Throwing Dice: Luck of the Draw and the Democratic Ideal

MARK KINGWELL

In this paper I shall offer an indirect defence of democracy as a gift economy, that is, one essentially distinct from, and opposed to, reduction to transactional exchanges such as those typical in a market economy. My argument will proceed in the following manner. Beginning with a case study of success (Section I) I consider the role of scaleable effects in destabilizing the relationship between merit and reward (Section II). This opens up the question of how the general issue of “title” functions in larger systems of merit and reward, crucially including politics (Section III). Pursuing Jacques Rancière’s insights concerning hatred of democracy we can begin to see the importance of “the drawing of lots” in mechanisms of political legitimation (Section IV). Rancière understands the drawing of lots as the paradoxical “title which is no title.”

I will then argue that the hidden force of lots is not their randomness, which is merely a device, but a matter of prior agreement to abide by their outcome. This agreement to abide is likewise the hidden force of all democratic devices of legitimation, whether they employ lots or not. The decisions issued by democratic electoral systems are both undeserved (because unconnected to intrinsic qualities or claims) and apparently binding (because accepted). This tension has consequences beyond political thought.
experiments, where randomness is sometimes explicitly in play; all real-world democratic systems remain dependent on disconnections between merit and success (Section V). On this view, the routine capture of electoral processes by the moneyed interest is a perversion of the democratic ideal which nevertheless comes to be accepted as part of the process of real-world politics. This perversion cannot be addressed by piecemeal reform; only a democracy of the gift, which illuminates the prior agreement to abide, can redeem the democratic ideal (Section VI). In other words, a claim to democratic legitimacy functions only if and only when that legitimacy has no price, and is accepted as the undeserved gift it must be.

I. The Gould Conundrum

In 2009 I published a philosophical biography of the pianist Glenn Gould. Since then I have been asked countless times to explain his peculiar appeal. Almost alone among twentieth-century classical players, Gould is revered and mythologized to a degree rivaling a sports hero or global film celebrity. He has inspired a cult following in many countries, notably Holland, France, and Japan, and has sustained a steady flow of interest in his recordings and short, strange life. Why?

One obvious reason is precisely the strangeness of that life. As is well known, Gould withdrew from the life of public performance in 1964 and became almost a hermit. Though he continued to record and broadcast prodigiously, both in music and in the radio documentary form he helped to pioneer, he never again appeared on stage, or boarded another airplane or, other than for urgent business, left his home in Toronto. Already at that time he was a legend of eccentricity, humming audibly during performances and
PhaenEx

going about even in warm weather clad in overcoat, muffler, flat wool cap, and gloves. His hypochondria drove him into a self-medicated regime of painkillers, anti-anxiety drugs, sleep aids and other cross-prescribed pharmaceuticals that likely hastened his death from bronchial failure in 1982, aged just fifty.

Such circumstances presumably enhance an aura of bewitching strangeness in a performer. Gould is widely considered to have suffered from Asperger Syndrome, lately a condition of almost cliché appeal for its mixture of high-functioning autism and alluring oddity. And in back of it all, of course, lies Gould’s vast talent as an interpreter and player of the classical keyboard corpus, in particular his career-long engagement with the works of J. S. Bach—though he always claimed as his favourite composer the much less famous Tudor court musician, Orlando Gibbons. Gould’s startling renditions of Bach, especially the difficult Goldberg Variations—recorded by him twice, first as his debut release and second as almost the last record he did—reveal an artist of deep intelligence and somewhat twisted emotion. This ability combines alchemically with his personal circumstances to create what might be considered a textbook narrative of genius.

Despite recent popular sociology to the effect that genius is merely a matter of devoting hours to a certain task, the category retains widespread appeal as a marker of transcendental specialness. And yet, we must also recognize that there are many performers just as talented as Glenn Gould who are not favoured with the title. Rather than debunk genius as simple hard work, I suggest a different lesson. What I will call the Gould Conundrum consists in the fact that Gould managed to garner more than his fair share of attention, musical and otherwise, because of the vagaries of luck. In other words,
his specialness lies not in ability but in success, and that success is only partly a function of ability. Indeed, ability has far less to do with success than we often imagine.

This finding has wide implications but I will focus here on what I believe are the most important ones, namely those pertaining to the idea of democracy. If success is not “earned” in the way common sense usually imagines, then we have to rethink not only baseline notions such as desert and responsibility, but also the claims elites make upon subordinates in structured systems. More profoundly still, the very idea of democracy may be shown to be without foundation—something at once revealed and concealed in its paradoxical ability to found systems and states.

II. Scaleable Effects

The key to understanding the success of Gould, or any other example of an individual who manages to outstrip all competition for our attention, is what economists call scaleable effects. That is, the manner in which, for certain fields of endeavour and under favourable circumstances, the same work can generate more and more results with no further work needed. The phenomenon of scaleable effects in turn has implications for all attempts to link merit and reward—attempts which lie at the heart of democratic thought either as goals (the ideal of meritocratic entitlement) or as fears (the perversion of elite entitlement).

So let us consider scaleable activities. Contrast writing books with baking loaves of bread—both honest forms of toil, at least if you listen to the writers of books. While it’s true that each copy of the book needs to be produced, what makes books scaleable is that no further work is required on the part of the author to do so. Indeed, as reproduction
and dissemination technologies evolve, the costs of reproduction approach zero: by far the largest cost in the standard book economy of the modern era is printing, which is one reason printers also used to be publishers. Baking bread, on the other hand, necessarily proceeds loaf by loaf. The baker has his reproduction costs but also his work costs; bread doesn’t bake itself. In the relevant sense, books do make themselves because they are beneficiaries of mechanical reproduction—tokens of the original type, which is produced once and for all. This, incidentally, was Socrates’ complaint about them in Plato’s *Phaedrus*: the written or printed word just keeps saying the same thing over and over again, as we say, like a broken record.

