single Transferable Vote*, 17, at 35), while four of six Tasmanian elections under STV brought a party to government with fewer votes than that procured by the other main party (Colin Hughes, ‘STV in Australia’ in *Elections in Australia, Ireland and Malta under the Single Transferable Vote*, 155 at 169).

¹⁴ Arend Lijphart, *Electoral Systems and Party Systems: A Study of Twenty-Seven Democracies, 1945-1990*, (Oxford University Press, 1994) at 160 et seq; Douglas Rae cited in Arend Lijphart, *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries*, (Yale University Press, 1999) at 165. In the personalized proportional vote, this is usually achieved by engaging in vote-splitting (Weir, note 12, at 124). The skewing in pure proportional voting systems is generally caused by the different vote-seat ratios achieved by each party in each electoral district. For example, in Belgium in 2010 the Reform Party, the Sp.A. and the OpenVLD all received ca. 9% of the popular vote, but Reform gained 18 seats in parliament (12% of all available seats), whereas the Sp.A. and Open VLD were left with only 13 seats each (8.6% of all available seats). At the same time, the Socialist Party gained 26 seats (or 17.3% of available seats) with only 13.7% of the vote, meaning that with only 5% more of the vote, the Socialist Party gained nearly 10% more seats in Parliament than either the Sp.A. or the OpenVLD. A vote in favour of the Socialist Party was thus twice as valuable as a vote in favour of either of the smaller parties. (Data from: ‘Chamber: List Results’ (Federal Public Services, Belgium) http://polling2010.belgium.be/en/cha/results/results_graph_CKR00000.html); In Spain, an advantage in vote-seat ration also accrues to the larger parties, each of the two largest parties (PP and PSOE) generally gains between 3-8% more seats in the Congress than it was entitled to, which translates into between

maximize their vote-seat ratio, as deploying the correct electoral tactics can be the difference between total victory or defeat. Thus, they become part of the electoral competition.

The inaccuracies that we see in electoral outcomes, while they are in an abstract sense caused by statistical inaccuracies in the representative system, are, in the concrete manner in which they are realized, carefully plotted by political tacticians. It is well known that virtually all major political parties attempt to game the system of representative democracy and deliver themselves a manufactured majority, usually by devaluing the votes cast in favour of their opponents. This requires considerable effort, but can be achieved by ‘cracking’, i.e. splitting up an electoral district so that the voting majority of that district becomes a minority in two or more districts; ‘packing’, i.e. drawing electoral boundaries around pockets of certain voters to ‘pack’ them all into one district where they will form the majority and drown out minorities who may already be there; malapportionment, i.e. varying the numbers of voters in voting districts to dilute the voting power of voters in larger districts and magnify the voting power of voters in smaller districts; and vote-splitting. This opens up a new dimension of competition: political parties and candidates do not simply compete on the popularity of their platforms, but also on their ability to manipulate the statistical inaccuracies of electoral polling in their favour. Most of these tactics also favour large parties and incumbents, as governments and parliamentary committees often have substantial influence over drawing district boundaries. Thus, those who have power are more likely to retain it, if only they avail of these tactics.

The Third Front: The Media

The third front that political parties and candidates compete on is in efficiently utilizing mass media to further their chances of success. This theatre of war does not merely encompass getting a party’s message out to voters, but also includes controlling the way in which that party and their values are consistently portrayed in the media, i.e. positively or negatively, sympathetically or antagonistically. While the first front of competition, as described in this paper, represents a rational platform-based approach to campaigning, this third front represents the successful manipulation of voters’ irrational, emotive impulses in the interests of a candidate or party.

Studies have shown that the messages carried by mass media have a distorting impact on viewers’ perceptions of reality.¹⁵ In fact, subjects often accept the accuracy of mass media messaging, even when that messaging is at odds with their own personal experience.¹⁶ This

10 and 28 surplus seats (Data from: Luis Ramiro, “The 2004 Spanish General Elections“ RIIA/EPERN Election Briefing No. 04/01, July 2004, Royal Institute of International Affairs, at 4, available here: <https://www.sussex.ac.uk/webteam/gateway/file.php?name=epern-election-briefing-no-14.pdf&site=266> and: William Chislett, “Elections in Spain: A Political Change in the Framework of a Major International Crisis” at 2, available at: http://www.iemed.org/observatori-en/arees-danalisi/arxius-adjunts/anuari/med.2012/chislett_en.pdf). Indeed, following each of the last three Spanish elections, one party went on to form a single cabinet government on the back of a relative manufactured majority.

¹⁵ Shanto Iyengar/Donald R. Kinder, *News that Matters: Television and American Opinion* (University of Chicago Press, 1987) at 4. The tendency of individuals to conform to group opinion against their better judgement, has been corroborated time and again in psychological experiments, most notably those conducted by Solomon Asch (group conformity) and Elizabeth Loftus (implanting false memories).

¹⁶ *Ibid.* at 21-24.

means that for the purposes of winning an election it is not particularly vital whether a particular issue is important or whether a candidate is trustworthy, but rather whether it *seems* that an issue is important or that the candidate *appears to be* trustworthy. The importance of public *perception* is well known to politicians, and in the effort to garner political power they enter into partnership with media owners;¹⁷ subsidize media outlets with favourable press releases and images that they allow journalists to reprint without credit;¹⁸ found think tanks to house friendly ‘experts’ who can be counted on to legitimize their version of reality;¹⁹ and make use of persona management software and astroturf groups to influence online debate.²⁰ This PR and media battle over the portrayal and ‘feeling’ of a party or its policies represents another, very important arena in the war for electoral victory and one that adds further actors to the electoral ‘teams’ that compete for political power in each new contest.

The Fourth Front: Finance

Of course, churning out press releases, founding think tanks and gerrymandering electoral districts are demanding activities that take a great deal of time and effort to calibrate correctly. Even formulating party platforms and slogans is often the product of months of effort by experts and focus groups. These activities can be very demanding on resources, and this leads us to the fourth front of electoral competition: finance. Like the first three fronts in the battle for electoral dominance, political finance is a fairly exact science and the amount that a party or candidate needs to spend to win election can often be calculated with some precision. Even local elections in Ireland, where relatively little is spent on political campaigning, spending more than one’s competitors still reliably increases a candidate’s chances of success.²¹ In larger nations, like the United States, the influence of finance over electoral outcomes is even easier to observe, displaying little variation in outcome even over long periods of time. To give an example of how easily predictable the relationship between finance and outcome can be, consider the following:

In 1978 there were 307 contested races for seats in the US Congress:

¹⁷ Such is the case with Rupert Murdoch and British politicians, See eg. Norman Fowler (Former Chairman of the British Conservative Party), “In the post-Murdoch Era, We Must Reform Media Ownership”, *Guardian* (11 May 2012); Torin Douglas, “Analysis: Murdoch and Media Ownership in UK (22 December 2010) *BBC*, www.bbc.com/news/uk-12062176.

¹⁸ Press releases in general account for up to 80% of all news stories that are printed as if they were original content, even in respectable papers like *The Guardian* (Nick Davies, *Flat Earth News*, (Vintage Books, 2008) at 52 et seq.; “An Open Letter to Canadian Journalists” (The Canadian Association of Journalists, June 2010) <http://www.caj.ca/an-open-letter-to-canadian-journalists/>; Hadas Gold, “Media Protest White House Photo Ban” *Politico* (21 November 2013) <http://www.politico.com/blogs/media/2013/11/whca-protests-white-house-photo-ban-178077.html>).

¹⁹ For example, the Cato Institute, a think tank partially funded by the Koch Brothers which explicitly measures its own ability to influence public opinion and credits itself for providing the best value for money of any think tank in America on the basis that its members are cited in nearly 4000 news articles every year, as well as participating in 2000 news broadcasts and writing hundreds of newspaper op-eds. (Jane Mayer, “Covert Operations”, *New Yorker* (30 August 2010), http://www.newyorker.com/reporting/2010/08/30/100830fa_fact_mayer?currentPage=all; “The Cato Institute’s Impact” (Cato Institute), <http://www.cato.org/support/impact>).

²⁰ George Monbiot, “Reclaim the Cyber Commons” *Guardian* (14 December 2010).

²¹ Kenneth Benoit and Michael Marsh, “For a Few Euros More: Campaign Spending Effects in the Irish Local Elections of 1999”, (2003) 9 *Party Politics*, 561.

- the candidate who spent more on his campaign won the seat 78.8% of the time
- in 159 out of the 307 races one candidate outspent the other by a ratio of more than 2 to 1; that candidate won 93% of the time
- in 58 of the contested elections, one side outspent the other by a ratio of more than 5 to 1; in 100% of those cases the winner was the bigger spender.²²

Nearly 40 years later, these statistics were nearly identical. Following the 2011-2012 election cycle, 84 seats in the US Houses of Congress changed hands:

- of these 84 races, the candidate who spent more on his campaign won 78.3% of the time
- in 51 races, one candidate outspent the other by a ratio of 2 to 1 or more, resulting in electoral victory 92% of the time for the bigger spender
- in 34 races, one candidate outspent the other by a ratio of 5 to 1 or more, resulting in electoral victory 100% of the time²³

Because electoral success depends so deeply on accumulating and deploying resources in the most effective fashion possible, politicians tend to, once again, ‘broaden their team’ by seeking informal cooperation with those who hold such resources. In other words, they engage in precisely the kind of activity that Michels’ observed in radical socialist parties at the beginning of last century, consolidating and increasing the level of organization present in a bid to overcome an equally organized opposition. By rewarding coordination, the electoral system ultimately demands it. Because complex and indirect methods of campaigning are often more productive than direct methods, contestants are forced to pool their resources into efficient and specialized ‘teams’ in which each player focuses on fulfilling his role to the best of his abilities.

However, in our particular electoral system, one aspect – finance – dominates all others. To have a hope of success, every political ‘team’ must include financiers, and, as a matter of organizational efficiency, these often take the form of either very large corporations or very wealthy citizens.²⁴ Thus the oligarchy that is forming now is actually a plutocracy – one where wealth plays the biggest determining role in electoral success.

²² Skelly Wright, “Money and the Pollution of Politics” (1982) 82 *Columbia Law Review*, 609 at 622.

²³ Identity of new Members of Congress taken from Peter Bell, “New Faces of the 113th Congress”, *National Journal* (5 November 2012), <http://www.nationaljournal.com/congress/the-new-faces-of-the-113th-congress-20121105>; information on candidate expenditures taken from: “2014 House and Senate Campaign Finance” (Federal Election Commission) <http://www.fec.gov/disclosurehs/>.

²⁴ In 2013 top PAC contributors included: Honeywell International (#1 with donations of \$2 479 207); Lockheed Martin (#6 at \$1 928 000); Raytheon (#7 at \$1 624 500); General Electric (#8 at \$1 727 500); the International Beer Wholesalers Association (#9 at \$1 715 500); Boeing (#18 at 1 469 000); American Bankers Association (#20 at \$1 453 500); Deloitte (#22 at \$1 406 500); Verizon Communications (#26 at \$1 304 750); Koch Industries (#34 at 1 211 500); and Pfizer (#43 at \$1 011 950) (“PAC Table 4c, Top 50 PACs by Contribution to Candidates and Other Committees, January 1, 2013 to December 31, 2013” (Federal Election Commission, 3 June 2014) http://www.fec.gov/press/summaries/2014/tables/pac/PAC4c_2013_12m.pdf.) Other heavy donors include Walmart, Google, Goldman Sachs, J.P. Morgan, Exxon Mobil, Time Warner and General Motors (“PAC Table 5c, Top 50 Corporate PACs by Contribution to Candidates and Other Committees, January 1, 2013 to December 31, 2013” (Federal Election Commission, 3 June 2014), http://www.fec.gov/press/summaries/2014/tables/pac/PAC5c_2013_12m.pdf).

