

The Trap of Incrementalism in Recognising Children's Right to Vote.

Nick Munn

Senior Lecturer (Philosophy)

The University of Waikato

nick.munn@waikato.ac.nz

Abstract

Thirty years on from the Convention on the Rights of the Child, the international norm for the age of political majority remains set at 18 years of age. With few exceptions, those under 18 are denied access to the single most important component of formal political participation – the right to vote in elections (whether local or national). Practical efforts to open this new frontier for human rights have primarily been focused on the incremental inclusion of older children into the franchise, via attempts to lower the voting age to sixteen. By contrast, theoretical arguments, particularly by philosophers, have defended a much more expansive position on the inclusion of children, whether lowering the age to 14, 12, or even eliminating age limits entirely. In this paper, I explore the gap between practice and theory. I argue that proponents of children's enfranchisement should commit to arguing, at the practical level, for drastic changes to our democratic systems, so as, if successful, to enfranchise all those children who have a strong claim to political inclusion, rather than merely those closest to 18 years of age. The act of enfranchisement is itself empowering, as is the participation which follows. A commitment to theoretically more defensible (although politically less likely) positions could work to the advantage of children, by making moves such as the lowering of the voting age into the reasonable compromise position, rather than an extreme to be opposed.

1. Introduction

Three decades after the advent of the Convention on the Rights of the Child (CRC), voting rights for young children remain an unexplored frontier of human rights advocacy. Popular advocacy for the political inclusion of young people remains focused on lowering the voting age to 16. This advocacy has, as yet, had limited success, and while there are still some encouraging developments, both in the form of recent successes in expanding the franchise, and in terms of meaningful public discussion of and engagement with the idea of lowering the voting age, we seem unlikely to see a sudden and drastic change in state

practice. By comparison to the practical level, the twenty-first century has seen a range of arguments in both political science and political philosophy making the case for widespread enfranchisement of children, and these have served both to undermine older theories of what childhood entailed, and to argue that many children are fully competent participants in democracy, with the knowledge, skills and maturity required to vote.

In this paper, I will first examine the extent of practical change in voting age limits since the adoption of the CRC, and analyse the reasoning used in the public sphere to make the case for lowering the voting age. This almost exclusively consists of attempts to lower the voting age to 16, whether drawing on theory or on the experience of those states which have already lowered the voting age, such as Austria. I examine public response to these movements through case studies of New Zealand and Australia, both of which have seen a recent uptick in public interest in the issue. Secondly, I provide a brief overview of philosophical and political scientific arguments regarding the political capabilities of children, and the defensibility of the voting age as a means of disenfranchisement. I note that these arguments are far more expansive than the arguments made in the public political sphere, such that even the widespread success of the public campaigns discussed above, would not resolve the problems for enfranchisement identified in the philosophical and political scientific literature. I argue that we have good reasons to support a much lower voting age than the practical campaigns are pursuing. Finally, I suggest that, perhaps counter-intuitively, we might have more success at moving the voting age down, if we were to stop representing a voting age of 16 as an endpoint. Instead, we ought to make the public case that much younger children are competent to vote, and thereby, make the enfranchisement of 16 year olds more politically palatable. Whether the values appealed to are the capacity of the children in question, the consistency of our democratic procedures in treating relevantly like citizens alike, or our commitment to the CRC, we have reasons to argue for significant, rather than incremental change.

2. Votes at 16

In this section, I will first illustrate the commitment to incremental change, then analyse the changes in state practice over the last thirty years. Then, I will discuss the current state of public opinion on the role of children, using New Zealand as a case study. In focusing on the right to vote, and on movements to that end, I do not intend to diminish the roles that young people play in politics and activism independently of voting. Movements such as Fridays for Future (<https://fridaysforfuture.org/>) clearly showcase children as political actors whether or not they can cast votes. Children's actions in these context show that they both feel a responsibility to act, and that (as evidenced by the range of movements I discuss below) they value voting as a means to gain political influence which is currently being denied to them.

A commitment to incremental changes to the voting age at the policy level is easily identifiable. There are many active campaigns for the lowering of the voting age, all of which seek to empower children via enfranchisement. These share a common commitment to a voting age of 16, whether we are examining pan-European efforts such as the European Youth Forum (<https://www.youthforum.org/vote-16>), which is an umbrella organisation for young European citizens, or more local organisations. Local examples include campaigns such as 'Votes at 16' in the United Kingdom (<http://www.votesat16.org/>), Vote16USA in the United States of America (<https://vote16usa.org/>), or 'Make it 16' in New Zealand (<https://makeit16nz.wordpress.com/>). The National Youth Rights Association of the USA doesn't explicitly argue for votes at 16, but throughout their appeals for lowering the voting age, refers to 16 (<https://www.youthrights.org/>). The Chair of the Amnesty International UK Children's Human Rights Network has blogged about truly universal suffrage for young people in the UK (Walton, 2019), but the parameters of their campaign on the right to vote have (as of April 2021) yet to be finalized (<https://www.amnesty.org.uk/right-vote>). There are obvious tactical reasons for having a determinate target in mind in such campaigns, and given the continuing problem of public disapproval for any move to lower the voting age, a commitment to 16 rather than any lower age is understandable. As McAllister noted, "publics across the established democracies are generally opposed to lowering the voting age from 18 to 16" (2014). However, the importance of enfranchising the young is also clear. Gerison Lansdown, writing for the Innocenti Digest in 2005, said that "Lowering the voting age – for example, to 16 years – would increase respect for and interest in the views and concerns of young people, and provide them with political rights consistent with many of the responsibilities they are expected to carry" (Lansdown, 2005, 62). For so long as we exclude children from the franchise, we cause them these harms, while simultaneously undermining their ability to combat the harms themselves. Again, enfranchisement would be empowering. We should note that while the campaigns mentioned above specifically focus on lowering the voting age to 16, the rhetoric they utilise is not obviously relevant only to 16 & 17 year olds. Consider the reasons presented by Vote16USA to justify their campaign:

Reason #1: we need to encourage effective and relevant civic learning

Reason #2: sixteen- and 17-year-olds have a stake in the game, and politicians must pay attention to them

Reason #3: sixteen- and 17-year-olds are ready to vote

Reason #4: we need to make voting a habit

Reason #5: demographic trends hurt youth in elections: lowering the voting age can reverse it (<http://vote16usa.org/5-reasons-for-lowing-voting-age-16/>)

Each of these reasons plausibly provides motivation to expand the voting age, not just to 16 & 17 year olds, but to all children to whom the reasons apply. We will see, in the following discussion of theoretical arguments for lowering the voting age, that they apply to many children much younger than 16. As such, the choice to focus on 16 is one made because it is considered to be more likely to succeed than any lower target. We should note that there are also activist groups who have more expansive goals for the enfranchisement of children and youth, such as “We Want to Vote” (www.wir-wollen-waehlen.de), the Freechild Initiative (www.freechild.org), and the Children’s Voice Association (<https://www.childrenvoiceassociation.org/>), who all argue for full youth suffrage, or the Foundation for the Rights of Future Generations (www.intergenerationaljustice.org), which explicitly argues for both the lowering of the voting age to 16, and the extension of the right to vote by registration – allowing young people of any age to opt in to voting by registering as electors. The idea of voting untethered to age was also historically advocated by the *KinderRÄchtZÄnker* (<http://en.kraetzae.de/>) a now defunct organization based in Berlin. Arguments for voting by registration will be explored below, as this position has academic proponents as well as activist ones.

Of course, these practical efforts to expand the enfranchisement of children have had some success over the past thirty years. In addition to the activist groups mentioned above, political parties in many states now advocate for lowering the voting age to 16. But there remain few states where this has actually occurred. Amongst the successes, we can include Brazil, which lowered the voting age from 18 to 16 prior to the 1989 Presidential election. Brazil maintains some differences in the responsibilities attaching to 16 & 17 year olds as compared to the majority of eligible voters, in particular, that voting is not compulsory for them, while it is for other citizens (until the age of 70). Argentina also made voting optional for 16 & 17 year olds in 2012. Within the European Union, Austria was the first and remains the most prominent example of a state that has lowered their voting age, having done so in 2007 at the national level – the endpoint of a progression which began in 2000 at the municipal level amongst some states. Scotland lowered the voting age in 2016, again to 16, and Malta lowered the age to 16 in 2018. (ACE, 2020) There has also been movement to lower the voting age at the local level in a range of jurisdictions. The result of the 2019 United Kingdom election was disappointing for advocates of a lower voting age, as the Conservatives are the only major UK party opposed to lowering the voting age.

In New Zealand (NZ), the ‘Make it 16’ campaign launched in September 2019. While not the first such attempt in NZ, it has been some time since lowering the voting age was seriously discussed. The 1986 Royal Commission on the Electoral System recommended lowering the voting age (as part of the same process, NZ changed to a proportional representative electoral system), but that recommendation was rejected, as was an attempt in 2007 by a Greens MP, Sue Bradford, to introduce a bill on the matter. This youth-led initiative has the support of the Green Party of New Zealand, but has not yet had time to make a significant impact on political practice. However, responses to this campaign have illustrated the

difficulties faced by campaigners for a lower voting age, in particular that there remains a stark partisan divide in support for such an expansion. The Green Party of New Zealand, as well as the Children's Commissioner of New Zealand, Andrew Becroft, are in favour of lowering the voting age (NZHerald, 2018), but the governing party, the Labour party, is neutral on the matter, having refused to take a position either during their last term in government, or during the lead up to the 2020 election. Their former coalition partner, NZ First, who were removed from parliament entirely in the 2020 election, are strongly opposed to lowering the voting age. Darroch Ball, as the NZFirst spokesperson on law and order, said that "[t]he fact that youth don't vote is not a poor reflection on politics but a very real reflection of the laziness and apathy that plagues our younger generations" (Ball, 2019). Similarly, the National Party youth spokesperson Nicola Willis said, in response to the launch of the 'Make it 16' campaign, that young people both should and do have a voice in governance, even without a vote. She also claimed that a vote is not necessary for them, as they can already present to select committees, bring forward petitions, lobby and petition their local MPs and Members of Parliament, and protest (Satherley, 2019). So, we see that the more left-wing parties support broader enfranchisement, while right-wing parties are opposed. This division is mirrored in the United Kingdom, Australia, and the USA. In the USA the position of the Democratic party has become more favorable to lowering the voting age in recent years, while the Republican party remain systematically opposed.