But notice that even a non-broken record says the same thing over and over again, just at greater length than the one marred by a scratch or imperfection. Recorded music is a perfect example of scaleable effect, because here a single performance—or, more accurately, a series of recording sessions executed to create the illusion of a single performance—is laid down on tape or computer and then reproduced, potentially to infinity. Whereas before a musician had to perform his music to every new audience, whether of one or of one hundred, he or she can now reach a potentially limitless audience with just one bout of effort. And if the recipients are willing to pay for the experience, which they surely will be, the profit from that single effort is likewise without limit. This willingness does not compete with, and hence does not rule out, their being also willing to pay, perhaps even more, for a live performance of the same piece; but it does compete directly with both rival recorded performances and rival live ones. The opportunity costs of access to musical pleasure are absorbed into recorded music, despite its clear difference from performed music. Thus, I will almost certainly pay $10 to
purchase a Glenn Gould CD, which I listen to again and again, rather than pay the same $10 to hear a one-off performance by my local piano legend. Yet, given the chance, I might pay that $10 and a whole lot more to hear Gould perform live, but that does not affect the scaleable success of the original recording.

Music is thus an almost perfect example of a scaleable good, better than books (even bestsellers compete only with other books, not with troubadours or wandering lyric poets) or films (blockbusters blow away their Cineplex competition, perhaps, but there is no such thing as ‘live’ film). The irony, staying with Gould for a moment longer, is that he was a dedicated opponent of what he called the competitive streak in public performance; and yet, with his foresighted advocacy of recorded music over performance, he scored the ultimate competitive victory. No other classical artist could hope to compete with his sales over the years.

Now, as we know, ability must be present to work this particular trick, but it is not as determinative as we like to think. Gould’s initial reputation enhances his sales, and his growing reputation for that elusive—in fact empty—category of genius, pushes them still further. Success begets success, in other words, and the harsh truth about most markets, but especially those that hinge on human attention, is that there can only be a small number of winners. The result is not quite a winner-take-all or zero-sum game, but it is close enough to make a big difference: Gould’s success leaches attention away from others who might (we don’t know) be as deserving of it. Scaleable activities tend to create lots of losers and few winners. The same is not true of bakers, for example, who will tend to distribute their success more evenly because demand is steady and supply is toilsome.
There may appear slight exceptions to this: one might think of the celebrated bakery with a long line-up next to one that is oddly bereft of customers. Are the two loaves really that different? This sort of mini-market is functioning in a mode past ample supply, and so is driven more by reputation than actual product, even if the product in question is indisputably better than its rivals (it may not be). Reputation, as such, is of course the ultimate scaleable good, and one that free-rides on well supplied markets to create artificial scarcity. Historically, there hasn’t been enough bread to go around, just as this was true of music before the advent of recording. Now that those markets are unhindered by actual scarcities, reputational ones may take hold. The point remains that even the most widely reputed baker still has to bake the loaves one at a time—indeed, such artisanal attention to detail may be part of what is being purchased by those in the long line, who clearly exist at a point where bread is not the staff of life.

Background economic and technological conditions determine which effects are scaleable and which not, and the categories are not fixed. Just as music had become scaleable because of early recording technology, further advances in the very same technology since Gould’s death have nearly obliterated the cost of access to music altogether—advances that he, ironically given his financial dependency on record sales, ardently advocated. Now the good of recorded music is virtually a free public one, a non-rival and non-excludable in the world of MP3 downloads (strictly legal or otherwise). Under these conditions, the musician may choose to fight a rearguard action over copyright control and prosecution of piracy; or, more cleverly, he or she may try to monetize the difference—ideally, the exclusion—between general audiences and special ones. That is, he or she may choose to make an album available for free online (general
audience) but then charge a profitable fee for concert appearances and other exclusive opportunities (special audience). The same effect is achieved by an author who gives away his book via digital file but collects large sums for speaking engagements. It is worth noting that advocates of this content-for-free culture generally are already in a reputational position such that they can achieve such leverage; the majority of “content providers” are not.

Claims about a beneficial long tail in online markets—lots of virtual shelf space for everything, hence no need to bet on winners—do not square with the evidence. Worse, the claims are often self-serving. As one commentator has put it, the advocates of the long tail are cheering a divide between attention economy and cash economy—hooray, they say, there’s room for everyone’s claims in the former!—but doing so from the far side of the latter. Yes, the traditional gatekeepers on content have been, or are being, removed: editors no longer control which books get published, which articles run; producers no longer keep musicians from potential audiences. But a new class of overlord is arising, the ones able to derive profit from the widespread human desire to express ourselves, whether by mining data for preferences via Facebook and Google, or gathering advertising revenue around costless editorial. Chris Anderson, a leading voice for this form of digital sharecropping, summed up the position with admirable frankness: “There’s a lot of Free out there, and a lot of money to be made off it” (Free! See also The Long Tail. Anderson was heavily criticized for cribbing large parts of the former book from Wikipedia, though one could view that as costless content-provision in action.). Meanwhile, those generating the free stuff—Anderson and others disingenuously call it a gift economy rather than an uncompensated attention economy, about which more later—
still face the demands of living in the cash economy. “[N]o matter how much we might love attention, we can’t use it to meet our basic needs,” critic Rob Horning has pointed out. “I can’t send my landlord some attention in the mail in lieu of a rent check.”

The key, as always in a capital economy, is to convert attention (or the other effects that accrue to an activity) into cash and its equivalents. The main point here is that the attention need not be deserved in any deep or “intrinsic” sense—whatever intrinsic might be thought to indicate. In a heavily mediated culture, for example, we observe the curious phenomenon of the pure celebrity, which is to say, someone who is famous simply for being famous. Moralists may mock such people and cynics grow depressed by them but, in strictly economic terms, celebrities are the ones who have the last laugh. Indeed, they have that laugh over and over at absolutely no cost to themselves (unless we count possible mental breakdowns or stints in rehab). Not only is no further work needed to generate more success as a celebrity, there is no work or talent of any kind anywhere in view. Now there’s an economy of scale.