The Prize of Electoral Victory

Financiers, however, are not necessarily per se interested in politics for politics' sake, and must therefore be induced to join a politician or party's team and help to give it an edge over its rivals with the only prize they care about – the prospect of making greater profits and thus gaining an advantage over *their* competition. Thus the very wealthy and the very ambitious enter into a tightly organized symbiotic relationship for the purposes of rewarding each other. Via these means the economic and political competition are consolidated into one, single competition with the explicit purpose of reaping rewards or benefits that others are excluded from sharing in.

The vast majority of citizens are surplus to requirements in this competition, provided that enough of them can be induced to cast a vote and thereby give this political system the appearance of reasonable legitimacy. The need for politicians and financial interests to continually reward each other and thus prevent defections from their competitive electoral teams, means that there are few leftovers for the vast majority of citizens to pick up. Indeed, the majority of citizens must be compelled to provide the rewards of successful election to the victors, as it is always necessary to acquire the maximum gains at minimum costs to ensure the victor will continue to hold power in the face of stiff competition.

The prize of electoral victory is to be part of the team that reaps the spoils of a nation's productivity, rather than part of the masses providing those spoils, and thereby make it more likely that one will retain that privileged position. Because of the way in which national politics interacts with the sphere of international relations, these rewards are nearly limitless, a point which in turn justifies the immense expenditures necessary in procuring them.

Electoral Politics serves to Deepen Economic Inequality within States

Those who are involved in winning national elections are literally free to write their own laws and the relationship between campaign donations and national legislative activity has been well-tracked, especially in the USA.²⁵ However, the connection between national elections and international relations tends to be less well-documented, although it is this arena that typically delivers the greatest rewards, because governments are authorized to conduct all of the foreign affairs of a State. Thus, whenever a government is backed by a parliamentary majority (necessary to ratify some international actions), it can bind the nation to international obligations that are difficult to remove without incurring heavy penalties. The international

²⁵ Regarding the controversial reform of the Glass-Steagall Act in the late 1990s, see Thomas Stratmann, "Can Special Interests Buy Congressional Votes? Evidence from Financial Services Legislation" (2002) *Journal of Law and Economics*, 345 at 353; regarding the relationship between campaign contributions and legislative activity on a variety of topics in the early 1980s, see: Richard L. Hall and Frank W. Wayman, "Buying Time: Moneyed Interests and the Mobilization of Bias in Congressional Committees" (1990) *American Political Science Review*, 797-820; regarding the relationship between campaign contributions and voting behaviour at the International Monetary Fund see: Lawrence Broz and Michael Hawes, "US Domestic Politics and International Monetary Fund Policy", in Hawkins, Lake, Nielson and Tierney (eds.) *Delegation and Agency in International Organizations* (Cambridge University Press, 2006), 77 at 79, 93.

obligations that such governments choose to enter are often those that are in its 'electoral team's' best interests.

One example of an electoral team procuring material international rewards following a successful electoral competition is Canada's ratification of the Free Trade Agreement with the United States. The 1988 Canadian Federal Election revolved in large part around this point of foreign policy. During the election campaign, non-parties directly spent more on election advertising than the parties themselves did, with the pro-free trade movement outspending the anti-free trade movement by a ratio of 9 to 2.²⁶ The only party associated with the pro-free trade movement, the Progressive Conservative Party obtained 43% of the popular vote in this election. However, the party took 57% of all available seats in the Canadian House of Commons.²⁷ This meant that the Progressive Conservatives, benefiting from high levels of private campaign aid as well as a well-calibrated vote-seat ratio, could form a single-party government, wielding 100% of all political power, despite the fact that the majority of Canadians had voted for a party that explicitly opposed signing the FTA, at least in the form it was presented in.

The Progressive Conservatives, however, wielding 100% of political power, ratified the FTA during their term in office. The Agreement was later expanded into NAFTA, and includes provisions which permit companies to sue countries for violating free trade rules, even if they do so in the interests of health and safety or other national interests. This permitted American companies to sue Canada for any measures that impeded trade and vice versa. The FTA and NAFTA thus act as buffers that protect the rights of companies from being affected by the internal politics of a nation – they are exempt from the rules and consequences that govern the behaviour of all others. When one is interested in profit-maximization, this a prize well worth procuring, one that certainly places large internationally-active corporations at an advantage over their smaller, domestic competition. The risk of conducting private business was thus shifted downwards onto smaller businesses and the citizens of member nations who were simply forced to carry negative consequences such as health risks without proper recourse. Thus, by joining the Progressive Conservative 'electoral team' and helping the party to win election, large corporations were able to acquire substantial prizes at the expense of other members of society. However, the FTA also occasioned a further redistribution of costs and benefits. Canadians have historically enjoyed more social services than Americans and consequently Canadian citizens and companies have had to pay higher taxes. However, these higher taxes stifled the ability of Canadian companies to compete effectively with American companies under the FTA. Thus, in order to make the FTA economically feasible, the Progressive Conservatives had to scrap a portion of corporate taxes, replacing these revenues in the budget with a new sales taxes applicable to all citizens.²⁸ Thus, in ratifying the FTA, a

²⁶ Martin Linton, *Money and Votes*, (Institute for Public Policy Research, 1994), at 54. The biggest non-party spender was the Canadian Alliance for Trade and Job Opportunities, a pro-free trade organization formed by business leaders (Ray Argyle, *Turning Points: The Campaigns that Changed Canada*, (White Knight Publications, 2004) at 420; Janet Hiebert, "Interest Groups and Canadian Federal Elections" in F. Leslie Seidle (ed) *Interest Groups and Elections in Canada, Vol. II* (Dundurn Press, 1991), at 26.

²⁷ Argyle, note 27, at 401.

²⁸ The hated Goods and Services Tax which was imposed in 1991.

sizeable tax burden was also shifted away from corporations and onto *all* Canadian citizens, regardless of income level.

If the Progressive Conservatives had received slightly fewer votes or won somewhat fewer seats, they would not have been able to ratify the FTA. Hence, it was vital to the party's success to procure advertising aid from interested third parties (business leaders) which allowed them to more effectively dominate the media than they otherwise would have been, and to maximize their vote-seat ratio, which they admirably achieved to the detriment of Canada's other two main political parties, who won the majority of votes, but not the majority of seats. By efficiently organizing their electoral 'team' the Progressive Conservatives were able to win 100% of political power and deliver a handsome reward to the 'winners' – subjecting all Canadian legislation to de facto approval from internationally-active businesses and a sizeable shift in tax burdens from companies to individual citizens.

Other politicians have achieved much the same effect by tying their economies to international loan programmes that stipulate business-friendly policies.²⁹ International loans are easier to use in this manner than international treaties, because they do not have to be ratified by parliament. For example, in 1990, Luis Alberto Lacalle de Herrera, President of Uruguay took out an unnecessary IMF loan when both his allied parties and most of his own party would not agree to the free market economic reforms he wanted to make.³⁰

Fellow South American leader, Osvaldo Hurtado, president of Ecuador from 1981-84 did not so much as consult his own Congress when implementing an austerity program resulting from his loan agreements with the IMF and is on the record as having said:

You can imagine what would happen if I would have subjected economic policy to debates within the party! No political party would have ever approved of the kind of economic policy I undertook...I did not want economic policy in the hands of people who would politicize it³¹

Such tactics are not limited to developing countries: a similar situation occurred in Italy where “domestic conservative forces exploit[ed] IMF pressure to facilitate policy moves that were otherwise infeasible internally” in the 1974 and 1977 negotiations between Italy and the IMF following on from the oil shock of 1973.³²

Of course, following all of these loan programmes, the citizens of the nations involved were forced not only to live under a set of policies that they never actually agreed to under any

²⁹ James Vreeland, *The International Monetary Fund: Politics of Conditional Lending* (Routledge, 2007) at 62.

³⁰ *Ibid.*, at 65 et seq.

³¹ Stephen Schnably, “Constitutionalism and Democratic Government in the Inter-American System” in Fox and Roth (eds) *Democratic Governance and International Law*, 155 at 192 et seq. Hurtado was not even the elected President of Ecuador; he was the Vice-President and became President when his predecessor Jaime Roldós was killed in a plane crash early in his term.

³² Robert Putnam “Diplomacy and Domestic Politics: The Logic of Two-Level Games” (1988) 42 *International Organization*, 427 at 457.

definition of democratic legitimacy, they were also left to pay back the loan that facilitated it, plus interest, i.e. to pay the costs for others' rewards.

Because governing parties, be they single-party cabinets or coalitions, wield 100% of the political power in a nation, it is possible for them to parcel out these considerable rewards in the way of favourable legislation and international agreements to those who have proven the most useful in helping them achieve electoral victory. Needless to say, it is quite worth the while of business leaders and corporations to 'help' a politician who is willing to grant favours on this scale, and it is quite worth the while of politicians to grant them, as corporate sponsors not only help them realize their initial political ambitions, but often reward them with lucrative posts once they retire from politics.³³

Electoral Politics Serves to Deepen Economic Inequality between States

The reward for winning a national election can be greater still in powerful States, because of their de facto position within the global framework. As previously mentioned, elected politicians gain control of the nation's treasury, tax revenues and natural resources, like oil and mineral wealth. Thus, seen in a certain light, winning election is a legitimized way to hijack a nation's resources. This control over national resources can allow politicians to amplify small, and sometimes arbitrary, advantages in national electoral outcomes into near total global domination, including domination of the economic sphere.

For example, a government may use its State's superior resources to purchase the votes of other States at international institutions. At the United Nations, for example, weaker or less affluent States often sell their votes in return for foreign aid,³⁴ or in return for another State's acquiescence in loan approval from the IMF or World Bank.³⁵ This helps powerful governments to thwart global policies that are not in the interests of members of their 'electoral team' while simultaneously serving to deepen inequality between nations, because "[p]oor countries have a greater incentive to sell their votes because payments are usually worth more to a poor country than to a wealthy country."³⁶ A wealthy country may thus acquire a large

³³ Ten years after leaving politics, Brian Mulroney had a seat in no less than 16 international boardrooms, including JP Morgan Chase, Power Corp, China International Trust and Investment Corp., Forbes Global, and the Irish-owned Independent News and Media Group (Konrad Yakbuki, "The Prime of Brian Mulroney" *Globe and Mail* (30 April 2004) <http://www.theglobeandmail.com/report-on-business/rob-magazine/the-prime-of-brian-mulroney/article998044/?page=all>).

³⁴ According to one study, the average developing country voted in the same direction as France 64% of the time in the General Assembly. One standard deviation in voting behaviour, *ie* an increase to voting with France 73% of the time, resulted in a 96% increase in foreign aid to that country. A standard deviation in voting in favour of the US resulted in an increase of USAID by 78% to the country voting in the 'right' way, while one standard deviation in voting for Japan resulted in a staggering 345% increase in foreign aid (Alberto Alesina and David Dollar, "Who Gives Foreign Aid", (2000) 5 *Journal of Economic Growth*, 33). See also: "How much is a Seat on the Security Council Worth? Foreign Aid and Bribery at the United Nations" Ilyana Kuziemko and Eric Werker, (2006) 115(5) *Journal of Political Economy*, at 905 et seq.; If any further evidence of vote-buying were needed, at one point a US State Department official dispatched a memo to the director of the Food for Peace Program stating that "at critical moments in the world's history, the US 'bought' votes subtly and indirectly to support its stand in the General Assembly. The 'buying' is in terms of US assistance to the voting country" (Strom Thacker, "The High Politics of IMF Lending" in (1999) 52(1) *World Politics*, 38 at 54).