Public opinion is, if anything, more aligned with the right-wing parties than with those on the left, with majorities in the UK, Scotland, and Australia opposing the lowering of the voting age. (McAllister, 2014). However, there is some reason to believe that younger voters are more likely to vote for left-wing parties, and as such, the support for lowering the voting age from this side of the political spectrum is more understandable. Not only are the opinions of young people not sought by those doing opinion polling, but turnout amongst those enfranchised for the first time at 18 is low compared to the electorate as a whole. If one believes that enfranchising voters earlier will help increase or maintain turnout, this provides a further reason to support the 16 target (McAllister, 2014).

3. The case for Enfranchising Children

There are many reasons offered in the literature for enfranchising children, such that a full accounting of them is beyond the scope of this paper. Rather than attempting to analyse all of them in depth, I will focus primarily on arguments around *capacity* for political participation. These arguments claim that many children have the capacity for political participation (however that is instantiated), and that capacity is a sufficient justification for the enfranchisement of a citizen. Fowler claims for example that "these differences in capacities are in fact the only relevant feature that divides children from adults" (2014, 96). If this is so, we have reason to enfranchise all capable child citizens, as there is no other relevant feature

which would warrant their continued disenfranchisement. The act of enfranchisement is deeply empowering, as the enfranchised citizen has a voice and ability to impact both the choice of government and of policy, in ways that the disenfranchised do not. Arguments of this kind have been made by many authors, including Olsson (2008), myself (2012a, 2012b), Joanne Lau (2012), Claudio López-Guerra (2012), Timothy Fowler (2014), and Lachlan Umbers (2018).

In this section I will first give a brief overview of the wider range of arguments that have been made for the enfranchisement of children, before defending my current focus on philosophical arguments about children's capacity to vote. I will then survey this subset of arguments regarding the capacity of children. It is interesting to note that the range of arguments surveyed throughout this section exist largely independently of the human rights framework for children established by the CRC. Voting rights for children are, if these arguments succeed, defensible without appeal to the CRC, although it would clearly be the case that a successful argument in this domain would be good evidence that satisfying Article 12's requirement that states "listen more carefully to children's voices" (Hanson, 2016) would require states to grant children the vote.

3.1 The range of arguments.

There is a long history of argument for the enfranchisement of children, either incrementally or, as I am arguing for here, more holistically. Some of this argument predates the CRC, and much of the rest, as noted above, does not rely on the convention in making its case. However, the limits of what the convention requires provide a framework for the arguments discussed below. In particular, Thomas (2007) notes that while participation as detailed in Article 12 of the CRC does not entail voting, often when children 'participate' in political discussions without having a vote, their participation doesn't achieve tangible outcomes for them (202). The focus on participation as opposed to voting within the CRC also means that arguments which start from the CRC do not address the harms of disenfranchisement as explicitly as do the ones detailed below. Reynaert et al (2009) engage in a lengthy discussion and survey of participation rights for children without so much as mentioning either 'votes' or 'voting', and while Article 12 is appealed to frequently (Tobin, 2013; Hanson & Lundy, 2017) as generating a positive duty on states to enable children to constructively participate, this is not framed as a right to vote within this literature.

John Holt, in 1975, argued for wholesale enfranchisement of children and young people, noting that universal enfranchisement does not compel those enfranchised to vote, and as such that if many or most young people are not interested in voting, they simply will not do so (Holt, 1975). Richard Farson argued in 1974 that paternalistic protections of children were in the long run harmful, and that in order to value children for themselves, we need to recognise their right to vote (Farson, 1974). Bob Franklin similarly was sanguine about the potential effects of widespread enfranchisement of children, particularly when weighed against the injustice of excluding "large numbers of children who are interested and informed

about politics” (Franklin, 1986, 45). He claimed that such injustice far outweighed the danger of some children being included who were not capable.

More recently, the resurgence of epistocratic arguments against Democracy has placed certain proponents of Democracy into a predicament. As discussed in Hinze (2020), Democrats will find it difficult to consistently deny the epistocratic challenge to Democracy, and to sustain the exclusion of children from the vote. He suggests that we ought, in reconciling these positions, to abandon the exclusion of children, rather than acceding to the claims of the Epistocrats. A similar rejection of Epistocracy drives Tremmel & Wilhelm’s (2015) argument that we should both reject Epistocracy as a system of government, and the use of voting age limits as a proxy for political maturity. Instead, they argue that “young people and children should be able to claim the right to vote, at a point in time chosen by them” (2015, 139). They propose to enable this via allowing youth to register as voters when they develop the desire to vote, thus enabling youth voting, while not imposing it on those who are uninterested. This position aligns with that of Phillip Cook (2013) who thinks that the act of registering as a voter demonstrates both the relevant desire and capacity, and ought to suffice for the granting of the right to vote, regardless of age.

Other arguments focus instead on the positive consequences for children and young people of having the right to vote recognized. Neena Modi for example argues that children’s wellbeing is compromised by insufficient attention being paid to their needs. Voting is a means of calling attention to this concern, as governments pay attention to the electorate, not the population at large, and children are currently excluded from the electorate wholesale (Modi, 2018). Joshua Douglas provides many arguments for benefits arising from a lower voting age, including benefits to electoral processes, the possibility of increasing turnout, of developing the habit of voting among the young, and of being fairer to young people (Douglas, 2017, 64-68). Similarly, I (Munn 2018; 2020) articulate a range of benefits that would accrue both to children and the state from the inclusion of children as voters, including the likelihood that voting rights being granted to children would increase their share of social spending (2020, 116) and thereby reduce their comparative disadvantage in the extent to which their interests are accounted for by governments. I also note in these articles that political inclusion of young people would have the direct positive result of overcoming their current political marginalization, as children constitute a sufficiently large potential voting block that political parties would need to take their perspectives into account in policy development and practice (Munn 2018, 613).