III. The Seventh Title

What lessons should be drawn from the Gould Conundrum and its variations? Well, that can be hard to see, because (to paraphrase Walter Benjamin) we understand backwards even though we live forwards. Looking back over the career of Gould, we construct a narrative that explains his wild, one-in-a-million success. That narrative will, in his case, speak about genius and eccentricity, about unavailability and disappearance. But the basic fact about Gould’s career was precisely availability. His music was widely reproduced, indeed to a degree unknown to any previous performer. Columbia Records,
signing him in 1955, took at least two risks: one, that his choice of the Goldberg Variations, a relatively obscure and forbiddingly difficult work, would appeal to an audience; and two, far more significantly, that he would succeed at all. That he did so was a function at least as much of luck as of talent. We cannot quantify this luck precisely because our back-cast narratives do not allow us to extricate talent from anything else.

Was Gould one in a million? Absolutely; his success is a matter of record. Was he destined to be one in million? Absolutely not; his success was never assured, no matter how much talent he had. One way we can alter our intuitions about such matters is to recall that human abilities, however esoteric, are likely to be distributed in roughly normal patterns. Obvious cases in point are physical characteristics such as height or weight. Though there is considerable range, such that basketball star Yao Ming (7’6”) and jockey Angel Cordero (4’11”) are both within it, the vast number of people cluster at or near the mean. Likewise with weight. As in all normal distributions, outliers become increasingly rare at the edges and simply do not appear past a certain point. Not so, however, with wealth or fame, which can increase potential without limit and hence tend to produce top-heavy distributions where a very small number concentrate the bulk. Although rare, extraordinary musical ability is closer to height than to wealth in the realm of distributions, since, despite claims about transcendental or god-given genius, it remains a function of the human species. No matter how much of an outlier Glenn Gould is in terms of talent, he still falls within a range defined by human ability. Musical success, on the other hand, is more like wealth than it is like height—and that is the point.
The moral of this perhaps overlong story—a narrative against narratives, if you like—is to loosen our intuitive shackling of success to merit. I do not suggest that Gould did not deserve his success, in the basic sense of having a right to it when it came. What I do suggest is that such success does not belong to him by some special right, or entitlement, placed under the sign of talent or, still less, genius. Not only do matters of fortune condition all narratives of success—Gould’s birth date, the material conditions of his society, his physical and psychological proclivities, etc.—but sheer randomness enters into all markets where human action is negotiated with other forces, such as attention, cash, and happiness. Though these markets may seem to exhibit somewhat stable outcome vectors (prices fluctuate with supply and demand, for example) they are subject both to pathologies and, more startlingly, to non-inductive random events.

In the former category belong all those surprising stories of how people fail to act according to rational economic interest: driving ten miles, and so spending a dollar in gasoline, in order to save fifty cents at a yard sale. Or, more seriously, the consistent position effects that show people willing to accept less as long as others also have less (e.g., preferring to be one of ten people at $90,000 rather than one of nine people at $100,000 while one has $200,000). In the latter category belong those truly unpredictable events or effects where a market collapses unexpectedly or, more pleasantly, pays off big with a runaway bestseller or surprise blockbuster. The non-inductive nature of such events is often proved negatively: not only can we not predict them, we cannot replicate them in future because we cannot explain them via the past. Or more precisely: our explanations, while they sound accurate, are misplaced. And so the dispiriting spectacle
of next season’s book list being dominated by what worked last year but never will again.¹

To reiterate, my interest here is less to give an alternative account of success—there are enough of those circulating already—than to consider what follows politically if success and merit are not intrinsically linked. In particular, we can reveal a fundamental instability in the idea of democracy when we reflect on the possibility of unmerited (or only semi-merited) success. Furthermore, this forever renewed instability may turn out to be the real meaning of the idea of democracy.

Jacques Rancière has offered a provocative version of this argument. He analyzes the recurring hatred of democracy that runs from Plato’s vivid denunciation in Republic Book VIII to fashionable postmodern critics of our day. While the two species of opposition may seem distinct—an appalled vision of licentious desire run amok, on the one hand, and a cynical awareness of sham promises in the rhetoric of freedom and individual rights, on the other—in fact the two critiques are one. That is, both are rooted in an awareness that the basic fiction of democratic politics, equality between persons, issues in pathological results. The vision of an orgiastic, rudderless state, ripe for the tyrannical picking, differs only in costume and technology from the hyper-mediated consumer society, full of brand-conscious purveyors of their own narcissism, that so exercises the ire of the contemporary pundit, left or right. Both mistake democratic society or democratic government for the idea of democracy, and so both denounce the symptom without regard for the underlying condition that makes it possible.

To see that condition, Rancière invites us to consider what Hannah Arendt identified as the founding act of all social movements and states, the arkhé, or
commencement. But this is a commencement that both begins and, crucially, justifies. Indeed, as Rancière puts the matter, *arkhé* is crucially doubled: “It is the anticipation of the right to command in the act of commencing and the verifying of the power of commencing in the exercise of commanding” (39). Such a combination of anticipation and act, starting and seizing, is the essence of all politics, the violence necessary to the moment of founding which we likewise observe through Derrida’s account of *force of law*. Politics is distinct from other forms of human action-coordination and organization in making a claim, however disingenuous *post facto*, for legitimacy or entitlement. Those who govern trumpet, or perhaps just gesture towards, the reasons or qualities that make them suited to the guiding rather than guided position.

In fact, we can be more precise than this if we follow a debate within the Platonic oeuvre. In *Laws* Book III Plato attempts to order the natural facts that establish title, in part to counteract the lawlessness towards which desire inclines us. Lacking the transcendental guidance of a divine shepherd, lacking too the *ex cathedra* reliability of a genuine philosopher-king, how might we organize ourselves and avoid what Rancière calls the “perturbed natural relations” in democracy? The natural order suggests a “census of titles” that are at once aligned with how things are in the world around us and offer hierarchical power relations with prescriptive force. This census shows the following natural hierarchies:

i. parents over children
ii. the old over the young
iii. masters over slaves
iv. the highborn over the no-account
v. the strong over the weak
vi. the knowledgeable over the ignorant
Notice some revealing features of this list. The first four titles are species of kinship relation, whether directly or indirectly. Indeed, we may view them as nested rings of kinship, whereby the procreative relation is expanded concentrically from (i) actual parentage to (ii) generalized parentage and then to (iii) metaphorical and (iv) positional forms. But the latter two are, on this census, no less natural than the first two.