³⁵ Axel Dreher, Jan Egbert-Strum, James Raymond Vreeland, "Does Membership on the Security Council Influence IMF Decisions: Evidence from Panel Data", KOF Working Paper 151, ETH Zurich (2006).

³⁶ Ofer Eldar, "Vote-trading in International Institutions" in (2008) 19 *EJIL*, 3, at 4.

voting advantage at a low cost, enabling it to further its own interests at the expense of others, so that next time it is in a position to acquire an even bigger advantage at a still lower cost. Furthermore, when some countries sell their votes, not only do they lose out – the biggest losers are the countries who do not manage to sell their votes and now lose the vote without any compensation.³⁷ Over time, vote-buying can even lead to a pattern of pre-emptive vote-selling as representatives seek to salvage the material benefits that are available for their nations.³⁸ Thus, while the strong inevitably become stronger, the weak become weaker still.

Elected governments in powerful States, may also use their position at international institutions to affect the conditions under which international loans are made. These conditions often relate to the internal policies of the borrower nation, for example:

“financial-sector reform, privatization and public enterprise reform, social safety nets, tax and expenditure policies...labour market policies, pricing and marketing/distribution policies, agricultural policies, environmental policies, and policies to combat corruption and money-laundering”.³⁹

In other words, not only do national politicians use loan programmes to force unpopular economic policies onto their own citizens, others governments can use loan conditions to breach the sovereignty of another nation and control its economy at one remove. This can be repeated in State after State: at any one time roughly ¼ of all States are participating in a conditioned program at the IMF alone.⁴⁰ Acquiring this ability to direct foreign economies by virtue of loan approval can be used quite effectively to shift economic risks from members of ‘electoral teams’ in rich States onto ordinary citizens in poor States. One common method of doing this is to force policies of subsidized privatization and take-or-pay clauses relating to the energy sector onto the peoples of weaker States when negotiating loans. In this scenario, developing nations are often forced – as part of an international loan’s conditions – to privatize public services, even ones that have proven records of profitability as publicly-owned companies.⁴¹ At times, countries are even forced to *subsidize* the privatization by giving the buyer (often a large foreign company) additional incentives, such as: “cash contributions during the construction period; subsidies during the operating period (*eg* in the form of non-refundable grants), and a favourable tax regime – including tax holidays, refunding of tax on construction and operating costs.”⁴² This means that people in developing countries are literally paying

³⁷ *Ibid.*, at 14.

³⁸ *Ibid.*, at 10 et seq.

³⁹ Davesh Kapur, “Conditionality and Its Alternatives” in Buira ed, *The IMF and the World Bank at Sixty* (Anthem Press, 2005), 31, at 37.

⁴⁰ Vreeland, note 30, at 75.

⁴¹ Tim Kessler, “Assessing the Risks in the Private Provision of Public Services” in Buira (ed) *The IMF and the World Bank at Sixty*, 235, at 249; *eg* Gabon’s water services were privatised in 1996, after being described by an IFC investment officer, as a ‘relatively wealthy company [which] will make a decent profit in 1996...There is no overstaffing and the company is quite well-managed’.

⁴² World Bank Annual Report, 1998 quoted in Kessler, note 42, at 251 et seq.

wealthy foreign companies to purchase their public assets. Sometimes they are forced to guarantee profits as well.⁴³

Yet another trick – and one very much in use during the current economic crisis – used to shift money from ordinary taxpayers to those who are still ‘in play’ in the fierce electoral competition is the investor bail-out, in which international loans originally intended to off-set the need for a sharp reduction in government spending are used to pay off the interest or capital on a prior loan from a private lender.⁴⁴ This model is currently in use in much of Europe and the US where nations have agreed to take over responsibility for the bad, indeed at times fraudulent, loans made by private banks, thus shifting the burden for repayment onto the average taxpayer (who plays no appreciable role in the election process) while simultaneously protecting private investors (who do).⁴⁵ The potential advantages for anyone able to join an electoral team in a wealthy nation are thus virtually limitless.

Conclusions

The electoral system encourages tight, highly organized cooperation precisely because the competition to participate is so stiff that any advantage, even the most marginal, can be the difference between absolute victory and absolute defeat, with all of the attendant rewards and costs that either outcome entails. Due to the importance of finance in this competition, economic and political power become indissolubly synched, and those who are best able to dominate the winner-takes-all political game use their position to turn the global economy into the mirror image of the political system – that is a system in which ‘winners’ simply impose their will on all others regardless of long-term consequences. In order to keep winning the elections that allow them to control the national and international apparatus, it is absolutely necessary to continue robbing the poor (who have no effective voice in politics and are therefore unimportant) to feed the rich (whose money talks on the four fronts of electoral competition and who are therefore extremely dangerous and cannot be ignored). Where wealth equals power and power equals wealth, one cannot afford to forego the opportunity to take

⁴³ This is usually done through a so-called power-purchasing agreement. For example, in 1994, working on the ‘advice’ of the World Bank, Pakistan agreed that: “[t]he state-owned WAPDA will purchase power from Hubcap and the power purchase agreement assures a guaranteed revenue equivalent to 60 per cent of gross capacity utilisation, irrespective of the actual take-off from the power station”(Kessler, note 42 at 259). A similar agreement between Uganda and American company AES required Uganda to purchase all power produced from a plant in Bojanala in foreign currency to protect AES against devaluations (Kessler, note 42, at 259).

⁴⁴ Statistical analyses prove that across the board those nations in which foreign investors, particularly American commercial banks, have the largest stake, receive the largest bail-out loans from the IMF (where the US is the largest shareholder). One study showed that each increase of \$4 billion in US bank exposure led to a 3.4% increase in the chances of a State receiving a loan, and on approved loans it led to an increase in the size of the loan by 1.5 million SDRs (Broz and Hawes, note 26, at 98).

⁴⁵ For example, in 2010 Ireland received an 85 billion Euro bailout so that the Irish nation could take over banks that had made bad loans while operating on its territory. The bailout did not necessitate any of the country’s unsecured bondholders to “take a haircut” (i.e. a reduction in the value of their bonds) (Michael Breen, “The International Politics of Ireland’s EU/IMF Bailout” (2012) *Irish Studies in International Affairs*, 75-87), but it did necessitate the introduction of new water charges, a new property tax, an increase in sales tax and university tuition fees, cutbacks to public service salaries, and an income levy that can reach up to 6% of gross income, all of which are imposed on all Irish residents regardless of whether they chose to invest in banks engaging in reckless lending practices.

advantage of every situation to reward oneself at the expense of others. This is one reason why we are spiralling into deepening global economic inequality; it is why the consolidation of representative democracy into oligarchy takes this concrete form of excessive and destabilizing wealth concentration; and it is why politicians are unlikely to take action to correct the current economic crisis in any but the most cosmetic sense.

The root of severe economic inequality ultimately lies with the political system and therefore any long-term suggestions for improving our so-economic situation must take this into account. In particular any solutions must recognize that the electoral system, in the concrete form currently practiced, delivers nothing less than world domination to whoever is willing to take it and that this provides a powerful incentive to organize into highly efficient ‘electoral’ teams. Thus, the only solutions likely to work are those that effectively prevent this symbiotic relationship from forming. Purely economic solutions to what has inevitably become an economic crisis cannot achieve this alone, because they fail to accommodate the fact that the political will to implement them simply cannot exist in the current system. The following will look at some of the more prominent solutions that attempt to recalibrate the political system and thus work against the crises that we are currently experiencing that are offered in the relevant literature.

Part II: Prominent Solutions to the Political and Economic Crisis

Regulation

One of the most popular methods for trying to mitigate the intense competition surrounding elections is, of course, regulation, in particular, campaign finance regulation.⁴⁶ These solutions seek to level the playing field so that the competition for electoral power is more fair. If it could be implemented, regulation could reduce the importance of finance to electoral campaigning and loosen the relationship between politicians and their financial backers. This could lower the entry barriers to electoral participation, diversifying the field and lowering the level of organizational oligarchy that parties must achieve in order to remain competitive. If politicians were less dependent on financiers, they might be less prone to reward them with laws and rules that cater strictly to their interests at the expense of others and the way would be clear to rebalance the global economy in a more sustainable fashion.

It is, however, not ultimately feasible to ‘fix’ the extremely competitive nature of electoral-representative democracy with regulation, because regulation merely limits the modalities of the competition while leaving the potential rewards of winning political power intact, i.e. the incentive to compete remains. If a party wins election, it still attains 100% of political power in a nation and is free to reward its ‘team’ for their support. Campaign finance regulation merely places a barrier between ‘electoral teams’ and reaching this goal, and barriers can be

⁴⁶ This generally takes the form of limiting campaign donations or political spending, but may also include measures like reimbursing political parties for reasonable expenses. An interesting twist is presented by Linton, who suggests that companies be required to hold a shareholder vote on political donations (as is required on many other issues). Such legislation has been adopted to a limited extent in the UK, where the Political Parties, Elections and Referendums Act 2000 and the Companies Act 2006 require shareholders to give blanket approval to political donations up to a specified amount at the annual meeting (Linton, note 27, at 83 et seq.)

removed. The more powerful, in terms of wealth and influence that a party or financial backer is, the more it has to gain from rolling back or circumventing such regulations, as this allows it to marshal its superior resources more effectively in the four-front competition that is electoral campaigning. Therefore, it is far more efficient for the ‘strongest’ members of society to focus on overturning or circumventing rules than trying to win according to the rules, and because they are per definition the strongest members of society this is never very hard for them to achieve.

In recent years, we have seen this clearly at work in the United States where wealthy citizens have worn down campaign finance regulation through a series of court cases that are ultimately heard before the USA’s highly politicized Supreme Court,⁴⁷ a venue where adequate resources for counsel are crucial to success. In *Citizens United v Federal Election Commission*⁴⁸ the Supreme Court decided that any restriction on corporate funding of independent political broadcasts infringed on the constitutionally-protected right to free expression, thus striking down legislation which imposed such limits. This trend has continued with *McCutcheon v Federal Election Commission*⁴⁹ in 2014 which struck down the limit on contributions to federal candidates over each two-year election cycle. Thus, in the United States there are no longer any election finance restrictions to speak of, a circumstance that goes to the immediate benefit of those parties and candidates able to attract the most resources to their ‘team’.

A similar situation is unfolding in Canada. The Conservative Party, currently in power, has historically received the lion’s share of private donations. As a result, the government has succeeded in pushing through measures which will abolish the public reimbursement of campaign expenses (a policy which offsets the importance of private donations) by 2015.⁵⁰ It is expected that this will have a serious effect on the Canadian political landscape to the benefit of the Conservative party and the detriment of its opposition, precisely because of the Conservatives’ superior organizational capacities in soliciting donations.⁵¹

Even where limits on campaign finance are not directly overturned, they tend to be easily circumvented. Legislators often directly benefit from loopholes in campaign finance regulation that allow them to receive material benefits in return for political favours, so their incentive to close those loopholes is low. As a result, even laws that look strict on paper are often riddled

⁴⁷ See Adam Liptak, “The Polarized Court” *New York Times* (10 May 2014) http://www.nytimes.com/2014/05/11/upshot/the-polarized-court.html?_r=0&abt=0002&abg=1, as well as the articles cited therein: Neal Devens and Lawrence Baum, “Split Definitive: How Party Polarization Turned the Supreme Court into a Partisan Court” William & Mary Law School Research Paper No. 09-276, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2432111; William E. Nelson, Harvey Rishikof, I. Scott Messinger and Michael Jo, “The Liberal Tradition of the Supreme Court Clerkship: Its Rise, Fall and Reincarnation?” (2009) 62 *Vanderbilt Law Review*, 1749.

⁴⁸ 558 U.S. 2010.