Finally, there are a set of arguments that offer proxy or proxy-claim voting for children and young people as a means of increasing their political inclusion, far earlier than even 16. Pantell and Shannon recognize that children’s issues are under-served in the current political climate, and propose to resolve this by granting proxy votes to (primarily) parents to enable them to advocate for their children. They take this suggestion to be one among a range of moves that would improve the position of children, also including a lower voting age, better access to voting and financial incentives (Pantell & Shannon, 2009,142). Wall (2014) has also argued for the development of a proxy system, of a somewhat different kind. He describes a ‘proxy-claim’ system in which adults (again, often but not always parents) have a proxy vote they should exercise on behalf of children, but which a child can claim when they desire to utilize the vote themselves. The act of claiming on Wall’s account aligns with the Tremmel & Wilhelm position detailed above. I have in the past argued against proxy voting as a complete replacement for actually enfranchising young people,

but accept that it is superior to the status quo, and I take Wall's position to be a superior means of instituting a proxy system, as the claim component overcomes the primary objections to proxy voting in general.

3.2 Why focus on capacity?

Some opponents of children's enfranchisement deny that (lack of) capacity is all that matters for enfranchisement, suggesting that children lack experience, are easily manipulated, or will actively harm democracies if included (see for example Chan & Clayton, 2006). I take it, however, that these concerns are incompatible with our commitments to enfranchisement more generally. That is, if we were to exclude from the franchise those who lack experience, are easily manipulated, or whose inclusion will harm democracy, we would have to drastically re-envision enfranchisement more generally. If we only care about these matters when enfranchising children, we are using them as excuses for disenfranchisement, rather than as reasons.

While a complete defence of this claim is beyond the scope of the current paper, I think it is worth noting how the objection is cashed out (for more discussion, see Munn 2018; 2020). In short, if an interlocutor wishes to use any of these other considerations as reasons to exclude children from the franchise, we may justifiably ask them whether they are willing to consistently apply the consideration to all citizens. Will they accept the disenfranchisement of all those who are easily manipulated, or does the fact of being easily manipulated matter only when it is coupled with youth? If the latter, then it is not manipulability, but age, which is doing the work. Consistency requires that we utilise manipulability as a criterion for exclusion equally across all citizens, or not at all. With the exception of some epistocratic arguments against democracy itself, the position that our democracies should be exclusionary is deeply unpopular. So, it is safe to conclude that we are unwilling to use manipulability as an exclusionary criterion.¹

3.3 The scope of capacity-based arguments for lowering the voting age

There are a range of arguments in the literature that argue that current practice (votes at 18) is incompatible with our best theoretical understanding of what justifies inclusion in, or exclusion from the franchise. The extent to which these arguments make a positive case for an alternative age threshold

¹ If a state is unwilling to exclude adults on capability grounds, then even the capability grounds for excluding children becomes untenable. At that point, one might want to commit to a truly universal enfranchisement of citizens, from birth. While I think such a position is defensible, I will not address it here.

varies, but they consistently settle on a point much lower than 16. For example, López-Guerra claims that “the best available evidence on moral and cognitive development suggests that at ten years of age normal children have the capacity to understand the idea of electing representatives and to adopt a position of their own, however rudimentary, on both the morality of the process and the alternatives at a given contest” (2012, 30). This, on his account, suffices to warrant their inclusion. I shall not attempt to discuss all the arguments to this end, but focus on a small number of positions.

Lau and I both argued in 2012 for a consistency based approach to the inclusion of children in our democratic practice. While Lau does not commit to a particular age at which she believes that enfranchisement is appropriate (860), her arguments can, and I believe should clearly be read as a defence of a voting age significantly lower than 16 (2012). I argued at that point for a lowering of the voting age to 14, coupled with an option for younger children to demonstrate capacity and thereby be granted early entry into the franchise (2012a, 2012b). Lau presents two arguments. In the first, the ‘symmetry argument’, she rejects the asymmetry between the young and the old in the granting of voting rights, which currently results in the elderly being allowed to vote whether or not they are capable, and children being denied the right to vote, whether or not they are capable. As she notes, “applied symmetrically, all conceptions of political capacity would lead to the disenfranchisement of the elderly if children are disenfranchised” (861). We are unwilling to disenfranchise the elderly, and so we ought to enfranchise children. Lau’s arguments rely heavily on a notion of capacity, and the claim that, whatever standard we decide to use, we ought to apply that standard equitably to all citizens, regardless of their age.

Lau calls her second argument the ‘domains argument’ (2012, 865). This argument relies on the similarities in the requirements of capacity in various domains of activity, coupled with the unequal treatment of children in these domains. It is a position also present, although not named, in my earlier work. For instance, I argue that the attribution of criminal capacity to a child who is not also attributed political capacity, is indefensible because it is inconsistent – the considerations relevant to the attribution of capacity will be satisfied in both cases or neither. If we are willing to accept that a 15 year old (as in Australia), or a 10 year old (England), a 14 year old (Italy), or a 16 year old (Spain), are criminally responsible for their actions, we must, for the sake of consistency in the application of the notion of capacity, accept their political capacity to vote. In doing so, we accept a responsibility to satisfy their claims to voting.