The last pair in the list points to a more direct relation with the natural order, bypassing the biological order of parentage and birth. Here, qualities belonging to the superordinate group—strength and knowledge, however defined and no matter how controversial—are understood to confer a natural authority over the subordinate others. We should be grateful, perhaps, that title (vi) even makes the list, since most political regimes have seemed content to leave it out of account. Naturally, too, most regimes, even or specially the most “enlightened” ones, will in practice rely on a mixed bunch of these titles, such that pure types of gerontocracy, aristocracy, and epistemocracy will be hard to find, and even the baldest form of realist regime will feel the need to advert to other titles than mere strength. The key in all cases is the claim to title. “That is effectively when politics commences,” Rancière notes, “when the principle of government is separated from the law of kinship, all the while claiming to be representative of nature” (40).

This is essential to the idea of politics. But what about democratic politics? Here we observe the seventh and most illuminating of the titles included in Plato’s census:

vii. the drawing of lots
From where, suddenly, does this strange form of authority-claim arise? Lacking any connection to the natural order such as we observed in titles (i) through (vi), the idea of random selection would seem disqualified *prima facie* as a form of title. Worse, while it is certainly true that the luck of the draw can establish hierarchical distributions, is it not the case that the claim will always be challenged because it is so flimsy? That is, we seem to defer the justification problem forever. All participants may have had reason to enter the draw when the outcome was unknown, taking their chance on success, but what incentives do the losers retain for obeying the winners when the outcome is a function of mere chance? How can such authority be maintained *going forward*?

Such deferral is thus also, in its way, a return—to the moment before we initiated the draw in order to establish title. If we lack prior willingness to abide by the rules of the draw (to cooperate, in game-theoretic parlance), what is there to keep us from not playing along afterwards (defecting, in the same language)? And if that prior willingness to abide was indeed present, we are forced to wonder what it was based on. Surely *that willingness*, whatever it is, is the real source of the title, not the draw itself?

### IV. The Title That Is No Title

This suspicion concerning hidden prior willingness is indeed warranted. That would seem to make title (vii) a deception or illusion. And yet, accepting the truth of prior willingness can also, paradoxically, allay the worry that title (vii) is illegitimate. “The democratic scandal simply consists in revealing this,” Rancière notes: “there will never be, under the name of politics, a single principle of the community, legitimating the acts of government based on laws inherent to the coming together of human
The democratic legitimation crisis is a permanent one. But this “scandal” may be another name for “opportunity.” Once the dream of an “innate virtue of sociability” is abandoned, we can begin to see the prospects for salvaging the democratic ideal precisely as something without innate qualities, and without price.

To see how this might be, consider, first, the obvious but not always understood idea that the ancient Greeks viewed luck or fortune very differently than we do today. The modern conception emphasizes randomness, and hence lack of identity with reason or virtue, even (or especially) in colloquial expression such as “You have to be smart to be lucky and lucky to be smart.” That is, luck is viewed as external to qualities of merit that might otherwise be considered decisive in success; you can cultivate these internal qualities, and indeed doing so may increase the chances of a superaddition of good luck, but luck itself remains distinct from them. But the colloquial expressions likewise acknowledge that the conception’s roots are tangled in more searching early-modern positions, notably Machiavelli’s view in *The Prince* that *virtu* and *fortuna* are close but antagonistic cousins: the first stresses preparation, readiness and attention to opportunity; the second, while providing that very opportunity, retains elements of contingency and unpredictability that cannot be mastered.

Thus the famous passage where Machiavelli figures Fortune as a woman who must be briskly seduced: “it is better to be rash than timid, for Fortune is a woman, and the man who wants to hold her down must beat and bully her. We see that she yields more often to men of this stripe than to those who come coldly toward her” (ch. 25). Or, in a slightly less abusive language, the familiar and very modern maxim that “Fortune favours the brave.”
In fact Machiavelli’s position here is, as so often, transitional. He straddles two worlds, the pre-modern and the modern, by combining two worldviews, the pagan and the Christian, and arrives at a conception of fortune that is also doubled, with a sense of brute luck mitigated by the sense of opportunity. “I think it may be true that Fortune governs half more or less of our actions,” he says in the same chapter, “but that even so she leaves the other half more or less in our power to control” (ch. 25). There are elements here of the lingering fatalistic medieval Weltanschauung which viewed Fortune as the bitch goddess and symbolized her workings on the famously inescapable wheel; but there is also a celebration of preparation and action, the code of the warrior in the Roman tradition who can tame the capricious woman. In this way Machiavelli becomes, though they may not know it, the patron saint of professional athletes and soldiers everywhere, with their precarious combinations of practice and training with superstition and voodoo. He is also, in his attention to war as the prince’s primary concern, the essential bridge between Sun Tzu and the modern theorists of armed conflict. As the much repeated paraphrase of Field Marshall von Moltke has it: “No battle plan survives contact with the enemy”—which is of course not an argument against planning but one in favour of adaptability.³

It would be left to Pascal and the other pioneers of probability to thematize luck in ways that both recognize and codify its principled randomness. This growing scientific account does not reduce the role of chance in human affairs, of course; nor does it, on the whole, prevent many people from guiding their views and actions according to erroneous conceptions of probability.⁴ (There would be no gambling industry otherwise.) But it does shift the baseline account in an irrevocable fashion, such that when we think about
fortune—assuming we think about it rather than stumble in slightly irrational fear of it—we see chance as a mute and implacable set of forces, like vectors in a gravitational field. There are in reality no lucky streaks, or hot dice, or (still less) effective propitiatory gestures when it comes to the modern gods of chance—who are not gods, but factors. Thus the general view, at least in reflective positions, that lucky results are somewhat, if not entirely, undeserved. If, for example, one has the good luck to pick wealthy parents, there is something unseemly, to the democratic mind, in considering that stroke of good fortune a matter of entitlement or desert. The old saw has it that the scion of a rich and well-connected family, such as might go on to Yale as a legacy of his father and then, perhaps, ascend to the United States presidency likewise, is someone who was born on third base and thought he’d hit a triple.