⁴⁹ 572 U.S. 2014.

⁵⁰ Gloria Galloway, “Opposition Parties Accept Defeat on Per-Vote Subsidy”, *Globe and Mail* (6 June 2011), <http://www.theglobeandmail.com/news/politics/budget/news/opposition-parties-accept-defeat-on-per-vote-subsidy/article2046672/>; Canadian Press, “Per-Vote Subsidy Ending Funding for Parties will Change how Politics is Conducted Experts say” *Huffington Post* (4 October 2011) http://www.huffingtonpost.ca/2011/10/04/ending-per-vote-party-subsidy-canada_n_995143.html.

⁵¹ *Ibid.*

with flaws. To give an example, in 2007 Canada passed a law stipulating that any donation over \$200 must be disclosed and banning donations exceeding \$1 200 per year to political parties or candidates. However, these rules are easily circumvented by donors making a contribution of under \$200 (which falls under the declaration threshold) to each riding that a party is active in, thus donating amounts in the tens of thousands of dollars – well in excess of the \$1 200 annual threshold.⁵² In the UK a different tactic is used. There, candidate spending is capped through the Representation of the People Act 1983.⁵³ However, party spending is only limited through the Political Parties and Elections Act 2009. These limits are set at a point so high (at approximately £20 million (or \$33 million) for a party contesting all ridings) that even the largest parties cannot factually afford to exceed them.⁵⁴ Thus, there are, in effect, no real limitations on British campaign spending, as long as the money is spent campaigning for the party as a whole and not for particular politicians within the party.

Attempting to use regulation to level the playing field of political competition to the point where complex oligarchical organization does not coalesce also suffers from the drawback that many forms of finance are difficult to track, in particular those forms that flow into influencing the third front of electoral competition, the media. The favourable editorial coverage that parties receive in friendly newspapers alone is often worth more than their entire campaign finances, as the total favourable news stories often total in their hundreds and it is estimated that “coverage in the editorial pages of a newspaper is worth three times as much as the equivalent advertising space”.⁵⁵ This can be supplemented through founding think tanks, astro-turf groups, etc. that propagate favourable views.⁵⁶ This practices cannot be suppressed by legal means, because newspaper writers and editors could simply claim that any attempt at regulation would infringe on their freedom of expression or the freedom of the press. Thus, even if campaign finance regulation could stand up in the long term (which it cannot), its ability to disrupt the relationship between wealth and political power is very limited. Even when successful, regulating the electoral competition leads to a situation that is little better than trench warfare, with powerful entities and citizens constantly battling each other across the same ground as one side seeks to impose regulation and the other to dismantle it. This will always be the case, because regulation leaves the existence of the electoral competition and potential rewards for winning election untouched. These remain available for anyone able and willing to invest in procurement.

⁵² The law imposing these limits is known as the Federal Accountability Act, which also bans corporate and union contributions. While the law itself cites limits of \$1000, the amount has risen to \$1 200 due to adjustment for inflation (“Limit on Contributions” (Elections Canada) <http://www.elections.ca/content.aspx?section=pol&document=index&dir=lim&lang=e>). While Sec. 405.31 and 404.4 of the Canada Elections Act stipulate that each cash donation of \$20 or more must be recorded by the party, according to Sec. 424 (2)(b) only those donations exceeding \$200 must be reported to the government.

⁵³ Arts. 75 and 76, UK Representation of the People Act 1983.

⁵⁴ The top spender, the Conservative Party spent only about £16 million, well under the limit, “Election Campaign Spending by Political Parties” (UK Political Info) <http://www.ukpolitical.info/Expenditure.htm>.

⁵⁵ Linton, note 27, at 30 et seq.

⁵⁶ See above.

Cosmopolitan Democracy

Another popular solution to the dilemma of political oligarchy aims at reducing State power by transferring more decision-making authority to representatives acting in the international or supranational arena. This might take the form of a World Parliament⁵⁷ with citizens voting directly for their global representative, or find realization as a web of co-operation between regional parliaments that is supplemented by an international assembly cobbled together out of the United Nations bodies.⁵⁸ In some variations these reforms are accompanied by a plan to extend Security Council membership to other powerful States, like China, Germany or Japan and abolish permanent members' vetoes,⁵⁹ as well as measures to allow citizens who do not already live under representative democracies to be represented by NGOs at international level.⁶⁰ All of these suggestions are often expressed in close connection to other ideals, such as safeguarding citizen rights⁶¹ and encouraging more deliberation among citizens. They may also focus on drawing some aspects of debate and participation down to the local level to complement decision-making at the global level.⁶² These types of solutions that incorporate an international dimension to political reform are often broadly referred to as 'cosmopolitan democracy'.

However, the advocates of cosmopolitan democracy underestimate the driving forces behind the iron law of oligarchy. Moving more decision-making power to the international level means that even more political power would be concentrated in even fewer individual's hands. The prize for winning an international election would thus be far greater than the prize for winning a national one and we can expect that it would therefore attract even more intense competition, leading to even more efficient organizational capacity and even higher barriers to entry. The relationship between wealth and political power would, if anything, be intensified, to the detriment of most of the world's citizens who are even less able to compete at this level than they are nationally.

We already see this principle at work in very large national and supranational entities political entities. The European Union, which has the ability to set laws for a much larger area than national parliaments can, has become the focus of intense lobbying with over 30 000 lobbyists resident in Brussels.⁶³ International institutions that possess regulatory power, such

⁵⁷ Juergen Habermas, "Kant's Idea of Perpetual Peace with the Benefit of Two Hundred Year's Hindsight", in Bohman and Lutz-Bachmann (eds) *Perpetual Peace: Essays on Kant's Cosmopolitan Ideal* (MIT Press, 1997), 113 at 134; also Daniele Archibugi, "Cosmopolitan Democracy and its Critics: A Review" (2004) 10(3) *European Journal of International Relations*, 437.

⁵⁸ David Held, "Cosmopolitan Democracy and the Global Order: A New Agenda" in Bohman and Lutz-Bachmann, eds, *Perpetual Peace: Essays on Kant's Cosmopolitan Ideal* (MIT Press, 1997), 235 at 247.

⁵⁹ Habermas, note 59, at 135.

⁶⁰ *Ibid.*, at 134.

⁶¹ *Ibid.*, at 135 and 128.

⁶² Archibugi, note 59.

⁶³ For example, the European Roundtable of Industrialists, which credits its intense lobbying activities with "past, present and future" European heads of State with no less an achievement than the creation of the European Single Market ERT Highlights (ERT) <http://ertdrupal.lin3.nucleus.be/system/files/uploads/2010%20October%20-%20ERT%20Highlights.pdf>, at 10. There are currently 30 000 lobbyists working to influence European legislators in Brussels, Ian Traynor, Bartłomiej Kuraś, Philippe Ricard, Ignacio Fariza Somolinos, Javier Cáceres and Marco Zetterin "30 000

as the World Trade Organization are also the site of intense lobbying by corporate and government interests masquerading as ‘NGOs’.⁶⁴ The United States of America represents a further example. It is not because Americans are idiosyncratic that their elections display the strongest co-relation between wealth and political power present in any single nation today. It is because the United States has a controlling stake in so much of the world’s governing apparatus at the IMF, World Bank and United Nations, and this can be used to the victor’s advantage, as outlined above. Winning an important election in the US simply means more than winning one in Canada or Germany. Therefore, powerful entities are more likely to be attracted to participating in an American ‘electoral team’. Thus, while it seeks to start afresh, cosmopolitan democracy not only leaves the essential rules of the electoral-representative game intact, it heightens them by concentrating the ‘prize’ of electoral victory in even fewer hands.

Transnational Governance

Transnational governance, a concept developed by Ann-Marie Slaughter proposes to resolve the excesses of electoral power by a sort of controlled disorganization, wherein States disaggregate to the extent that the legislatures, executives and judicatives of each country cooperate freely with their counterparts in other States, thus bypassing the needs for each international decision to be funnelled through an elected government.⁶⁵ According to Slaughter, “[i]f government denotes the formal exercise of power by identifiable and discrete institutions, governance denotes cooperative problem-solving by a changing and often uncertain cast of concerned actors”.⁶⁶ She draws attention to the network of transgovernmental cooperation that already exists, be it formal (*eg* the Basel Committee of Central Bankers, the International Organization for Securities Commissioners, or the International Organization of Insurance Supervisors) or informal such as memoranda of understanding between agencies without the involvement of national executives or legislatures (such as the restatement of the terms of cooperation) or consultative organisations such as the Tripartite Group.⁶⁷ In Slaughter’s view, these organizations could be held to account by obligations to submit reports, external reviews and strict decision-making procedures.⁶⁸

This plan, however, has several major flaws. Firstly, since the executive and legislative branches of a nation would continue to cooperate with their counterparts in other nations, it does not do away with election or the competition inherent therein on a national level. The ‘prize’ for successful election would also remain virtually unchanged. While Slaughter’s solution might – if we take it to its logical extreme – do away with some of the more overt forms of State inequality by removing institutional power structures at the UN or IMF and

Lobbyists and Counting: Is Brussels under Corporate Sway?” *Guardian* (8 May 2014)

(<http://www.theguardian.com/world/2014/may/08/lobbyists-european-parliament-brussels-corporate>)

⁶⁴ See Roslyn Fuller, *Democracy and International Law: An Analysis of the Origins of Democracy, its Relationship with International Law and its Applicability to Modern International Institutions* (unpublished PhD thesis, Trinity College, Dublin, 2010) at 255 et seq.

⁶⁵ *cf.* Anne-Marie Slaughter, “International Law in a World of Liberal States” in Burchill (ed.) *Democracy and International Law* (Ashgate, 2006), 261-296.

⁶⁶ Anne-Marie Slaughter, “Government Networks” in Fox and Roth (eds) *Democratic Governance and International Law* (Cambridge University Press, 2000) 199 at 200.

⁶⁷ *Ibid.*, at 201, 214 et seq.

⁶⁸ *Ibid.*, at 204.

removing decision-making to smaller panels, powerful States have proven that they can easily use their superior resources to buy votes even in situations where the playing field is nominally even, such as at the UN General Assembly.⁶⁹

If anything transnational governance would seem to confer greater legitimacy onto informal actors like the Basel Committee of Central Bankers (whose members all receive their position via political appointment from national electoral victors) and the Organization of Securities Commissioners (whose members include stock exchanges and other ‘self-regulatory bodies’) and are now permitted to issue global regulations without any public oversight at all. As Slaughter herself points out: “it is very difficult to establish precisely who is acting and when. Influence is subtle and hard to track; important decisions may be made in very informal settings”.⁷⁰ Far from countering oligarchy and its tendency to accrue all resources to a very small subset of the population, transnational governance as suggested by Slaughter represents a step towards a new phase in power consolidation, in which power-brokers attain their position *purely* by controlling a great deal of wealth. Indeed, the Basel Committee of Central Bankers, the International Organization for Securities Commissioners, and the International Organization of Insurance Supervisors, have presided over an era in which wealth centralization has reached nearly unprecedented levels. Thus, while transnational governance may reduce the importance of elections, it does so by handing power directly to some of the most powerful members of society, who are now exempted from the need to compete for power and thus see their temporary privileges transformed into permanent ones.