There are, of course, numerous objections to the equivalence being drawn here between criminal and political capacity, for example, worries about the distinction between a right (voting) and a responsibility (to obey the law), or a denial that the consequences of voting and criminal behavior are relevantly equivalent (see for example Goldson, 2009). But in response, it is worth noting, first, that the legislative tools by which ages of criminal and voting are dictated often utilize the same language – appealing to

understanding of the nature and significance of the action to be undertaken (Lau, 2012; Munn, 2012a, 2012b). If we examine what it means, in each of these domains, to have an 'understanding of the nature of the act' or an 'understanding of the significance of the act', the case for setting the age of voting higher than that of criminal responsibility becomes even more fraught. For when we examine the attribution of criminal responsibility, we see that there are clear thresholds for competence that must be met, even by adults, in order for them to be liable for criminal punishment, and the attribution of criminal responsibility to youth relies on these thresholds. However, in the voting case, there are often no such thresholds, and where they exist, they are easier to satisfy than are criminal responsibility requirements (Munn, 2012b). Archard for instance describes the competence required of a voter as "a minimal rationality, an ability to distinguish between parties, candidates and policies in terms of interests, aims and goals which can be identified as worth promoting. In short, the ability is that of making a choice between alternatives on relevant grounds" (Archard, 101). We can make a similar case for the attribution of medical capacity (Munn, 2012b), or for legal responsibilities in non-criminal settings. As Lau notes, "[w]hatever age a government considers appropriate for children to appreciate the seriousness of their legal matters would also be the same age at which children would be able to appreciate political matters" (867).

Lachlan Umbers provides an argument from convergence. He claims that multiple theoretical approaches converge on a common conclusion; in this case, the conclusion that the conventional position, disenfranchising all those under 18, is untenable (2018, 1). Instead, the convergence approach suggests that "children from around the age of 12 be enfranchised" (2018, 2). He argues that whether you prefer instrumental or non-instrumental approaches to the justification of democracy, the goods you are likely to appeal to will "likely be better promoted by the enfranchisement of minors than by their continued exclusion" (2018, 2). Within the category of Instrumental approaches, Umbers considers epistemic justifications of Democracy, such as those offered by Estlund (2008) and Landemore (2012) and participatory approaches such as those of Mill (1861) and Pateman (1970). Non-instrumentally, he considers Liberty (Pettit, 2012) and Equality based approaches. Within equality based approaches, he discusses expressive (Beitz 1989; Griffin, 2003; Waldron, 1999), distributive (Brighouse, 1996; Christiano, 2008), and relational (Anderson, 1999; Scheffler, 2003, Kolodny, 2014) accounts. Again, he claims that defenders of each of these styles of approach have reason to endorse the enfranchisement of children. He notes that the "convergence, in itself, constitutes substantial evidence that the exclusion of children is unjust" (2018, 18). In his defence of this wide-ranging set of claims, capacity for political participation features heavily. He claims that children as young as 12 have the capacity to make positive epistemic contributions to democratic outcomes (2018, 7), and that "[t]here is every reason to think that sufficiently mature minors will generally have sufficient capacities in the political domain" (2018, 9).

There are many more examples of such arguments, but the above discussion already illustrates how much further they go than any active campaign for changes to state practice. It is worth noting however, a logical

extension of the focus on capacity, which is that we may not be justified in having a minimum voting age at all. If we accept that any voting age runs two risks, firstly, of falsely including the in fact incapable, and secondly of excluding the in fact capable, then our task becomes one of finding the optimal balance between these risks. Yet, the risk profile of these is unequal. We might, following Goodin & Lau's expansion of the Condorcet Jury Theorem, argue that the inclusion of the incapable doesn't in practice undermine the quality of democratic decision-making (2011). As such, no significant risk is generated by over-inclusion in the franchise, whereas, by contrast, there is at least significant harm caused by under-inclusion, namely in the breach of the civil or political rights of those so excluded. This point was also made by López-Guerra, who claimed that justice in political inclusion is served by the granting of equal voting rights to all those capable of political participation, and "since age and mental condition are imperfect indicators of this capacity, justice would be best served by abolishing all requirements for voting based on age" (López-Guerra, 2012, 26). This position, obviously, goes even further.

Finally, I should note that there is sometimes overlap between the practical arguments (for votes at 16) and the theoretical, particularly related to the Austrian experience post-2007. While there is no empirical evidence on the effects (whether beneficial or not) of expanding the franchise to those below the age of 16, there is, increasingly, some evidence of the beneficial effects of expanding the franchise from 18 to 16. Tommy Peto (2018) utilized this evidence in arguing for the reduction of the voting age to 16 on practical grounds. He claims that we can now demonstrate that 16 & 17 year olds are not only as politically interested as other voters, but also as knowledgeable and that they vote just as competently (Wagner et al., 2012: 373–376; Zeglovits, 2013, 251; Zeglovits and Zandonella, 2013: 1089). Further, he notes, they have higher turnout rates than other (older) first time voters do (Bergh, 2013: 92; Zeglovits, 2013: 252; Zeglovits and Aichholzer, 2014: 351–361). This evidence helps rebut the claim that 16 year olds are not competent to vote, but it does not give us any reason to believe that we have, at 16, found the right place to draw the enfranchisement line.