This generally sound mistrust of social luck is nevertheless tempered everywhere by traces of elite self-congratulation. Sometimes, indeed, there can be a fine line between deserved success and mere inherited privilege. Birthright lotteries—which determine where an individual happens to be born, under what social and political conditions—determine a significant measure of future possibility, even when other factors (intelligence, resourcefulness, optimism) might be equal. Likewise, prevailing social and cultural conditions in local contexts will determine which elements of personality, which skills and aptitudes, will be most fully rewarded. A person of moderately high scholarly aptitude can earn a very comfortable living in a country with a public university system, for example, even as the same person might not be able to pass the gate in a smaller, private system or in a nation where higher education was less valued and so not publicly supported. That is purposely an example of fine distinction; when we imagine other
differentials, say between those persons able to adapt to quick technological change versus those who are not, or between persons with enough food margin to allow any sort of education versus those who have no such opportunity, the point becomes starker.

All of this is familiar to theorists of democratic justice, of course, and there is no need to rehearse here the details of the various theoretical mechanisms devised to cope with the problems: Rawls’s veil of ignorance, Dworkin’s lottery, Nozick’s contractual transfers, and so on. I want merely to highlight the underlying dynamic that motivates such theoretical moves, namely that luck enters the systems of political legitimacy at a very early point, indeed it might be said that luck is the problem that democratic political theory is at pains to solve. Some have more than others (where “have how?” and “more of what?” are important subsidiary questions) and the basic problem is how to decide whether, and when, that more is justified or merely a matter of contingency. At the margins of all such theories will be a threshold question, too often unasked but nevertheless omnipresent: what is the difference between the kinds of luck that political theory should address, even control, and the kinds that remain beyond human (or at least theoretical) intervention? Physical beauty is a birthright lottery; so is height; so is cognitive quickness. Should we control for these, as we control for income level and competitive social mobility? One has only to recall Kurt Vonnegut’s anti-utopian 1961 short story “Harrison Bergeron” to see, vividly, what a radically egalitarian Handicapper-General might generate in the way of perversions when faced with differences in ability generated by the genetic lottery: gifted 14-year-old Harrison, destined to wear weights on his wrists and ankles to temper his athletic ability, and a set of buzzing headphones to mute his searing intellect.⁵
The ancient title which is no title is not driven to such theoretical pathologies. It
does not regard fortune as mere luck, or randomness in distribution, but rather regards it
as both inevitable and subject to intervention under the sign of justice. Fortune is
conceived as a divine force which, without governing to a specific cosmic purpose as in
so-called “intelligent design,” takes matters out of the hands of men and places them in a
region less contaminated by interest, confusion, and partial knowledge. The lottery has a
mystic legitimacy that is greater, not lesser, than the rational choices of individuals. The
result may be, as we say, hard luck on the recipient of the black ball—think only of the
celebratory violence of Shirley Jackson’s much-anthologized 1948 short story, “The
Lottery,” in which a bucolic New England town preserves itself through the random
selection of an individual who is ritually stoned to death. But it may, equally, be the
wonderful luck of the draw that occurs when my number comes up, or my ticket is
chosen. As the state-sponsored gambling ads have it, “You can’t win if you don’t play!”

In the Platonic census, drawing lots is the decision that lies beyond question
precisely because it was made beyond choice—in fact, drawing lots generates not so
much a decision as a founding judgment, external to and hence not to be assailed by the
claims of reason. Legitimacy must acknowledge this mystical foundation, or invite an
infinite regress of justificatory disputes. Note this apparently incidental paragraph from
Jackson’s story, for example:

The original paraphernalia for the lottery had been lost long ago, and the black
box now resting on the stool had been put into use even before Old Man Warner,
the oldest man in town, was born. Mr. Summers spoke frequently to the villagers
abouthaving a new box, but no one liked to upset even as much tradition as was
represented by the black box. There was a story that the present box had been
made with some pieces of the box that had preceded it, the one that had been
constructed when the first people settled down to make a village here. Every year,
after the lottery, Mr. Summers began talking again about a new box, but every year the subject was allowed to fade off without anything's being done. The black box grew shabbier each year: by now it was no longer completely black but splintered badly along one side to show the original wood color, and in some places faded or stained.

The lottery is here executed by a literal black box, a decision-machine whose very material origins are obscured in a sort of ship-of-Theseus identity mystery and local antiquity. The box is beyond question because it is entirely opaque, both in its workings and its beginnings. Then note, by contrast, how the lottery-like schemes of democratic political theory, which attempt to align reason with devices of justification, fail precisely because they try to combine transparency (of justification) with opacity (of the device). That is, by presuming that reason and chance can be reconciled, they only end up obscuring the fact that chance, so far from being a corrigible aspect of human affairs, is their very basis. Not just the luck of the draw, in other words; luck is the draw.

V. The Real World of Democracy

Lest one think the objection is restricted to imaginary, theoretical or thought-experimental exercises, consider that the very same point can be made against virtually all real-world mechanisms of distribution and decision. An election for representation, no matter its degree of stated or realized transparency, is always a device for (as Hegel put it) transforming quantity into quality. The numbers game of totting votes to execute a majority decision—a decision which, to be sure, often falls well short of a population majority, or even a popular-vote majority—is no less and no more than window-dressing for entrenched interests, or perhaps, less cynically, a species performance art gesturing in the direction of legitimacy.
We abide by these decisions according to nostrums of sanctioned representation, and accept the resulting power wielded by states, including the threshold power of holding a monopoly on unpunished use of force. However, we do this not because we sincerely believe in the quantity-quality transformation, but rather because we realize that other sorts of mechanisms or schemas are likely worse, and that this one, despite its many failings, at least presumes to work in accordance with some supposed rational public sphere concerning “debate on the issues” or, at least, with media exposure such that we can judge the “leadership qualities” or “democratic vision” of the contenders for supremacy. Let me hasten to add that I am here thinking of robust democracies—the United States, Great Britain, France, Canada—rather than cases at the margins, where the system just described is subject only to more corruption, abuse, and declension from anything like genuine legitimacy.