Deliberative Democracy

In contrast to transgovernance, deliberative democracy aims to lower the barriers to political participation for every citizen. While deliberative democracy can take many variations, common to them all is a desire to allow all affected persons an equal opportunity to initiate and participate in any political discussion. The majority of deliberative democrats view reaching consensus on political action as an ideal outcome.⁷¹ According to this theory, measures that are deliberated in a rational manner enjoy a higher level of legitimacy because “[t]hose on the losing side are more likely to accept a decision if they think it was taken for reasons they see as valid, as opposed to arbitrary or entirely besides the point”.⁷²

Deliberative democracy is of interest here, because it seeks to work against the hierarchies of public discourse that are present in our own political system. While all citizens in electoral-democracies are free to express their political views privately, only elected representatives and prominent media personalities are able to air their views to a wide section of the public, and attaining one of these prize positions thus fuels the competitive process. In a situation where every citizen enjoyed equal participation rights, this inequality would be mitigated and a major incentive for, and advantage of, acquiring political power mitigated.

⁶⁹ See above at 12.

⁷⁰ Slaughter, “Government Networks”, note 69, at 232.

⁷¹ See eg. John Dryzek, *Democracy in Capitalist Times: Ideals, Limits and Struggles* (Oxford University Press, 1996) at 41 (although Dryzek prefers the term ‘discursive democracy’).

⁷² Ian Johnstone, “Legislation and Adjudication in the UN Security Council” in (2006) 102 *AJIL*, 275 at 279.

However, deliberative democrats do not generally propose any action that would, in fact, achieve such an egalitarian outcome in debate. Similar to the theory of transnational governance, deliberative democrats tend to see the deliberation they advocate as occurring in self-appointed groups who ‘form opinion’ in nebulous ways: “These can range from political parties, to citizen’s initiatives, to social movements, to voluntary associations, to consciousness-raising groups, and the like. It is through the interlocking net of these multiple forms of associations, networks and organizations that an anonymous ‘public conversation’ results”.⁷³ It is, however, difficult to see how this materially differs from the political situation that is currently obtaining. This is, indeed, already a substantial level of private conversation within electoral-representative democracies, but it does not, and cannot, in itself affect the reinforcing nature of the relationship between wealth and political power. This is the case whether this deliberation occurs between citizens on a national level or between States at the international level.⁷⁴ It still fails to affect the official public conversation that is heard by the majority of people, and, more importantly, fails to alter the seat of real decision-making power. As long as the pool of the decision-makers is smaller than the pool of deliberators, deliberation is nothing more than an effective tool to maintain restrictive power, as it gives the deliberators the illusion of true participation while continuing to divorce real decision-making power from the debate.⁷⁵ It can therefore have no discernible impact on the electoral competition or the formation of oligarchy within electoral-representative societies.

Indeed, even the most radical elements of deliberative democracy always leave the electoral-representative system untouched. The single most promising solution that deliberative democrats have elucidated is the suggestion of allocating citizens a basic income in exchange for a moral obligation to vote in local and national elections and attend one local meeting per year. The basic income would be paid for by “tax clawed back from the rich”.⁷⁶

It is difficult to see how this proposal could ever even be implemented, as it would require representatives to voluntarily claw back tax from the rich, an activity that remains diametrically opposed to their own interests. Even if implemented, this proposal would, at most, help the most vulnerable citizens to be able to participate passively in electoral politics; active participation would still remain beyond their reach and the subject of intense competition among the political and economic elite. Citizens may vote and they may attend a public meeting, but the vast majority of work will still be done by politicians who are, for all intents and purposes, unaccountable, behind closed doors, where they can legislate any measure that seriously threatens their own power away again.

⁷³ Seyla Benhabib, “Toward a Deliberative Model of Democratic Legitimacy” in Benhabib ed, *Democracy and Difference: Contesting the Bounds of the Political* (Princeton University Press, 1996) 67 at 73. Similar Dryzek in *Democracy in Capitalist Times*, advocating deliberative democracy at all levels: national, local, international and in the workplace.

⁷⁴ E.g. giving more non-voting seats to developing countries at international institutions so that their ‘voices can be heard’ as proposed by Joseph Stiglitz, *Globalization and Its Discontents*, (Penguin Books, 2002) at 229.

⁷⁵ As one proponent claims: “...for deliberation to shape behaviour, it need not even be sincere. The felt need to justify is enough, even if the justifications are strategic”. Johnstone, note 75, at 279.

⁷⁶ Guy Standing, “The Precariat: Why it Needs Deliberative Democracy” *OpenDemocracy* (27 January 2012), <https://www.opendemocracy.net/guy-standing/precariat-why-it-needs-deliberative-democracy>.

Conclusions

While some of the solutions presented above skirt around the central reinforcing link between electoral competition and economic domination, none of them seems to fully address that issue in a manner that would uncompromisingly break those links. Indeed, at times the proponents of these theories are at pains to engage in a form of incrementalism that seeks to improve the political system while essentially leaving it intact. Therefore, even if these reforms were all to be realized, concentrations of political power would still exist and it would continue to make sense to compete for them. The only way to prevent, or at least considerably delay, the incentive to compete for political (and, of course, economic) power is to disperse that power over as wide a group of autonomous citizens as possible. Indeed, far from the enlightened, controlled revolution that so many theorists seem to advocate, effectively breaking the iron law of oligarchy will, of necessity, depend on forcibly scattering political power so far and wide among the populace that it would be beyond the capabilities of any small group of individuals to ever reassemble it. Although it requires radical change, this can be done by transforming politics into a non-competitive process that actually builds on some of the solutions set out above.

Part III: Non-Competitive Participation

If we want to truly break the link between wealth and politics that leads to the extension of Michels' iron law of oligarchy across entire civilizations, we need to think about how we can constructively disperse concentrations of political power over large sets of participants permanently or semi-permanently. To do this, we can use two sources of inspiration to inform our approach: proven historical examples of such power dispersal and current experiments in disintermediated politics.

Historical Examples

One of the most well-researched cases of a nation that successfully undermined the relationship between competitive politics and political power is the ancient Athenian democracy of ca. 462-322 BC. Prior to the implementation of what they considered to be the only true democracy, the people of Athens had practised a form of electoral-representation not much different than our own. Similarly, Athenian society eventually experienced a massive and seemingly indissoluble debt crisis. In the interests of resolving this crisis, the Athenians agreed to a society-wide debt cancellation, an event later known as 'the *Seisachtheia*' or shaking off of burdens.⁷⁷ Following the *Seisachtheia*, the Athenians also embarked upon a series of political reforms that took nearly a century to complete. These reforms are, however, extremely interesting to use, because they eventually produced a political system that seems to have been far less liable to the iron law of oligarchy than our own.

⁷⁷ Mogens Herman Hansen, "The Ancient Athenian and the Modern Liberal View of Liberty as a Democratic Ideal" in Ober and Hedrick (eds) *Demokratia: A Conversation on Democracies Ancient and Modern* (Princeton University Press, 1996), 91 at 97.

Collective Power as a Functioning System of Government

In the ancient Athenian understanding, the word ‘*demokratia*’ literally meant ‘people power’, a system of government where individual power was eschewed in favour of collective decision-making. The Athenians maintained this government, which bore a passing resemblance to some modern conceptions of anarchy, by creating a complex but self-reinforcing system of fluid, sometimes randomly distributed participation rights that was extremely difficult for any individual to manipulate on a sustained basis.

One of the pillars of Athenian democracy was a form of deliberation that might resonate with some deliberative democrats. Since each citizen, as part of the collective, enjoyed the same degree of responsibility for State decisions and actions, it was considered a duty to help make those decisions and actions the best ones possible.⁷⁸ Each Athenian citizen therefore had the right to speak in a public setting. This was known as ‘*isegoria*’. This right applied both within the Athenian legislative branch, ‘the Assembly’ as well as within the court system.

However, the Athenian model differs from the theories held by most modern deliberative democrats, in that it took things one step further and abolished the representative system. The Athenians avoided elections to the greatest degree possible, precisely because they were by nature competitive and thus more easily won by the rich, powerful, popular and eloquent.⁷⁹ Policy was thus not only freely debated by all citizens, it was also decided upon by all citizens. The Athenian Assembly never delegated substantial decision-making power to individuals. The officials who were entrusted with carrying out the Assembly’s wishes were subject to strict oversight from the Assembly,⁸⁰ so that even the minor decisions they were forced to make in executing their duties could be revised if necessary. These officials were nearly all appointed via a complex lottery system that was nearly impossible to rig.⁸¹ They held their posts for only one year and could never hold the same post more than once or, in rare cases, twice in their lives.⁸²

⁷⁸ Martin Ostwald, “Shares and Rights: “Citizenship” Greek Style and American Style” in *Demokratia*, 49, at 53.

⁷⁹ Paul Cartledge, “Comparatively Equal” in *Demokratia*, 175 at 179; C. Nicolet, *The World of the Citizen in Republican Rome* (Batsford Academic and Educational, 1980) at 209.

⁸⁰ In particular all officials were subject to two examinations: *dokimasia*, which occurred before taking office and *euthunai*, which occurred upon stepping down. In addition, any official could be impeached for misconduct at any time. See Philip Manville, “Ancient Greek Democracy and the Modern Knowledge-Based Organization: Reflections on the Ideology of Two Revolutions” in *Demokratia*, 377 at 381; Raphael Sealey, “Ephialtes, Eisangelia and the Council” in Rhodes (ed) *Athenian Democracy* (Edinburgh University Press, 2004), 310 at 310; Aristotle, *Politics* (3rd Edition, Clarendon Press, 1968) at 193; P.J. Rhodes, “The Polis and the Alternatives” in Lewis, Boardman, Hornblower and Ostwald eds., *The Cambridge Ancient History, Vol. VI: The Fourth Century B.C.*, (2nd Edition, Cambridge University Press, 1994), 565 at 574; E.S. Staveley, *Greek and Roman Voting and Elections* (Thames and Hudson, 1972) at 83; Martin Ostwald, *From Popular Sovereignty to the Sovereignty of Law: Law, Society and Politics in Fifth-Century Athens*, (University of California Press, 1986) at 55 et seq.; A.R.W. Harrison, *The Law of Athens, Volume II*, (2nd Edition, Bristol Classical Press, 1998), at 30.

⁸¹ This multi-step process utilized a stone allotment machine (called a cleroterion) as well as individual identity tokens (*pinakia*) to randomly select office holders. For details, see Staveley, note 83, at 63 et seq.; Sterling Dow, “Aristotle, the Kleroteria, and the Courts” in *Athenian Democracy*, 62.

⁸² E.M. Walker, “The Periclean Democracy” in Bury, Cook and Adcock eds., *Cambridge Ancient History, Vol. V, Athens 478-401 B.C.* (5th Edition, Cambridge University Press, 1973), 98 at 99.

Athenian democracy, in other words, was very fluid. It was nearly impossible to predict who would hold a certain office or who would attend Assembly. All of these factors made controlling the Assembly quite difficult, even for the politically experienced and wealthy citizens who invested substantial time in attempting to do so.⁸³ Athenian democracy also left very little scope for individual power as nearly all political power resided in the collective, that is to say, in no one in particular. Working under these circumstances, it was very difficult to translate wealth into political power or political power into wealth. In Athens one did not need to ‘win’ the right to participate – it was offered freely to everyone. There was little incentive to band together into a political team for the sake of pushing through an agenda. Thus, the Athenians did not form political parties and the political factions that sometimes surfaced were short-lived and subject to much change within their membership. All of this meant that while Athenians ‘competed’ intensely to win debates or carry a point in Assembly or the courts, they did not enter into competition with each other just to participate. Participation rights could not be ‘won’ or ringfenced. Therefore every political issue raised represented a new battle that had to be fought largely on substantive grounds and from fairly equal positions.

