

# **Can we design democratic institutions that take into account the full preferences of the majority and where group decision-making is stable and where the process satisfies minimal conditions of fairness?**

## **Introduction**

Democratic institutions play a significant role in ensuring the voice of the electorate is heard and respected in political proceedings. Nevertheless, creating democratic institutions which encompass the entirety of the preferences of the majority, including a stable decision-making process which satisfies minimal conditions of fairness is a complex challenge which collectively is not possible to achieve. While it may be possible to satisfy minimal conditions of fairness such as transparency, impartiality and Rule of Law and have a stable decision-making process, satisfying the desires of the full electorate is one which can never be achieved due to the vast differences in political beliefs across the political spectrum, the impracticalities of complete proportional representation, and potential havoc caused by voting from “uneducated masses” as suggested in Plato’s Republic 375 BCE.

Democracy in its literal terms means “rule by the people”, suggesting its very essence is dependent on the will of the people being established. But in a broader sense, democracy constitutes the political systems in which the electorate has some involvement in the process of decision-making whether directly or indirectly. This implies, however, that democracy in practice differs from the idealistic idea suggested through the theoretical belief that democracy establishes the will of the people as in practice, it is often mediated. While occasional direct democracy - the electorate expressing their views without the interference of a representative - allows the preferences of the majority to be met, representative democracy - democracy mediated via a person or political party where the mediator acts on behalf of the electorate to exercise political choice - is more commonly used suggesting a political system cannot solely satisfy the preferences of the majority. Arguably, direct democracy is somewhat mediated as referendum questions are decided by the leading party in government, which can be manipulated to achieve political advantage, as seen in the case of the Scottish Independence Referendum 2014, where the question was worded as “Should Scotland be an independent country?” where 36% of voters wanted ‘devo-max’, with significant powers devolved to Scotland as they remained part of the UK. However, this option was not on the ballot paper. The above points highlight the difficulties in satisfying the preferences of the majority, where even systems which are seemingly geared to appeasing the direct will of the majority, this is still mediated by the government. These problems will be addressed in further detail in this essay.

However, the phrases 'minimal conditions of fairness' and 'stable' decision-making must also be considered to make this answer well rounded in relation to the question being addressed. By considering 'minimal condition of fairness', the keyword is 'minimal', which arguably is the basis of most democratic institutions. A fair democratic institution is one where transparency, impartiality and Rule of Law are at the centre of affairs. This means government operations are open and visible to the electorate, providing an understanding in government affairs allowing them to make informed choices. The government is also expected to abide by and enforce the rules of the land. This can be practically achieved as seen through the governments of the UK and the US where the President or Prime Minister is expected to abide by the law of the land along with ensuring operations are visible to the public and open to scrutiny through the media and Prime Minister's Questions. The term 'minimal', however, is also subjective in meaning. In this essay, 'minimal' conditions of fairness is one where the electorate's rights are recognised by the democratic institutions in place, which could arguably be the fact that the electorate is given the right to vote, as it means their opinions are taken into account during decision-making, which is the barest minimum that is to be expected of a democratic institution. These possibilities of the upholding of minimal conditions of fairness seem to be possible, and will be explored in greater detail in this essay.

The final factor that is to be considered is what is meant by stability. A stable democratic institution is one where there are checks and balances on political affairs, constitutional protections and a peaceful transfer of power which is ensured. Likewise with the notion of 'minimal conditions of fairness', this too can be accomplished as empirically observed through the codified constitution of the US, or the peaceful transfer of power encouraged in the UK. There are also multiple checks and balances in place on an elected body's power, with examples such as Prime Minister's Questions and Select Committees being excellent examples of this at play.

The issue, as will be discussed at great length within this essay, is the incompatibility of all three factors working intertwined in practice. Theoretically, the perfect democratic institution is one where all factors are at work, with equal prevalence within the institution. However, as will be explored through the case studies of Nigeria, the UK, the USA and more, this is not the case as one factor inevitably is traded for the other to flourish. While attaining minimal levels of fairness and stability in decision-making may be possible individually, collectively, with the notion of satisfying the full preferences of the majority, this cannot be accomplished as it is too complex of a challenge. In other words: the perfect democratic institution does not exist and cannot be accomplished.

### **Full Preferences of the Majority**

As aforementioned, the fundamental role of democratic institutions is to fulfil the will of the majority. As women's suffrage campaigner: Carrie Chapman Catt put it,

*“Everybody counts in applying democracy. And there will never be a true democracy until every responsible and law-abiding adult in it, without regard to race, sex, color or creed has his or her own inalienable and unpurchasable voice in government.”* The voice of the majority is key in establishing a true democratic institution. However, the full interests of the majority may not be possible to establish, as will be explored through the sub-factors of inclusivity, proportional representation and direct participation.