Nor, again, is the point absent in conceptions of social function that privilege markets. Every market with more complexity than primitive barter is structured and regulated to the benefit of some parties over others. It is in the nature of markets, however, to claim benefits from less regulation even if that means ignoring or covering over what regulation is actually present. The spectre of Adam Smith is invoked so often in defence of the “invisible hand” function that it is easy to forget that Smith favoured highly regulated markets that would, not unlike a justificatory scheme of the liberal stripe, make people’s inherently selfish individual desires redound to the benefit of the weaker and less able. At the same time, even a much freer market than this is subject to internal pathologies that skew its benefits. The introduction of capital, which is infinitely scaleable because it is fungible and non-perishable, is, as Locke ascertained, the end of
any hope for basic market parity. Pooled capital is not subject to any of the natural “headwind” or “gravity” effects on accumulation, such as the limits of human enjoyment or the contingencies of fortune-reversal. This is not to say that one cannot lose money just as one can gain it, often very quickly, but rather to observe that money can expand to geometric proportions whereas other goods can only expand arithmetically.

When capital then is entwined with the zero-sum games associated with positional goods—goods whose enjoyment by you entails their absence to me—the resulting markets are, in effect, structured as winner-take-all economies. In effect, every aspect of human life is susceptible to a play of competitive status anxiety, and, human beings remaining after all primates highly sensitive to dominance, there is very little to countervail this complex of declensions. The rapid accumulations of wealth and status are tethered to privileged individuals, in other words, through a series of effects: (1) birthright, including especially inheritance; (2) enhanced personal opportunity; (3) preferential attachment from outside agencies; and finally (4) cumulative advantage. To see the drift here, consider a case drawn from cultural or social capital rather than capital simpliciter: academic reputation.

Other things being equal, a number of good articles are published each year in scholarly journals. The one written by the full professor at Harvard may be no better, though also no worse, than the one written by the assistant professor at Wesleyan. Blind reviewing procedures notwithstanding, there is a strong chance that the former article will find a place in a prestigious journal—the Harvard professor knows to aim high, and knows how to write in a certain approved style. There is then an even higher chance, post-publication, that her article will be “taken up” by the profession, even as the
Wesleyan professor’s piece lies unnoticed (except perhaps by friends and a few loyal graduate students). Citation of the two articles now becomes a winner-take-all economy: every time the Harvard-produced article is cited, it becomes still more likely it will be cited again, and again. Citation indexes will then measure this effect as an effect of quality, which in some sense it genuinely is, and reward the Harvard professor accordingly. At some point, the given article may achieve the critical mass of an article which it is impossible not to cite (see Rawls). At this point, there is no headwind or gravity on the article at all: its success is infinitely scaleable.

It is not always easy to discern the relationship between quality and success. Glenn Gould or Dan Brown are the equivalents, in their markets, of the Harvard professor. The former was thought by some excellent critics to be a genius while the latter is, at best, an adept marketer of intrigue. The market both cares and does not care: it is not in the business of rewarding quality, only of maximizing success. In short, we do well always to uncouple any presumed connection between market achievement and worth—but also to uncouple the opposite connection, namely that prejudice which assumes market success to be incompatible with quality. The first prejudice might be called the *myth of meritocracy*; the second might be called the *hatred of democracy*. It is obvious that the two prejudices can often be entertained within the same political culture, if not sometimes the same person.

Matters are slightly more complicated, also more serious, when it comes to other kinds of economies, especially the entwined economy of capito-democracy. Here at least two important developments are generated by the market-distribution mechanisms, neither of which has to do directly with the usual justice-theory distribution issues and
therefore cannot be addressed by their mechanisms, even supposing such mechanisms were effective. There are, first, the reduction to transaction of all social matters, and, second, the creation of entrenched rather than circulating elites. Each can be addressed only briefly here.

Transactional reduction occurs when an aspect of human affairs is conducted under the presumption of contract. That is, every time we approach interactions as bargaining sessions, including those bargains where the others are not present (they may be competitors for a contested or positional good, for example), we reinforce the ideological dominance of the market over any other way of conceiving an interaction (or ourselves). Markets and, within them, contracts are of course appropriate for all kinds of interactions, including the efficient exchange of goods and services. There may also be valid non-monetary contracts such as promises or oaths, which bind not because of force or threat of punishment. But such non-monetary contracts are a limit case that should highlight the issue of transactional reduction. If such a non-monetary contract can be reduced, in the event of dispute or non-compliance, to a monetary contract—as when a marriage becomes a battle for estates, or a person “buys out” his promise—then the original force of the contract is obliterated, replaced by a different kind of constraint than the “moral” one originally intended.

Indeed, this obliteration can be undertaken consciously, if perhaps cynically. I may decide, for example, to consider a fine for illegal parking as merely the price, high but bearable, of leaving my car somewhere. (We must assume the penalty does not involve towing.) On a larger scale, a corporation might shoulder the costs of state punishment for violating environmental standards as merely “the cost of doing business,”
with no attendant regard for why the standards are there in the first place. This is distinct from “greenwashing” costs which, however open to objection, do not seek to change one kind of cost into another. In taking on the parking ticket or the state sanction, these actions mutate fines into prices, in effect buying out the legal or ethical sanction. Such mutations, so routine that we hardly notice them, or perhaps dismiss them even when noticed, collectively act to undermine the authority of the original obligation or constraint.

Naturally the largest such reduction comes with the monetary corruption of the electoral process in putatively democratic systems. Cynical Americans sometimes air the view that, in their country, people enjoy “the best government money can buy.” Beneath the dark humour is a bleak truth: the cost of seeking and gaining election in many systems is prohibitive. Those who can shoulder it incur many debts along the way, which leads to a further related reduction, namely what economists call regulatory capture. Regulatory capture is the process by which an interested group, say a cartel of oil companies or investment banks, can influence government policy to reduce or relax the regulations that would otherwise constrain their actions (and profits). The agency created for the purpose of regulating a sector or commercial element has been “captured” such that it, instead, promotes the interests of the dominant players. The gamekeeper has turned poacher, in the popular idiom; in my current terms, regulatory capture is the point where moneyed interests are not only converting fines into prices, they are actually buying out the fining mechanism before the fact.