Pay for Participation

While this form of open deliberation and decision-making already virtually eliminated the drive to compete to possess political power that is present in our own societies, the Athenians did not view it as sufficient. They believed that in order to allow all citizens to participate freely, those citizens needed to be able to afford to take time away from their work to do so without incurring discouraging costs. This meant that the State needed to compensate citizens for their political involvement. Every citizen who attended Assembly or the courts was given 3 obols (half a drachma) per day.⁸⁴ This was approximately equivalent to the pay received by a soldier⁸⁵ and about half what a carpenter or mason could expect to earn for a day’s labour (roughly \$80 in modern terms).⁸⁶ The *archai* (randomly selected officials) were also financially compensated for exercising their office, usually receiving half a drachma or one drachma a day.⁸⁷

Pay for participation was viewed as an essential attribute of democracy in ancient Athens and absolutely key to preventing the formation of oligarchy. Socrates, in fact, complained that the Assembly was dominated by fullers, shoe-makers, carpenters, blacksmiths, farmers, merchants and traders,⁸⁸ in other words, middle-class people, while the famous teacher Isocrates pined for the past when “those who had leisure and sufficient property were in charge

⁸³ M.I. Finley, “Athenian Demagogues” in *Athenian Democracy*, 163 at 171.

⁸⁴ M.M. Markle, “Jury Pay and Assembly Pay at Athens”, in *Athenian Democracy*, 95, at 95 and 106; Marcus Tod, “The Economic Background of the Fifth Century”, *Cambridge Ancient History*, Vol. V, 1 at 30; Walker, note 85, at 110; Rhodes, note 83, at 566.

⁸⁵ Markle, note 87, at 107 et seq.

⁸⁶ *Ibid.* at 129.

⁸⁷ Tod, note 87, at 24; Walker, note 85, at 103 and 105; Claude Mosse, “How a Political Myth takes Shape: Solon, ‘Founding Father’ of the Athenian Democracy” in *Athenian Democracy*, 242 at 252.

⁸⁸ Xen. Mem. 3.7.6, quoted in Markle, note 87, at 106.

of public affairs”⁸⁹ indicating that pay for public service had rendered this no longer the case. Most clearly of all, in his description of Athenian democracy, Aristotle wrote:

all citizens take part in this sort of government because of the predominance of the masses, and they participate and exercise their citizen rights because even the poor (*tous aporous*) are able to have leisure by receiving pay (*misthos*).⁹⁰

Driving home this point, he continued:

the power of the Council [i.e. the executive branch] is weakened in democracies of the sort in which the people in assembly deals with everything itself; this usually happens when there is a plentiful supply of pay for those attending the assembly, for having leisure they meet often and themselves make all decisions.⁹¹

Athenian Democracy: An Escape from the Iron Law of Oligarchy?

Constant deliberation and pay for participation diffused political power in Athens and shook up the political landscape to the point where it was difficult for oligarchy to reform. The citizens in Assembly and courts, who generally numbered around 15% of the total citizen population, were simply too numerous for anyone to be able to effectively bribe, even supposing that secrecy were possible under such circumstances, and there was no incentive to bribe office-holders as they did not hold any real power. However, it is important to note that even in Athens, we can see Michels’ iron law of oligarchy at work. Although anyone could speak in Assembly and average, unnotable citizens often carried motions there, speaking time tended to be dominated by the wealthy and educated (often called *rhetors*);⁹² although the few elected offices that did exist, such as the generalship, were carefully controlled and subjected to democratic oversight, generals too, tended to come from the more privileged elements of Athenian society;⁹³ even the Council of 500, Athens’ administrative body which was composed of citizens selected by lottery who could hold the position no more than twice in their lifetime, was disproportionately staffed by more well-off citizens, probably because these citizens felt themselves more able afford to throw their name into the nomination pool. To top things off, democracy in Athens was forcibly overthrown by oligarchs twice in its 140 year history.⁹⁴

Thus, even the radical Athenian democracy does not so much represent a case of breaking the iron law of oligarchy as confronting that law by the counter-system of democracy working against it, like two wheels turning in opposite directions. Because Athens was eventually conquered by Macedonia, this historical example does not give us any information about which

⁸⁹ Isocrates, *Areopagiticus*, 7.54, quoted in Markle, note 87, at 102.

⁹⁰ Pol. 1293a3-7, quoted in Markle, note 87, at 103.

⁹¹ Aristotle, *Politics*, 1299b, quoted in Markle, note 87, at 104.

⁹² Ostwald, note 83, at 202 et seq.

⁹³ Partly because, as in other civilizations at the time, Athenian citizens were required to provide their own military equipment and this confined poor citizens to auxiliary roles; partly because elected office was unpaid and therefore of little interest to many citizens who were obliged to work for a living (Ostwald, note 83 at 230 and 82).

⁹⁴ The first was known as the oligarchy of The Four Hundred in 411 B.C., followed shortly by the Thirty Tyrants in 404 B.C.

of those two opposing forces would have proved stronger in the long run, or if they would have eventually achieved a sort of equilibrium. However, it does give us some starting points for how we could effectively combat the iron law of oligarchy in our own societies, especially when seen in conjunction with current experiments in disintermediated politics.

Current Experiments in Disintermediated Politics

Since the early years of this century, theorists and developers have explored the possibilities that communications technology may afford to altering the current political system. Some of these experiments have revolved around replicating offline practices online, for example by allowing citizens to cast their votes or to submit comments to government proposals online. These experiments in moving politics online have enjoyed a relatively high level of success.

Moving Political Participation Online

Estonia has allowed internet voting in all local, parliamentary and European elections since 2002. In that time, the number of citizens who cast ballots over the internet has steadily increased, with 31% of voters casting a ballot online in the 2014 European elections.⁹⁵ Likewise, Switzerland allows internet voting in its referenda.⁹⁶ Both of these countries have managed a smooth transition to online voting that is secured by personal cards, PINs and question-identifiers.⁹⁷ Voters who do not want to use an ID card, can register with their cell phone number and receive PIN codes to their cell phone via SMS.⁹⁸ Such a measure, of itself, does not, of course, in any way alter the political power-wealth dynamic of electoral politics, but it does serve as a proof of concept for the feasibility of secure mass online participation in political decision-making.

The same could be said for attempts to facilitate public commenting on industry-specific regulations. In the USA, it has always been possible for citizens to submit comments on agency proposals for regulation by visiting the appropriate office in person. However, the costs in terms of time and resources, for doing so, were, of course, prohibitively high for the individual citizen. However, since 2002, US law “requires federal agencies, to the extent practicable, to make information available online and to accept input from the public electronically.”⁹⁹ This

⁹⁵ “Statistics about Internet Voting in Estonia” (Vabariigi Valimiskomisjon) <http://www.vvk.ee/voting-methods-in-estonia/engindex/statistics>

⁹⁶ “E-voting pioneer Estonia plans mobile phone ballots”, *AFP* (11 December 2008), available at: http://www.google.com/hostednews/afp/article/AleqM5gTGWVvYQTdroF3kfmgzTO8-Y_6F_g; Alexander Trechsel, “E-voting and Electoral Participation” in de Vreese (ed) *The Dynamics of Referendum Campaigns: An International Perspective*, (Palgrave Macmillan, 2007), 159 at 159 et seq.

⁹⁷ See eg. “E-Voting” (Republique et Canton de Geneve), http://www.geneve.ch/evoting/english/presentation_projet.asp

⁹⁸ “Internet Voting in Estonia” (Vabariigi Valimiskomisjon) http://www.vvk.ee/voting-methods-in-estonia/engindex/#I-voting_by_means_of_ID_card; “E-Voting System: General Overview: Tallinn, 2005-2010” (Estonian National Election Committee) http://www.vvk.ee/public/dok/General_Description_E-Voting_2010.pdf; Votes are checked against a central register of voters to prevent voter fraud. “E-Voting” (Republique et Canton de Geneve) http://www.geneve.ch/evoting/english/presentation_projet.asp

⁹⁹ Jane E. Fountain, “Enacting Technology in Networked Governance: Developmental Processes in Cross-Agency Arrangements,” (November 3 2006) National Center for Digital Government, Working Paper No. 06-003 <http://scholarworks.umass.edu/cgi/viewcontent.cgi?article=1018&context=ncdg>, at 22. The relevant part is: Section 206, Public Law 107-347, known as the “E-Government Act of 2002”.

has been implemented through an interface (www.regulations.gov) which allows citizens to submit their comments on regulatory proposals online.¹⁰⁰ In the first 11 months of 2004, the regulations.gov website was visited by 500 000 unique users who reviewed or downloaded 3.6 million pages of information.¹⁰¹ This does, not, of course, in and of itself counteract the iron law of oligarchy. The vast majority of these users were the very businesses, trade associations, and interest groups that already benefit from the institutional advantages of electoral-representaton. Interest groups seek to skew debate on regulatory proposals by flooding the portal with their own point of view, and the prime contractor on the entire system is Lockheed Martin¹⁰² – a consistent top contributor to political campaigns in the USA.¹⁰³

Nonetheless, while the example demonstrates the extent to which potentially transformative practices can be immediately assimilated by pre-existing vested interests, it also serves as a useful proof of concept for the feasibility of moving politics online. This is interesting, because it means that one of Michels' key reasons for believing in the long-term maintenance, the very iron-ness of his iron law of oligarchy, as it were, has fallen away. According to Michels:

“The most formidable argument against the sovereignty of the masses is, however, derived from the mechanical and technical impossibility of its realization...assembly would become altogether impossible if the members numbered ten thousand. Even if we imagined the means of communication to become much better than those which now exist, how would it be possible to assemble such a multitude in a given place, at a stated time, and with the frequency demanded by the exigencies of party life?”¹⁰⁴

Thanks to the earlier experiments in online participation, we now know precisely how this would be possible, because the means of communication have become more than simply “much better” than they were in Michels' time. In fact, we can already see how it is not only possible to replicate the mechanisms of electoral-representative democracy online, but to move beyond them towards a disintermediation of modern politics in which political power is widely distributed in the collective citizenry. In fact, this is already beginning to happen, although it is happening slowly, and as such subject to resistance and, at times, assimilation by the reigning oligarchic forces.

¹⁰⁰ *Ibid.*, at 18.

¹⁰¹ *Ibid.*, at 24 et seq.

¹⁰² *Ibid.*, at 27.

¹⁰³ In 2003-2004, the years in which this project was organized and launched, Lockheed Martin was No. 47 in the list of Top 50 PACs in terms of candidate contributions with \$1.4 million in contributions “PAC Table 2c Top 50 PACs by Contributions to Candidates and Other Committees January 1, 2003 - December 31, 2004” (Federal Election Commission) http://www.fec.gov/press/summaries/2004/tables/pac/PAC2c_2004_24m.pdf. In 2001-2002, the immediately preceding election cycle, Lockheed Martin did not feature in the Top 50 PACs overall, but was still No. 14 in the top corporate PACs in terms of contributions to candidates with \$984 000 (PAC Table 3c

Top 50 Corporate PACs by Contributions to Candidates and Other Committees January 1, 2001 - December 31, 2002” (Federal Election Commission)

http://www.fec.gov/press/summaries/2002/tables/pac/PAC3c_2002_24m.pdf.

¹⁰⁴ Michels, note 1, at 21 et seq.