### **1. Inclusivity**

For a democratic institution to function effectively, it must be designed to incorporate broad participation from the electorate, ensuring that all citizens have equal access to make their opinions known. As suggested by Carrie Chapman Catt above, obstacles which seek to hinder the ability of the electorate to engage in political activity such as race, class, gender, etc must be broken down to ensure true inclusivity within the democratic system. The UK's democratic set up caters for this criterion, with an electoral system which allows all races, genders, ethnicities, able-bodied or disabled people, etc to vote in referendums, local and general elections. In the 2016 EU Referendum, of the percentage of 52% - 48% that voted either 'Leave' or 'Remain' in the EU, 61% of Black people that voted expressed their wish to remain within the EU, while 22% of South Asians who voted expressed their desire to leave. The above evidence suggests the UK is doing somewhat well with regards to inclusivity, by ensuring all groups (whether a minority in society or not) have their voices heard and represented. However, the February 2023 Presidential election in Nigeria, voter turnout was a disappointing 26.72%, suggesting the end result would not have been fully inclusive of the views of the majority in Nigeria. The question that arises is that of: what may have caused such a disappointing turnout? Possible reasons could be down to historic corruption and government incompetence. For example: Former President Buhari's inability to secure the complete freedom of the 98 out of the 276 Chibok school girls who were kidnapped by Boko Haram in 2014. More historically, Nigeria's General Sani Abacha's reign, which plundered the economy by overseeing the syphoning of money which was relied on by Nigeria's oil refineries to convert crude into gasoline; just to name a few. Nigerians have perhaps lost faith in politics, resulting in political apathy where the results of elections now do not reflect the full preferences of the majority. Additionally, while the UK is doing better in this regard comparatively than Nigeria, they too do not fulfil the full preferences of the majority as the result of the EU referendum means just over 50% of the electorate that voted would have seen their preferences enacted in policy. While it may be possible to ensure all groups have their say in an election (making it inclusive) it is a complex task to ensure the will of the majority is satisfied as often times - as seen in the example of Nigeria - where other factors within a democratic institution such as corruption have weakened faith in politics, leading to a result that does not fully reflect the full preferences of the majority.

## **2. Proportional Representation**

A democratic institution created to satisfy the full preferences of the majority would perhaps benefit from a form of proportional representation, where an ordinal voting system such as the Single Transferable Vote (STV) is used, increasing voter choice, local representation and proportionality, while preventing tyranny of the majority as feared by Plato. Implementing STV would mean voters have the choice of ranking candidates running for a seat in their region in order of preference. The ballots are then counted, where for the winning candidate to win a seat, they must achieve a 'Droop quota', the formula for which is shown below.

$$\text{Quota} = \left[ \frac{\text{total number of valid votes cast in constituency (V)}}{\text{Number of seats (S) + 1}} \right] + 1$$

The candidates who achieve this quota are automatically given seats while excess votes are given to second preference candidates. However, if vacant seats remain and no other candidates have achieved the Droop quota, the lowest votes are eliminated and redistributed amongst other candidates, where the process is repeated continually until all the available seats have been taken. Arguably, this voting system, which is used heavily in Northern Ireland and partially in Scotland, is a better option than our party-list First Past The Post (FPTP) system as it delivers an end result which closely mirrors the percentage of attained seats, increasing the legitimacy of the result. This should in theory create a democratic institution where the full preferences of the majority are taken into account as unlike FPTP, it is not a single party that receives above 50% of the votes that takes 100% of the power but instead, the winning party takes the exact percentage of power to the amount of votes they received. However, this type of set up in practice would be difficult to maintain in the political climate of the UK and for countries like Nigeria, where political stability and clarity in leadership is crucial in navigating significant political events such as the war in Ukraine and helping restore the economic condition of Nigeria back to a place of stability. Arguably, proportional systems such as STV have been successful in Northern Ireland due to their history of division between Nationalists and Unionists meaning a peaceful settlement where power is split between the two parties would be beneficial for ensuring long-term peace and stability. However, a proportional system such as STV being used in Nigeria would most likely heighten tensions between the northern and southern-western parts of the country where ethnic clashes between Hausa and Yoruba people seem to plague the nation. Clarity in terms of who the ruling party is would be essential in easing conflict and promoting long-term stability over short-term happiness where it appears as though the full preferences of the majority have been met. In terms of the UK, clarity in leadership would be beneficial in having a clear policy as to how the war in Ukraine is to be handled, rather than allowing for a proportional system which

would have simply resulted in arguments about how the war should be handled, delaying the process. In short, satisfying the full preferences of the majority is not a practical solution as it puts short-term stability ahead of long-term, which is more beneficial for a democratic institution.