Entrenched elites act to reinforce these aspects of transaction reduction because they tend to be precisely those who have incurred debts and obligations on the path to
elite status. The common democratic complaint against elites is often wrong-headed, or confused. In theory an elite is merely a subset of the given population whose abilities are best suited to the task at hand. There is nothing amiss about this efficient matching of skill to work; what bothers people about elites is the assumption of other forms of superiority: when gifted professional athletes assume an arrogant social manner, or scholars disdain popular taste, or politicians think they are above the law. None of these connections is warranted, but none is necessary either. Especially in the realm of the title that is no title, the elite in question is one of random generation: the ability here is really just availability. The unfortunate consequence of generalized complaints about elites is the cultivation of an opposite pathology which I have elsewhere labelled Gumpism: the celebration of ignorance and stupidity as virtues of “honesty” and “like-me-ness.” Nowadays we might do better to call it something like the Palin-drone Effect.

The democratic issue resides not with elites simpliciter, then, but with entrenched elites, especially when they conjoin money and politics in capito-democracy. Elites are entrenched when they are reproduced over generations with little or no variance in cross-section identity. Circulating elites, by contrast, are those where pre-eminence is a reward of demonstrated ability—or even generated randomly, as when the leadership of a club rotates by lot. In general terms, elites tend to entrenchment precisely because their associated privileges work to confer advantage in successive iterations of distribution: they eliminate headwind by creating entitlement, as when the son of a wealthy father begins life with a competitive advantage that can be leveraged over and over. This need not be the case for non-monetary elites, as when they are generated by genuine meritocracy or in open competitions, but there is strong evidence that over time even such
meritocratic systems tend to ossify, moving from general circulation (equal opportunity of success for the able) to entrenched (reproduction of a ruling class or type). Consider competitive college admission as one kind of allegedly meritocratic mechanism, intended to guarantee a circulating elite. Experience shows that the circulation effect is actually small, because those with capital advantages enjoy the conditions where those advantages can, as it were, be converted into competitive cognitive advantage in the form of better coaching for tests, closer schooling in the skills rewarded by the tests, and so on.

Can we sense again the allure of the seventh title? The only way to counter the entrenchment effects of elites is to make privilege a matter of randomness. If that privilege were to include the matter of being a democratic representative, an elected leader, then the incentives and disincentives associated with transactional reduction would disappear. Debts would not be incurred on the way to office, and regulatory capture would be rendered difficult if not impossible. As long as markets continued to function in some aspects of human affairs, there would still be individual incentives to convert fines into prices, but only on a minor scale, and with reference to matters that were trivial enough that the resulting contaminations could be tolerated. The market would take its proper place as a mechanism of exchange rather than as an overarching presupposition of every human interaction, and politics would be free of the deleterious influence, now so pervasive, of the moneyed interest in all its forms.

Of course, none of this is ever going to happen in the world we know. So what can be said now?
Rancière, for his part, will say this: “We do not live in democracies.” Instead,

“... we live in States of oligarchic law . . . States where the power of the oligarchy is limited by a dual recognition of popular sovereignty and individual liberties. We know the advantages of these sorts of states. They hold free elections. These elections essentially ensure that the same dominant personnel is reproduced, albeit under interchangeable labels, but the ballot boxes are generally not rigged and one can verify it without risking one’s life. The administration is not corrupt, except in matters of public contracts where administration is confounded with the interests of the dominant parties. Individual liberties are respected, although there are notable exceptions here to do with whatever relates to the protection of borders and territorial security. (73)

And so on, in a portrait that is all too familiar, and depressing, to most of us. What we routinely call “democracies” are just oligarchies that leave “enough room for democracy to feed its passion” (74).

That passion is significant, however, and not always subject to domestication and perversion. As Rancière himself will go on to say: “To understand what democracy means is to hear the struggle that is at stake in the word: not simply the tones of anger and scorn with which it can be imbued but, more profoundly, the slippages and reversals of meaning that it authorizes, or that one authorizes oneself to make with regard to it” (93).

I am going to authorize myself to make this slippage and reversal: out of the ruins of regulatory capture of democracy comes the gift of democracy, democracy as a gift.

VI. Democracy’s Gift

A gift economy is one that cannot be reduced to transactions. Though it is true that many gift exchanges fall prey precisely to transaction—one has only to think of the massive competition consumption market created each year for Christmas—true gifting is performed without expectation of return or recompense. A gift, to be a gift, must have no
calculable value. That is why, in economic terms, gifts constitute *deadweight losses*: the giver by definition commits more resources in the gesture of the gift than the receiver himself would have done. Even welcome gifts generate losses because they execute a transaction at higher than optimum cost; unwelcome gifts are *a fortiori* propositions in loss, since the costs are the same and the transaction values even lower. Conceived as an economic exchange, gifts are at best inefficient and at worst create negative value.

But that is not how they should be conceived, and the paradox of gift-as-deadweight-loss shows us the limits of usefulness in the economic conception—a gift of its own sort, generating insight. The fact that gift economies can operate alongside, or beneath, even complex, capital-dominated market economies is a hint at what democratic politics could be like. Democracy’s gift is twofold, turning on the double genitive of its “of”: the gift that democracy bestows, but also the bestowal of democracy itself. This doubling is the gift that keeps on giving: an economy without gravity or headwind, infinitely scaleable not in generating wealth or consolidating position, but offering an infinite non-zero-sum game of justification, a game without an equilibrium that dominates either weakly or strongly.

To be sure, these remarks are offered in a spirit of optimism. Transactional reduction everywhere destroys the possibility of the democratic gift, making the incalculable precisely calculable, offering a finite game of winners and losers, dominant positions and exclusions. The spirit and the reality of democratic politics have ever been in conflict, and it is only the strength of the former that keeps the latter from a final cynical reduction. The tension between the two cannot be resolved, but perhaps it can be leveraged. What does this mean?
The first step should be the elimination of any professional political class, an entrenched elite whose susceptibility to influence by other interests, especially capital-fueled ones, is beyond argument. Practical measure: campaign finance reform, so that deep pockets are not a necessary condition of aspiring to public office. Practical outcome: circulating elites, bearing the title which is no title.