Online Disintermediation

One example of this disintermediation at work is online participatory budgeting. In this exercise, representatives make a certain proportion of the budget subject to citizen approval. Citizens may either choose from an array of possible projects to be funded, or, in some instances, propose and vote on projects of their own. Participatory budgeting was originally developed offline in Porto Alegre, Brazil, but has since been successfully used online in Paris,¹⁰⁵ Berlin,¹⁰⁶ and other cities around the world.¹⁰⁷ However, because participatory budgeting currently exists at the sufferance of elected politicians, its scope is generally extremely limited. In fact, it is usually restricted to allocating budget for purely cultural projects that are of little political importance and therefore of limited interest to many citizens. This underutilization of online participatory budgeting can be seen as an example of institutional resistance to the fundamental change facilitated by technology that theorists in this field have long noted.¹⁰⁸

The same is true of citizens' assemblies, i.e. gatherings of randomly selected citizens for the purposes of debating electoral or constitutional reform. The early years of this millennium have seen a strong surge in this form of participation and some citizens' assemblies, including those in Ireland and Iceland have solicited citizen input over the internet.¹⁰⁹ The Icelandic assembly received 3600 written comments from citizens on its work (in a country with a population of only 300 000).¹¹⁰ However, as they exist at the discretion of those who have won elected office, citizen assemblies are also tightly controlled. In Ireland, the Constitutional Convention's 66 randomly selected citizens are off-set by 33 elected and party members,¹¹¹ whereas in Iceland the Constitutional Council's 25 members were themselves elected. All of the Icelandic Council's fundamental suggestions, such as a suggestion that Iceland's natural resources (i.e. fishing stocks) be more equitably distributed, were systematically thwarted by political parties working in close cooperation with commercial fishing interests.¹¹²

Thus, while all of these experiments prove the increasing technological feasibility of mass online participation, we can already see from the way that the efficacy of participatory budgeting and citizens' assemblies is continually undermined by the political establishment

¹⁰⁵ Richelle Harrison Plesse, "Parisians have their say on City's first €20m Budget" *Guardian* (8 October 2014), <http://www.theguardian.com/cities/2014/oct/08/parisians-have-say-city-first-20m-participatory-budget>

¹⁰⁶ "Local Democracy in Germany", Speech by Felicitas Weck at Encuentro Internacional por la Democracia Participativa y los Derechos Sociales, 13 December 2014 in Malaga, Spain.

¹⁰⁷ Yves Sintomer, Rudolf Traub-Merz and Junhua Zhang, *Participatory Budgeting in Asia and Europe: Key Challenges of Participation* (Palgrave Macmillan, 2013).

¹⁰⁸ Kaifeng Yang, "Neoinstitutionalism and E-Government: Beyond Jane Fountain", (2003) 21 *Social Science Computer Review* 432.

¹⁰⁹ Iseult Honohan, "What can the UK learn from the Irish Constitutional Convention?" (OpenDemocracy, 8 October 2014), <https://www.opendemocracy.net/ourkingdom/iseult-honohan/what-can-uk-learn-from-irish-constitutional-convention>; Thorhildur Thorleifsdottir, "From the People to the People, A New Constitution" (OpenDemocracy, 13 November 2012) <https://www.opendemocracy.net/thorhildur-thorleifsdottir/from-people-to-people-new-constitution>; Thorvaldur Gylfason, "Iceland: Direct Democracy in Action" (OpenDemocracy, 12 November 2012) <https://www.opendemocracy.net/thorvaldur-gylfason/iceland-direct-democracy-in-action>.

¹¹⁰ Thorleifsdottir, note 113.

¹¹¹ Honohan, note 113.

¹¹² Thorleifsdottir, note 113; Gylfason, note 113.

that these measures will not be enough on their own to counter the oligarchic nature of the electoral-representative system. It is not possible to break the iron law of oligarchy in a piecemeal fashion, and it is certainly not possible to break it as long as the representative-electoral system that creates the strong incentive to compete for easily ring-fenced prizes continues to exist. In order to break the iron law of oligarchy – at least for a substantial period of time – we would have to do something similar to what the Athenians did: make it extremely difficult to impossible for any individual or special interest group to acquire significant political power. This, in turn, naturally requires that political power be acquired and exercised on a non-competitive basis.

A Five-Pronged Model of Non-Competitive Decision-Making in the 21st Century

I believe that instituting such a system of non-competitive political decision-making in the modern age would require a five-pronged strategy that would need to be completed quickly and in successive order to be successful. These five prongs are:

- 1) citizens make frequent, direct, and binding decisions via online tools
- 2) an interactive online debate immediately precedes each online decision
- 3) a system of pay-for-participation supports online decision-making
- 4) electoral office is scaled back and replaced by appointing officials by lot
- 5) the economy is brought back into a reasonable balance in which citizens have roughly equitable opportunities for economic success

Citizens make Frequent, Direct, and Binding Decisions via Online Tools

While electoral-representative systems are experimenting with participatory budgeting and crowdsourcing input for citizens' assemblies, modern internet technology far outstrips these limited uses. Indeed, several internet tools already exist that allow citizens to communicate and plan collective action with other participants who are peers clearly identifiable via online profiles. While some discussions may subside without resolution, others may lead to concrete suggestions for a specific community project. Once firm suggestions are submitted for consideration, users enter a period of online debate. This may last for several days or even weeks, as participants enter their thoughts by text and cast their vote in the appropriate forum. Online software also often allows for rich feedback at this stage by allowing participants to enter a reason for their vote and/or to indicate how strongly they feel about the issue at hand. Some of the more successful tools include: Liquid Feedback, used by the Pirate Party of Germany, Loomio used by Wellington City Council in New Zealand,¹¹³ and DemocracyOS, used by Buenos Aires in Argentina.¹¹⁴ It is easy to see how these tools could be used to facilitate large-scale, nation-wide decision-making, especially if their functionality continues to improve

¹¹³ "Wellington City Council Uses Loomio!" (Loomio, 1 November 2013)
<http://blog.loomio.org/2013/11/01/wellington-city-council-uses-loomio/>.

¹¹⁴ See "DEMOS: Democracy OS in the Buenos Aires City Legislature" (DemocracyOS)
<http://blog.democracyos.org/>.

to allow for more real-time debate and to add mechanisms that ensure minority protection such as point-by-point voting or cumulative voting.¹¹⁵

It is also easy to see how vested interests could continue to manipulate this kind of decision-making if strong prophylactic measures are not taken. Here we can turn to the example delivered by Athens where the power of oligarchic forces was effectively and severely constrained through mass decision-making. In Athens, the ability to attend Assembly was determined on a first-come, first-serve basis and the meeting itself was facilitated by ever-changing, randomly selected officials. This made it very difficult for anyone wishing to manipulate the decision-making process from predicting its moods or interests. Any future online decision-making assembly would need to be held according to similar rules.

We also know that Assembly meetings in Athens were held very frequently, generally about once every ten days.¹¹⁶ The intensity of this activity made it difficult for individuals and special interest groups to dominate public decision-making, and it is important to replicate this intensity in any modern democracy. Otherwise, online democracy would have the character of infrequent referenda, which can be often be treated as merely another method of ringfencing political power.¹¹⁷ Frequent decision-making makes it too expensive for even the wealthiest entities to influence each decision in which they are interested.

It is highly unlikely, of course, that elected representatives would ever agree to implement such a system, as it effectively replaces them. However, since the facilitating software already exists, it is entirely possible to engage in online decision-making without their permission. It would not be easy for the oligarchic forces that have praised popular sovereignty for so long to explain why such a system of voting – should it become widespread – lacks legitimacy. In some cases, it would be very simple for online participants not only to agree upon policies but also to implement them without the permission of government, raising any necessary funds to do so through crowdsourcing.

¹¹⁵ In cumulative voting each citizen receives one vote for each measure under debate. He can cast one vote on each measure or divide them among several or all measures as he sees fit. Cumulative voting allows voters to indicate the strength of their interest in each proposal in an easily quantifiable manner. This enables minority groups to exert influence over issues that are of particular importance to them by allowing them to place a high number of votes on that issues.

¹¹⁶ Kurt Raaflaub, “Equalities and Inequalities in Athenian Democracy” in *Demokratia*, 139 at 154; Rhodes, note 13, at 565; Markle, note 87, at 104 et seq. Although the Assembly did start off meeting only 10 times a year or once per month (Staveley, note 83, at 79.)

¹¹⁷ For example, Prop 37 in California regarding mandatory labelling of GMO foods. GMO manufacturers, grocery chains and pesticide producers spent over \$1 million a day on their campaign against Prop 37 (\$46 million on television advertisement alone), much of it in the service of disseminating false information (Mark Bittman “Buying the Vote on G.M.O.’s”, *New York Times* (23 October 2013) <http://opinionator.blogs.nytimes.com/2012/10/23/buying-the-vote-on-g-m-o-s/>); Amy Standen, “California Rejects Labeling of Genetically Modified Food – Supporters Vow to Fight On” *NPR* (7 November 7 2012). Corporations have also spent large sums of money ensuring European integration treaties are passed in Ireland (“Lisbon Treaty Referendum 2008 Analysis” (Workers’ Party of Ireland, June 2008) http://www.workerspartyireland.net/sitebuildercontent/sitebuilderfiles/lisbon_analysis.doc); “Yes and No Groups Spend at Least 3.5 million Euro on Treaty Campaigns” *The Irish Times* <http://www.irishtimes.com/news/yes-and-no-groups-spent-at-least-3-5-million-on-treaty-campaigns-1.751483>; Michael Marsh, “Referendum Campaigns: Changing What People Think or Changing What They Think About?”, in de Vreese (ed), *The Dynamics of Referendum Campaigns: An International Perspective* (Palgrave Macmillan, 2007) 63 at 68.

Online Debate

Of course, many experts are wary of permitting mass decision-making or direct democracy on the grounds that ‘the people’ are not ready to make their own decisions. This is an implicit acknowledgement of the fact that in our current society citizens are subjected to persistent misinformation through mass media as discussed above. However, it is hard to see how we can remove ourselves from this situation without first breaking out of the electoral-representative system that makes engaging in persistent misinformation such a lucrative activity – the very individuals who control our societies and manipulate election outcomes are hardly likely to regulate for it. In other words, should we continue to accept that ordinary citizens are incapable of reaching decisions in their own best interests, we will never reach a point where that changes.

While there is evidence to believe that fears of the infantilization of the voter are exaggerated in any case,¹¹⁸ we can still mitigate the influence of misinformation by requiring voters to directly debate any motions with each other in close proximity to the time of voting. In fact, we could make debate attendance compulsory for anyone wishing to vote. Online debate prior to online voting would enable participants to raise points and views and share information that is normally not heard in major media communications. It would also force participants to confront opposing views and seek to resolve different perceptions of what the facts surrounding the issue at hand are.¹¹⁹ In order to prevent such debate from being undermined through trolls or Astro-turf groups, it would be necessary to prohibit anonymity, for example, by requiring participants to register and create accounts where their participatory history can be tracked by others. As we have seen above, however, this is already possible. While far from a perfect solution, constant debate would at least drive a firm wedge into one of the key fronts – mass media – that modern oligarchs use to compete for political power by allowing people to engage in mass communication, by providing the instruments of that communication freely.

Pay for Participation

Sitting through hours of debate requires a substantial effort from each participant. The less affluent citizens are, the more difficult it is for them to sacrifice time to participate without receiving some form of compensation. This was already observed in Athens and recently confirmed by a study into participatory budgeting in Berlin that noted that less well-off residents, particularly the elderly, the uneducated, immigrants and young families were far less

¹¹⁸ Far from spending money on bread and games, when citizens are allowed to participate they tend to vote in an exemplary manner, eg. investing in education tends to be the most popular investment, followed by meeting the needs of children, the elderly and disabled. Environmental projects and road safety are also very popular (Funded Projects”, Participatory Budgeting in New York City, <http://pbnyc.org/projects>; “2014 Results – District 5” (Participatory Budgeting in New York City, 28 April 2014) <http://pbnyc.org/content/2014-vote-results-district-5>; “2014 Results – District 44” (Participatory Budgeting in New York City, 16 April 2013) <http://pbnyc.org/content/vote-results-district-44>). Some citizens even advocate to save the money or reimburse it to tax payers rather than spend it (Harrison Plesse, note 109).