### **3. Direct Participation**

A democratic institution would seek to empower its citizens by involving them in the process of decision-making, for example through referendums to provide better clarity on the full preferences of the majority. This would mean increased usage of direct democratic methods, to amplify the unmediated voices of the electorate. As seen in the Scottish Independence Referendum 2014, 75% of 16 - 17 year olds voted, contributing to the outcome of where Scotland voted to Remain in the UK, suggesting the use of direct participation in such a divisive matter as this was extremely crucial in establishing a representative mandate as a significantly large proportion of a group in society turned out to express their views. Additionally, amending the 1999 constitution of Nigeria by implementing the use of referendums would help decentralise power, and cure existing political apathy where voters feel a disincentive to vote due to a lack of confidence that their voice matters in determining the end result. However, excessive direct participation would only exacerbate the problem of tyranny of the majority where the full preferences of the majority are potentially met, yet, do not uphold the long-term interests of the country to a high esteem. While the use of referendums may be beneficial in correcting political apathy in Nigeria, maintaining a representative Burkean model - as proposed by Edmund Burke - would be of much better use in the grand scheme of things (especially in the UK) as it would ensure wise decisions are made which may not directly satisfy the full preferences of the majority, yet, do not jeopardise the long-term stability of the nation.

Therefore, as seen in the above paragraphs, ensuring the full preferences of the majority are met is not a suitable nor practical guide to base decision-making in a democratic institution as not only is it a complex task, but also one which often ends up prioritising short-term over long-term objectives, to the detriment of a democratic institution.

### **Stability in Group Decision-Making**

Ensuring stability in group decision-making in a democratic institution is of paramount importance in avoiding government inconsistency and malpractice. Ensuring stability can be achieved by upholding checks and balances, constitutional protections and a peaceful transfer of power. As rightly said by Nigerian poet and novelist Chinua Achebe: *"A functioning, robust democracy requires a healthy,*

*educated, participatory followership, and an educated, morally grounded leadership.”*

This suggests that to ensure a democratic institution is stable in group decision-making, the leading individuals must be “*morally grounded*” by allowing sufficient room for government accountability to maintain the trust of the electorate.

Upholding the factor of stability is possible as long as the sub-factors - which will be explored below - are all kept in equilibrium.

### **1. Checks and balances**

Installing a robust system of checks and balances, such as the weekly scrutiny of the Prime Minister in Prime Minister’s Questions and the judicious work of Select Committees and having a separation of powers between the various branches of government such as the Judiciary, Legislature and the Executive would ensure power is not centralised to a single entity meaning governments are more open to scrutiny. This is done fairly well in the democratic institution of the UK, where the Judiciary is able to pass Declarations of Incompatibility and declare that a government has acted *ultra vires* if the government has overstepped their legal boundaries or acted against the Human Rights Act 1998. However, Nigeria, as seen in the paragraph on ‘Direct Participation’ has power centralised at the top, with minimal checks and balances from other branches of government. This means the government is not accountable to any other party, granting them unlimited access to act as they please even if this violates the rights of citizens, or even if fraud has occurred behind the scenes. The example of the democratic institution of the UK suggests ensuring checks and balances to promote stability in group decision-making is clearly a possible feat but requires a robust political system that is dedicated to serving the needs and long-term interests of the nation. Making amendments to the 1999 constitution of Nigeria such as implementing referendums would be a step forward in achieving this. However, as amending constitutions is a complex task, Nigeria’s democratic institution may not experience radical changes in accountability until the distant future. This leads swiftly to the next sub-factor.

### **2. Constitutional Protections**

A democratic institution with a well-crafted constitution is crucial for ensuring clear guidelines and boundaries that must not be crossed are set, with minority rights being protected also being enshrined by law to ensure this is upheld in practice. An example of a country with a strong constitution is the USA where the constitution from 1787 is used to provide a guideline as to how laws are to be implemented. It is useful, in the sense that it is codified unlike that of the UK as it means there is no ambiguity as to what is or is not permitted under the constitution. The constitution of Nigeria is similar to the US also in that it is also codified. Arguably, the codification provides stability as it is accessible to the electorate meaning it is clear to everybody which rights are and are not protected under the constitution. However, there are

weaknesses in that it does not always promote stability of government as a codified constitution is difficult to ratify, which can be seen through the difficulty in ratifying the 2nd Amendment, which legalises the right to bear arms. Nonetheless, the existence of a constitution significantly increases stability in group decision-making as it highlights the rights of individuals, holding governments to account, as can be seen by the 46 Declarations of Incompatibility which have been made in the UK.