4. What benefits could arise from abandoning incrementalism?

There is much to be said for incrementalism in general. Where we have a greater goal in mind, such as a significant reduction in global carbon emissions, we might well want to progressively implement restrictions on emissions, and evaluate the consequences of each restriction before proceeding to the next. However, if the increments are poorly calibrated, they can fail in multiple ways. The initial target may fail to achieve buy-in or compliance (as has arguably happened with the attempt to reduce the voting age over the past 30 years), or they may not suffice to produce any tangible benefits (as appears to be the case with the Paris Climate agreement, see Allen, 2019). So it is important to be willing to abandon an incremental approach, if it is failing to achieve our desired ends. Sometimes, as Levmore puts it, we should

favour a leap over baby steps (2010, 816). In the case of voting rights, arguing for a leap may produce the small steps in the right direction, which we have not yet made. This may seem paradoxical, in that I propose that we can achieve incremental change if we stop arguing for it, and instead argue for drastic change. However, the point is that in at least some cases, incremental changes are seen as radical by the public and therefore rejected, and one way to overcome this is to normalize the proposed incremental changes by instead offering more radical alternatives. At the practical level, lowering the voting age appears to be such a case.

Chan & Clayton's 2006 argument against lowering the voting age to 16 appealed to a range of considerations. Amongst these was that of *public opinion*, that the public (in particular, for these purposes, the voting public, which excludes those under 18) does not support lowering the voting age. One potential benefit of abandoning incrementalism is that a public commitment to more extreme positions on enfranchisement could help to normalize the position of lowering the voting age to 16. This would arise by positioning voting at 16 as a plausible compromise between the drastic shift argued for by philosophers, and the status quo. Shifting the Overton window to situate voting at 16 firmly within the center of acceptable positions on the age of enfranchisement, would increase the plausibility of enacting meaningful political change on the issue. As Joseph Lehman notes, successful politicians are not those who shift the Overton window, but those who recognize when it shifts, and adapt their policies and positions to continue to represent the views of a substantial number of their constituents.² Politicians, he claims, "typically don't determine what is politically acceptable; more often they react to it and validate it. Generally speaking, policy change follows political change, which itself follows social change" (Lehman, 2010). I am suggesting that we may have more success in popularizing votes at 16, if it looks like a conservative position on enfranchisement rather than the extremely liberal position it is currently seen as. The key, of course, is to change the public opinion. We have evidence, over the course of three decades of argument, that the opinion of the voting population hasn't changed significantly on this issue. Those in favour remain in the minority. An interesting counterpoint to this general rule arises in Scotland, which has seen the overall support for voting at 16 drastically increase following the lowering of the voting age there – as some commentators have noted, this may be because the predictions of disaster following the inclusion of 16 and 17 year olds did not come to pass (Loughran, 2019). One explanatory factor for the persistence of opposition to a voting age of 16 might be that the evidence does not support the move

² Regarding the Overton window, it should be noted that this concept, while initially developed by a right-leaning think tank in the US, and while it has been used as a partial explanation of Trumpism, and enthusiastically embraced by the alt-right (again, in the US) in an attempt to push their agenda, is not in itself problematic. What is potentially worrying is the failure, broadly speaking, of liberals and others on the political left to recognize and respond to the systematic use of it by the right, in an attempt to shift the boundaries of acceptable discourse. Whether you are liberal about some particular issue, or about many or all issues, it is a useful tool for engaging the public.

from 18 to 16. It supports a more drastic change, such as from 18 to 12, as Umbers (2018) suggested. This explanation is consistent with the Scottish experience, in that 16 & 17 year olds in Scotland were, as expected, proven competent participants, and this competence is now recognised by a greater proportion of the total voting population.

We might also be concerned about treating 16 as the endpoint, rather than simply the first of a series of incremental changes along a path towards complete enfranchisement of the young. Isolating 16 as the goal makes it vulnerable to criticism via either slippery slope arguments or attempts at a reductio. One can imagine an opponent of votes at 16 arguing that the very reasoning the 'Votes at 16' campaign uses to defend the competence of 16 year olds, could be used to defend the competence of 6 year olds. In fact, Chan and Clayton make almost this claim, calling it the 'appeal to insignificant differences' in the competence of 16 year olds as compared to 18 year olds. They say that "for all we know, we could use the same argument repeatedly until we have enfranchised six-year-olds, which would be absurd" (2006, 540). While I deny the claimed absurdity, I am not committed to an incrementalist approach, so such a denial is easy for me. Similarly, López-Guerra analyses the literature on moral development and concludes that it suggests the age limit should be lower than ten (2012, 137), which suggests that he too denies the absurdity of granting such rights to six year olds.

We have spent the past thirty years arguing, mostly unsuccessfully, for the first move in the incremental chain that would lead to a just system of enfranchisement, and even in those states where the first move has been successful, the political will to attempt further improvements is not present. I suggest that an alternative which is at least worth trying, is to normalize the concept of voting at 16, by arguing at the public rather than the academic level for the much more expansive conceptions of enfranchisement which many academics think are defensible. Doing so may work to the advantage of children, by making moves such as the lowering of the voting age into the reasonable compromise position, rather than an extreme to be opposed.