A more searching step would be keener awareness of the birthright lottery, both within nations and between them, such that individuals who enjoy inherited benefits, including basic ones of being born in a wealthy nation rather than a destitute one, know that this enjoyment is a function of multiple contingencies. If the fact of the birthright lottery is taken seriously, new distributive justice measures acquire force. Practical measures: raising inheritance tax, or eliminating inherited capital transfer altogether; citizenship taxes to offset gross inequalities between nations. Practical outcome: global citizens with a sense of responsibility for more than just their own good fortune.

Next, a shift in conceptual derivation. For four hundred years, liberal-democratic politics have argued that the unit of justification in the game of legitimacy is the private individual, in particular that individual as the owner of actual property or at least of desires and projects which are beyond general question. But without attempting to challenge this edifice of modern thought, consider a shift in value that can change the game drastically: the public justification of the line between public and private. Not only does this shift insist that those spaces and things called private constantly call for justification, it means that those justifications, themselves public, generate a discursive community of citizens. Practical measure: more public spaces in which the priority of the public over the private is explicit. Practical outcome: engaged citizens maintaining a
public realm rather than self-interested consumers exchanging taxes for services in a series of private transactions.

Finally, even a pluralistic liberal-democratic political order requires a shared ethical orientation at the baseline that, at a minimum, recognizes the other as a fellow citizen rather than a market competitor. I have argued elsewhere for a hybrid liberal-Aristotelian version of this baseline in the form of political virtues which at once sustain citizenship and defer to the fact of pluralism. Whether that version is successful is not for me to judge; I will just note that it is consistent with an even less onerous baseline commitment to the value of *sympathy* in political life. I mean by this not empathy—actual identification with the pain of another, even supposing that possible—but what Smith meant in *The Theory of the Moral Sentiments* (1759), a work that takes full measure of the innate selfishness of the modern individual even as it shows how to leverage that selfishness to greater goods. “How selfish soever man may be supposed, there are evidently some principles in his nature, which interest him in the fortunes of others, and render their happiness necessary to him, though he derives nothing from it, except the pleasure of seeing it,” Smith notes.

Of this kind is pity or compassion, the emotion we feel for the misery of others, when we either see it, or are made to conceive it in a very lively manner. That we often derive sorrow from the sorrows of others, is a matter of fact too obvious to require any instances to prove it; for this sentiment, like all the other original passions of human nature, is by no means confined to the virtuous or the humane, though they perhaps may feel it with the most exquisite sensibility. The greatest ruffian, the most hardened violator of the laws of society, is not altogether without it. (11-12)

But the exercise of compassion actually turns on another cognitive ability, namely imagination, which requires a kind of ethical and political cultivation. Otherwise, we
have the perverse ability to remain unmoved by the suffering of others, even those close to us. “Though our brother is on the rack, as long as we ourselves are at our ease, our senses will never inform us of what he suffers. They never did, and never can, carry us beyond our own person, and it is by the imagination only that we can form any conception of what are his sensations … By the imagination, we place ourselves in his situation.” This ethical imagination is itself a kind of gift, both in the having and in the exercise of it—another doubled “of.” Imagination is its own reward, but it also makes for the ability to see the other as relevantly like me, vulnerable and contingent, and so to see myself for the first time.

The practical measure here? Nothing less than the cultivation of human possibility itself. And the practical outcome? Just democracy, more or less.

Notes

1 A very funny narrative dissection of this phenomenon can be found in Steve Hely’s recent novel, How I Became A Famous Novelist, which includes a notional New York Times bestseller list and pitch-perfect parodies of the sorts of books found there.

2 Derrida, “Force of Law”; see also his Rogues, which begins to thematize, and dismantle, the prospect of future global democracy.

3 As so often, the original version is not quite as pithy: “No plan of operations extends with certainty beyond the first encounter with the enemy’s main strength.” Originally in Moltke (vol. 2, part 2, 33-40); English trans. found in Hughes (45-47).

4 See Hacking for a lucid and bracing account of these developments.

5 The opening paragraph of Vonnegut’s story goes like this: “The year was 2081, and everybody was finally equal. They weren’t only equal before God and the law. They were equal every which way. Nobody was smarter than anybody else. Nobody was better looking than anybody else. Nobody was stronger or quicker than anybody else. All this equality was due to the 211th, 212th, and 213th Amendments to the Constitution, and to
the unceasing vigilance of agents of the United States Handicapper General.” Harrison is taken away from his parents by agents of the Handicapper General; they do not notice.

6 I owe this way of making the point to discussions with Mark Migotti. Migotti imagines a region where the towns of Fineville and Priceburg share a border; in the former, the law’s sanction for illegal parking is $10, while in the latter the cost of a parking space is likewise $10. Is there a difference between the two costs, and if so, what is it exactly? That difference is the aperture or liminal space of the current argument.

7 See Kingwell, *Dreams of Millennium*, chs. 1 and 3.

8 Sarah Palin’s extended genius at playing this game makes her a democratic phenomenon of a particular postmodern sort: the mangled English, the flat contradictions, the complaints of “gotcha” questions from the “lamestream” media, the post of aggrieved outsider all lend her campaigns the status of performance art. Language and its niceties are a prime site of this performance. “Washington was stunned by the emergence of this feisty outsider from the North,” one columnist noted. “For decades, political leaders had seduced voters with their fancy talk and pretty words. But Palin refused to be a slave to oratory or grandiloquence or basic syntax. She liberated the English language from the rigid orthodoxy of meaning, because in America even words should have freedom—the freedom to appear wherever they’d like, almost as if emerging by chance or random draw.” A sample: “My concern has been the atrocities there in Darfur,” Palin once said, “and the relevance to me with that issue as we spoke about Africa and some of the countries there that were kind of the people succumbing to the dictators and the corruption of some collapsed governments on the continent.” As the columnist concluded: “Words truer been have spoken never” (Feschuk).

9 See Kingwell, *Civil Tongue* and *The World We Want*.

Works Cited


Horning, Rob. “Your Brain is the New Factory Floor,” at PopMatters, 10 August 2009; http://www.popmatters.com/pm/column/109584-your-brain-is-the-new-factory-floor/P0/