### **3. Peaceful Transfer of Power**

The upholding of a peaceful transfer of power is key in maintaining stability in group decision-making as it paves way for the continuation of the democratic process. This is often achieved through free and fair elections, where members of the electorate and government feel as though the democratic process has occurred fairly for all and that the result is justified. This is done well in the UK where despite the frequency in change of leadership in the past seven years (from David Cameron's resignation to Rishi Sunak's appointment) there has been a peaceful transfer of power without conflict between past Prime Ministers. This is very much unlike the USA, where in January 2021, Trump supporters stormed the Capital in order to oppose President Biden's inauguration, claiming the election was 'stolen' from Trump and that Mike Pence was a 'traitor'. This significantly caused huge political instability in group decision-making as Trump supporters felt as though Biden's leadership was illegitimate through a significant length of time through Biden's reign meaning they felt more emboldened to oppose changes from the Democrats. This highlights the need for a peaceful transfer of power when trying to establish a stable group decision-making process as it determines the likeliness of the electorate responding well to the policies made by the democratically elected government. However, this is clearly possible to achieve, as seen in the UK suggesting democratic institutions can be established which are stable due to a peaceful transfer of power, perhaps due to the lack of conspiracy theories entering public media, unlike in America.

Therefore, the above paragraphs highlight the possibility of establishing democratic institutions with stable group decision-making as long as the factors of peaceful transfer of power, constitutional protections and checks and balances are in equilibrium.

### **Minimal Conditions of Fairness**

Minimal conditions of fairness are established best through consideration of the sub-factors of: impartiality and the Rule of Law. As the keyword in the question is 'minimal', this is definitely possible to establish as will be discussed below. However, some issues arise from differing views of 'fairness'. As said by human rights activist and feminist: Rigoberta Menchú Tum *"Peace cannot exist without justice, justice cannot exist without fairness, fairness cannot exist without development, development*

*cannot exist without democracy, democracy cannot exist without respect for the identity and worth of cultures and peoples."*

### **1. Impartiality**

Democratic institutions should be impartial in that they should not treat citizens differently by providing privileges to certain groups based on socioeconomic status, political affiliation, ethnicity, religion etc. This means that the law recognises all citizens as of equal worth with equal entitlement to opportunities. Depending on how fairness is interpreted, the UK does well in the sense that education is free for all, meaning that everyone has equal access to resources to allow them to excel and achieve their full potential. Our Human Rights Act of 1998 also outlines protected characteristics which must be protected at all times and in all circumstances. However, in Nigeria, conflict between Yoruba and Igbo people, where there is a strong call for independence from the Igbos, due to systemic and historic oppression from the Yorubas, such as access to education and other self development services has meant that unfortunately, the notion of impartiality has not always been upheld in this democratic institution. This links to the point of differing ideas of what constitutes fairness as the UK recognises protected characteristics which must be protected by law, which may differ in Nigeria, or may not be enforced as strongly such as religious tolerance. However, as seen in the UK, it is certainly possible to design democratic institutions which thrive on the notion of impartiality as long as the right laws are in place to ensure that citizens are protected from discrimination; a minimal condition of fairness.

### **2. Rule of Law**

Arguably, this is the most important factor in establishing minimal conditions of fairness. Having a strong rule of law ensures that decisions are made on strong legal grounds, preventing unjust use of power and lawlessness in the land. As referenced above, this can be seen through our Human Rights Act 1998 which clearly states which protected characteristics must be observed. In Nigeria and the US, this is seen through the codified constitution, highlighting how the land is to be governed. A strong rule of law ensures that fairness in our democratic institutions is maintained as political entities cannot overstep their boundaries legally and when this does occur, they will be reprimanded for this.

The above paragraphs suggest it is possible to establish minimal conditions of fairness as long as what constitutes a 'human right' is agreed upon. While problems arise from the subjectivity in the notion of 'fairness', as seen in Nigeria, it is still possible to establish in a democratic institution as seen in the UK.

### **Conclusion**



On balance, as established in this essay, achieving the factors of stability in group decision-making and minimal conditions of fairness are possible accomplishments individually. Satisfying the full preferences of the majority, on the other hand, is complex and an almost impossible task to accomplish due to the impracticalities with proportional electoral systems, tyranny of the majority and problems with aiming to be fully inclusive. However, it is clear that a democratic institution that comprises all three factors is an impossible task as one factor will inevitably be sacrificed for the other. To maintain stability, the full preferences of the majority may be compromised with minimal conditions of fairness still being upheld. Moreover, to maintain the full preferences of the majority, stability may be compromised with minimal conditions of fairness also inevitably being compromised due to the instability caused. Designing democratic institutions that serve the people in the best way possible is a challenging task as observed through Nigeria, the UK, the US and more, with no institution being perfect. However, it is clear that nations can aspire to make group decision-making as stable as possible and ensure minimal conditions of fairness are upheld, by perhaps sacrificing satisfying the full preferences of the majority due to the extensive problems caused from pleasing the majority.