5. Conclusion

I have previously argued for a combination approach, of first lowering the voting age (to 14, in [ref removed for anonymous review]), and secondly, instituting a particular kind of capacity test for those under whatever our lowered voting age turns out to be ([ref removed for anonymous review]). Whatever age we pick as the cutoff, there will be people, and usually many people, who have a good claim to being as capable, and as such, as deserving of inclusion, as those above the line. The question was of how to leave open the potential for their inclusion, while putting forward a politically viable proposal for expanding the franchise. These days, I incline towards a more fully inclusive enfranchisement. Allow, but

do not compel, all citizens to vote, from whenever they desire to. If they prove in practice incapable of successfully filling out a ballot, their votes will be caught and discarded in the processes that already exist for this exact purpose. This approach has the virtue of being supported by the evidence we have of the political capacity of children. That is, many of them are capable, and are currently wrongly excluded, including many who are much younger than 16. We ought to enfranchise these children, both as a matter of consistent recognition of political capacity, and as a means towards children's empowerment. Doing so generates some risk via the inclusion of incapable voters into the system, but we already accept that risk in the inclusion of incompetent adults, and the actual levels of risk involved are trivial. Advocating for this expansive conception of enfranchisement also offers a potential benefit, as discussed in this article, of making extant political campaigns to lower the voting age to 16 look more appealing to the general public, by comparison. That is, public defense of this extreme position on enfranchisement, shifts the domain of acceptable public argument towards inclusion. In doing so, it provides an important counterweight to certain trendy epistocratic arguments for curtailing the franchise (Brennan, 2011, 2016, 2018).

I hope that events will overtake my skepticism here, and that we will shortly be deluged with states following the lead of Brazil, Austria, and Malta in lowering the voting age to 16. Australia might be next, with a bill under consideration at the moment. The UK is now unlikely to change their policy on this issue, as the Conservatives made a voting age of 18 part of their policy platform in the 2019 election. However, as I have argued above, even if we suddenly reach a tipping point regarding the enfranchisement of 16 & 17 year olds, and a voting age of 16 becomes the new norm, this doesn't eliminate the injustice being done to children through political exclusion. It reduces it, by enfranchising some of those who have good claims to inclusion, but it leaves us with a further battle to fight, namely, the inclusion of those under 16 who have good claims to political inclusion via enfranchisement. So, even in this best case scenario, a move away from incremental arguments will make exploring this new frontier of children's rights easier. Lowering the voting age to 14 (or 12, or even lower) is easier to defend, when it is a compromise position between the status quo, and some other extreme, such as enfranchisement from birth.

References

ACE The Electoral Knowledge Network (2020) <https://aceproject.org>

Allan, J. I. (2019). Dangerous Incrementalism of the Paris Agreement. *Global Environmental Politics*, 19(1), 4-11.

Anderson, E. S. (1999). What is the point of equality? *Ethics*, 109(2), 287-337.

Archard, D. (1993). *Children, Rights and Childhood*. London: Routledge.

Ball, D. (2019). Lowering the Voting Age is Ideological Nonsense. <https://www.magic.co.nz/home/news/2019/09/darroch-ball--lowering-the-voting-age-is-ideological-nonsense-.html>

Beitz, C. R. (1989). *Political equality: An essay in democratic theory*. Princeton University Press.

Bergh, J. (2013). Does voting rights affect the political maturity of 16-and 17-year-olds? Findings from the 2011 Norwegian voting-age trial. *Electoral Studies*, 32(1), 90-100.

Brighouse, H. (1996). Egalitarianism and equal availability of political influence. *Journal of Political Philosophy*, 4(2), 118-141.

Chan, T. W., & Clayton, M. (2006). Should the voting age be lowered to sixteen? Normative and empirical considerations. *Political studies*, 54(3), 533-558.

Christiano, T. (2008). *The constitution of equality: Democratic authority and its limits*. Oxford University Press.

Cook, P. (2013). Against a minimum voting age. *Critical Review of International Social and Political Philosophy* 16(3). 439-458.

Douglas, J.A. (2017). In defense of lowering the voting age. 165 U. PA. L. REV. ONLINE 63. <http://www.pennlawreview.com/online/165-U-Pa-L-Rev-Online-63.pdf>.

Estlund, D. (2009). *Democratic authority: A philosophical framework*. Princeton University Press.

European Youth Forum. (2016). <https://www.youthforum.org/>

Farson, R. (1974). *Birthrights: A Bill of Rights for Children*. New York: Macmillan Publishing.

Fowler, T. (2014). The status of child citizens. *Politics, Philosophy & Economics*, 13(1), 93-113.

Griffin, C. G. (2003). Democracy as a non-instrumentally just procedure. *Journal of Political Philosophy*, 11(1), 111-121.

Goldson, B. (2009). Difficult to understand or defend: reasoned case for raising the age of criminal responsibility. *Howard Journal of Criminal Justice*, 48(5), 514-521.

Goodin, R. E., & Lau, J. C. (2011). Enfranchising incompetents: suretyship and the joint authorship of laws. *Ratio*, 24(2), 154-166.

Hanson, K. (2016). Children's participation and agency when they don't 'do the right thing'. *Childhood*, 23(4), 471-475.

Hanson, K. & Lundy, L. (2017). Does exactly what it says on the tin? *International Journal of Children's Rights*, 25, 285-306.

Hinze, J. (2020). Does epistemic proceduralism justify the disenfranchisement of children? *Journal of Global Ethics*, 15(3), 287-305.

Holt, J. (1975). *Escape from Childhood*. New York: Penguin

Kolodny, N. (2014). Rule over none II: social equality and the justification of democracy. *Philosophy & Public Affairs*, 42(4), 287-336.