¹¹⁹ This helps to create a cohesive community by preventing the balkanization of information that is sometimes perceived as being a danger of the Internet age, see eg. Peter Levine, “The Internet in Public Life”, Verna V. Gehring (ed.) *The Internet and Civil Society* (Rowman and Littlefield, 2004) at 79 et seq.

likely to take part.¹²⁰ This continues to lend a competitive aspect to decision-making, as only those citizens who are able to secure sufficient resources to allow them more leisure are able to participate fully.

The only way to resolve this difficulty is probably to pay citizens for their participation. Not only was this how the Athenians facilitated mass participation, although the need for participation is very limited in modern democracies, in the few areas where it is indispensable, citizens are also paid for their political participation. This does not only extend to representatives and members of government, but also includes pay for jury duty, perhaps the only form of democratic participation that is unrelentingly considered *as* a duty.¹²¹ Unlike other forms of participation in modern democracies, initial selection for jury duty occurs on a random and egalitarian basis and the only way to maintain this is to compensate citizens so that they can afford to attend. Otherwise, jurors – especially those involved in extended trials – would go hungry, go bankrupt, lose their savings, fall behind on their mortgage payments, and, most likely of all, simply refuse to show up. Payment for participation, is thus even in modern times, implicitly the only way to ensure that it can truly be exercised on an egalitarian and non-competitive basis.

Such payment could – as pointed out earlier in this paper, as well as by other authors – be easily paid for merely by clawing back funds from tax evasion, which siphons off billions of dollars in tax revenues from most developed nations each year.¹²² Unlike tax avoidance, tax evasion is *already* illegal, and both cheap and easy to prevent; one need only use a fraction of the sum expected to be recovered to bribe workers in the financial institutions that facilitate such transactions to reveal the relevant information. Recovered funds from tax evasion would

¹²⁰ Weck, note 110.

¹²¹ In the USA, federal jurors are paid a standard rate of \$40 a day. Jurors can receive up to \$50 a day after serving 10 days on a trial or after 45 days on a grand jury. They may also receive reasonable transportation expenses and a subsistence allowance covering their meals and lodging. (“Juror Pay” (United States Courts) <http://www.uscourts.gov/FederalCourts/JuryService/JurorPay.aspx>). In the UK, a juror can claim expenses (such as travel costs) and loss of earnings. A juror can claim up to £64.95 per day in lost earnings for the first 10 days, which increases to a maximum of £129.91 between day ten and day 200 and a maximum of £228.06 per day thereafter (“Jury Service” (GOV.UK) http://www.direct.gov.uk/en/CrimeJusticeAndTheLaw/Juryservice/DG_197055). In Ireland, the self-employed may be excused from jury service in all cases where it affects their ability to earn a living, while those in employment are compensated by their employers at the normal rate of pay (According to Sec. 29 of the Juries Act, 1976, “Payment” (Courts Service Ireland) <http://www.courts.ie/courts.ie/library3.nsf/WebPageCurrentWeb/40310AF8417C9E638025709D0055A529?OpenDocument&l=en>). In Ontario (Canada’s most populous province), jurors are not paid for the first 10 days of jury service, but receive \$40 a day for the next 39 days and \$100 a day after that. (Dan Ferguson, “We the People, Need Better Pay” *Globe and Mail* (9 June 2009) <http://www.theglobeandmail.com/commentary/we-the-jury-need-better-pay/article4275994/>).

¹²² Alison Crawford, “Revenue Canada Rejected Secret Tax Haven Files” *CBC News* (10 June 10, 2013), <http://www.cbc.ca/news/canada/revenue-canada-rejected-secret-tax-haven-files-1.1308967>; “Revenue Canada Offers Rewards for Tips against Offshore Tax Cheats” *CBS News* (15 January 2014), <http://www.cbc.ca/news/politics/revenue-canada-offers-rewards-for-tips-against-offshore-tax-cheats-1.2497955>. The UK loses at least £5 billion annually to tax evasion (Rajeev Syal, “UK’s Tax Gap Rises by £1 billion to £35 billion” *Guardian* (11 October 2013) <http://www.theguardian.com/politics/2013/oct/11/uk-tax-gap-rises-hmrc-avoidance-nonpayment>). In Germany it is estimated at 13 billion Euros annually (Bastian Brinkmann, “13 Milliarden am deutschen Fiskus vorbeigeschleust” *Süddeutsche Zeitung* (10 March 2014) <http://www.sueddeutsche.de/wirtschaft/schaetzung-zur-steuerhinterziehung-im-jahr-milliarden-am-deutschen-fiskus-vorbeigeschleust-1.1908150>).

easily suffice to pay for online decision-making assemblies 3-4 times per month with an average participation rate of between 15 and 30% of a nation's total registered voters.¹²³

Of course, it would not be possible to implement pay for participation immediately. It is both extremely easy and extremely lucrative to catch tax evaders – the main reason they are not apprehended is for lack of political will. Pay-for-participation is thus a measure that will likely not be imposed until a participative direct online democracy is well underway. This is not in itself completely worrisome – the Athenians also only implemented pay for participation after direct democracy had been ongoing for some time. The key, however, is to implement pay for participation as soon as possible in order to counteract the relationship between wealth and political power as quickly as possible.

Randomly Selected Officials

A direct democracy could not exist for long next to an electoral democracy, as these two systems would compete for legitimacy. Thus, it would also be necessary to embark on a system of selecting officials that owes something to ancient Athenian democracy and something to the so-called demarchy most notably advocated by John Burnheim,¹²⁴ namely sortition. In Athens, officials were selected by lottery in their thousands,¹²⁵ using an efficient allotment machine or cleroterion for the purpose.¹²⁶ It would be possible to carry this over into modern times by selecting panels of officials to preside over government ministries and agencies (currently headed by political appointees) under instruction from the collective citizenry and with a professional staff working under them. In order to prevent oligarchical tendencies from holding sway, such citizens would – in contrast to Burnheim's suggestions – need to be selected randomly from the population as a whole¹²⁷ and without necessarily having a particular stake in the subject matter at hand. Indeed to allow such officials to have an interest in the matter at hand would virtually assure the quick re-establishment of oligarchy as it would facilitate them to make rules favourable to themselves.

Equalizing the Economy

Since economic and political power are so firmly entwined in the current representative, electoral system, political reform is not only the prerequisite of economic reform, but needs to be buttressed by it as soon as practically possible. Otherwise, it is to be expected that wealthy parties will seek to restore their influence over the political system as soon as possible. Indeed, ancient Athens, a society in which wealth inequalities were not as extreme as they are today,

¹²³ For example if 15% of Canada's 24 million registered voters attended an online assembly 27 times a year and were paid \$60 per session, this could be covered with only \$6.4 billion of the \$8 billion lost to tax evasion each year.

¹²⁴ John Burnheim, *Is Democracy Possible? The Alternative to Electoral Politics* (University of California Press, 1985).

¹²⁵ Kurt Raaflaub, "Equalities and Inequalities in Athenian Democracy" in *Demokratia*, 139 at 140; Alan Sommerstein, *Aristophanes: Lysistrata and Other Plays*, (2nd Edition, Penguin Books, 2002) at 68.

¹²⁶ Staveley, note 83, at 63 et seq.; Dow, note 84, at 66 et seq.

¹²⁷ Under the exclusion of the mentally incapacitated, those with repeated criminal convictions, etc.

suffered two such oligarchic coups.¹²⁸ While democracy was ultimately restored following each coup, Athenian society paid a heavy price.¹²⁹

Distributing economic power more evenly could take many forms – indeed, there is an abundance of good suggestions for economic equalization: limiting inheritance; pegging salaries within companies to more moderate differentials;¹³⁰ introducing the Tobin tax;¹³¹ placing a moratorium on raising housing prices; debt cancellation;¹³² introducing a shorter working week; furthering the cooperative as a business model; bringing central banks back under sovereign control; slowing international trade liberalization to a more sustainable pace, increasing corporate tax rates; increasing shareholder control over corporations, etc., etc. All of these are good ideas, but none of them, nor any other equalizing measures is likely to be implemented as long as the electoral-representative system is in place. In fact, the electoral-representative system has actively and successfully resisted making such changes over the past several decades. It is extremely likely that rebalancing the economy will only become feasible when power is removed from those who benefit most from a highly inegalitarian economy and placed in the hands of those with an interest in making and enforcing such laws. Thus, like pay-for-participation and the introduction of the lottery system, it would need to be implemented once non-competitive decision-making is already underway.

Final Conclusions

Breaking the iron law of oligarchy that pervades modern politics and its mirror-image economy is no simple task, but it is necessary to prevent the accumulation of wealth and power that precipitates crises such as the one we are currently seeking, a crisis caused, in the final analysis by the faulty political system that permits narrow economic interests to hold sway over long periods of time. Because political and economic power enjoy a tight reinforcing relationship in our society, real change cannot be achieved by working within the system, but only by destroying, beyond the hope of any repair, the ability to compete for and win large concentrations of political and economic power. This, in turn, necessitates that the political and

¹²⁸ Peter Krentz, *The Thirty at Athens*, (Cornell University Press, 1982); Andrew Wolpert, *Remembering Defeat: Civil War and Civic Memory in Ancient Athens*, (John Hopkins University Press, Baltimore, 2002).

¹²⁹ The second set of oligarchs – known as the Thirty Tyrants – managed to kill 5% of Athenian male citizens in less than a year (Wolpert, note 131, at 22).

¹³⁰ In late 2013, a referendum in Switzerland suggested limiting the pay differential within companies to 12:1 between the highest and lowest paid employee (Matthew Lynn, “Even pro-Business Swiss Look at Limiting CEO Pay” *Market Watch* (20 November 2013) <http://www.marketwatch.com/story/even-pro-business-swiss-look-at-limiting-ceo-pay-2013-11-20>; “Ehemaliger Chefoekonom der UNO wirbt fuer 1:12 Initiative” *Aargauer Zeitung* (31 October 2013) <http://www.aargauerzeitung.ch/dossiers/abstimmung-1-12-initiative/ehemaliger-chefoekonom-der-uno-wirbt-fuer-1-12-initiative-127333020>; “Finanzprofessor sagt 1:20 waere wahrscheinlich angebrachter” *Aargauer Zeitung* (20 October 2013) <http://www.aargauerzeitung.ch/dossiers/abstimmung-1-12-initiative/finanzprofessor-sagt-1-20-waere-wahrscheinlich-angebrachter-127293675>). The pay gap within companies can currently run up to 1800: 1 (Peter Stamm, “Why the Swiss scorn the Superrich” in *New York Times* (22 November 2013) A23.).

¹³¹ James Tobin, “A Proposal for International Monetary Reform” in James Tobin (ed.) *Essays in Economics*, (MIT Press, 1982), at 494; Tony Barber and George Parker, “EU Leaders Urge IMF to Consider Tobin Tax” *Financial Times*, (12 November 2009), available at http://www.ft.com/cms/s/0/76e13a4e-9725-11de-83c5-00144feabdc0.html?nclink_check=1.

¹³² This was, after all, a frequent practice in ancient civilizations, and one that worked well for the Athenians, see above.

economic power existent within a society be dispersed across the widest number of participants possible and that it be exercised in as random and unforeseeable a manner as possible.

At this point in history we have a unique opportunity to disperse political power in this manner. On the one hand, because of the economic crisis, faith in the current political system is at a low point, and institutional resistance to change correspondingly weakened. Simultaneously, advances in technology have enabled citizens to collectively deliberate and decide upon political matters without the need for face-to-face contact. It would thus be entirely possible for citizens to begin collectively debating and making online decisions for themselves and later buttress this system with measures such as pay for participation and broader economic distribution. This solution may be radical, but it is necessary, because the problems underlying the current economic crisis are fundamental and prone to worsen over time as oligarchic organization becomes increasingly efficient and the gulf between those competing for political power ever wider.