Landemore, H. (2012). *Democratic Reason: Politics, Collective Intelligence, and the Rule of the Many*. Princeton University Press.

Lansdown, G. (2005). *The evolving capacities of the child* (No. innins05/18).

Lau, J. C. (2012). Two arguments for child enfranchisement. *Political Studies*, 60(4), 860-876.

Lehman, J. G. (2010). An introduction to the Overton window of political possibility. *Mackinac Center for Public Policy*. Retrieved November 10, 2019. <https://www.mackinac.org/12481>

Levmore, S. (2009). Interest groups and the problem with incrementalism. *U. Pa. L. REV.*, 158, 815.

López-Guerra, C. (2012). Enfranchising minors and the mentally impaired. *Social Theory and Practice*, 38(1), 115-138.

Loughran, T, et al. (2019). 'Votes at 16' and Lessons From 1969. *Political Insight*, 10(3), 32–35, doi:10.1177/2041905819871845.

McAllister, I. (2014). The politics of lowering the voting age in Australia: Evaluating the evidence. *Australian Journal of Political Science*, 49(1), 68-83.

Make it 16. (2019). <https://makeit16nz.wordpress.com/>

Mill, J. S. (1861). Considerations on representative government. In J. Gray (Ed.), *On liberty and other essays*. Oxford, UK: Oxford University Press.

Modi, N. (2018). A radical proposal: to promote children's wellbeing give them the vote. *British Medical Journal*, 361:k1862

Munn, N. J. (2012a). Reconciling the criminal and participatory responsibilities of the youth. *Social Theory and Practice*, 38(1), 139-159.

Munn, N. J. (2012b). Capacity testing the youth: A proposal for broader enfranchisement. *Journal of Youth Studies*, 15(8), 1048-1062.

Munn, N.J. (2018). Against the political exclusion of the incapable. *Journal of Applied Philosophy*, 35(3), 601-616.

Munn, N.J. (2020) Political Inclusion as a Means of Generating Global Justice for Children. *Ethics, Politics and Society*, 3, 105-128.

National Youth Rights Association. (2019). <https://www.youthrights.org/>

NZ Herald, (2018) "Lower Voting Age to 16, urges Children's Commissioner Judge Andrew Becroft", https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=12003769

Olsson, S. (2008). Children's suffrage: A critique of the importance of voters' knowledge for the well-being of democracy. *The International Journal of Children's Rights*, 16, 55–76.

Pantell, R.H. & Shannon, M.T. Improving Public Policy for Children: A Vote for each Child. *Intergenerational Justice Review*, 9(4), 139-143.

Pateman, C. (1970). *Participation and democratic theory*. Cambridge University Press.

Pettit, P. (2012). *On the people's terms: a republican theory and model of democracy*. Cambridge University Press.

Reynaert, D., Bouverne-de Bie, M., Vandeveld, S. (2009). A review of children's rights literature since the adoption of the United Nations convention on the rights of the child. *Childhood*, 16(4), 518-534.

Satherley, D. (2019). National Opposes Lowering the Voting Age. <https://www.newshub.co.nz/home/politics/2019/07/national-opposes-lowering-the-voting-age.html>

Scheffler, S. (2003). What is egalitarianism? *Philosophy & Public Affairs*, 31(1), 5-39.

Thomas, N. (2007). Towards a Theory of Children's Participation. *The International Journal of Children's Rights*, 15, 199-218.

Tobin, J. (2013). Justifying Children's Rights. *International Journal of Children's Rights*, 21, 395-441.

Tremmel, J. & Wilhelm, J. (2015). Democracy or Epistocracy? Age as a Criterion of Voter Eligibility. In Tremmel J., Mason A., Godli P., Dimitrijoski I. (eds) *Youth Quotas and other Efficient Forms of Youth Participation in Ageing Societies*. Springer, Cham.

https://doi.org/ezproxy.waikato.ac.nz/10.1007/978-3-319-13431-4_9

Umbers, L. M. (2018). Enfranchising the Youth. *Critical Review of International Social and Political Philosophy*, 1-24. DOI: 10.1080/13698230.2018.1511172

Vote16USA. (2019). <https://vote16usa.org/>

Wagner, M., Johann, D., & Kritzinger, S. (2012). Voting at 16: Turnout and the quality of vote choice. *Electoral Studies*, 31(2), 372-383.

Waldron, J. (1999). *Law and Disagreement*. OUP Oxford.

Wall, J. (2014). "Why children and youth should have the right to vote: An argument for proxy-claim suffrage. *Children, Youth & Environments*, 24(1), 108-123.

Walton, K. (2019). Votes for Children: The Case for Universal Suffrage. <https://www.amnesty.org.uk/blogs/childrens-human-rights-network-blog/votes-children-case-universal-suffrage>

Zeglovits, E. (2013). Voting at 16? Youth suffrage is up for debate. *European View*, 12(2), 249-254.

Zeglovits, E., & Aichholzer, J. (2014). Are people more inclined to vote at 16 than at 18? Evidence for the first-time voting boost among 16-to 25-year-olds in Austria. *Journal of Elections, Public Opinion and Parties*, 24(3), 351-361.

Zeglovits, E., & Zandonella, M. (2013). Political interest of adolescents before and after lowering the voting age: the case of Austria. *Journal of Youth Studies*, 16(8), 1084-1104.

DRAFT