

# Chapter 9

## Democracy or Epistocracy? Age as a Criterion of Voter Eligibility

Jörg Tremmel and James Wilhelm

### 1 9.1 Introduction

2 After decades of stasis, debates on an appropriate minimum voting age for an active  
3 right to vote have gained traction at several levels and in different countries.  
4 For example, although the minimum voting age remains 18 in all UK elections, 16  
5 and 17 year olds were able to take part in the 2014 referendum on Scottish independence.  
6 Moreover, a political pledge has been made by both the British Labour Party and Liberal Democrat Party  
7 to lower the voting age in all UK elections to 16 in the future. In the US, the last major modification to voting age  
8 electoral law was the twenty-sixth amendment to the United States Constitution in 1971, which  
9 lowered the minimum age threshold for federal elections from 21 to 18. There has,  
10 however, been recent downward pressure on the voting age in non-federal elections:  
11 in Illinois, for example a bill is pending that would reduce the minimum voting age  
12 from 18 to 17. If passed, Illinois would be the twentieth US state to allow 17 year  
13 olds to vote in non-federal elections (Associated Press 2013). Meanwhile, in Germany,  
14 eleven states—starting with Niedersachsen—have legislated to allow 16 year  
15 olds to vote in local elections. In some states (Brandenburg, Schleswig-Holstein,  
16 Bremen and Hamburg), 16 year olds are even eligible to vote in state ('Länder')  
17 elections. Yet, with respect to the most important election in Germany, the elections  
18 to the Federal Parliament (*Bundestag*), the minimum voting age remains 18.  
19 Concerning EU member states, only Austria—since 2007—lets 16 year olds vote in  
20 national elections. Outside the EU, only a handful of countries (Argentina, Brazil,  
21 Cuba, Ecuador, Nicaragua and Palestine) have a minimum voting age that is lower  
22 than 18 for national elections.  
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24 This article has two aims: First, with reference to the history of ideas, it seeks  
25 to demonstrate how the notion of who belongs to the demos and is eligible to vote  
26 has changed since the beginnings of modern democratic thought, drawing on the  
27 implications of this analysis for voting age boundaries. It is argued that the exclu-  
28 sion of under-18s is not self-evident, but in need of justification. In this respect, the  
29 most prominent justification in favour of exclusion—that under-18s lack political  
30 maturity—is found to be inconsistent with the normative foundations of democracy.  
31 Secondly, it specifies an original model to overcome this problem, based on no vot-  
32 ing age boundaries and a system of young voter registration.

33 The article is structured in two main parts. The first part begins by introducing  
34 the model of epistocracy as a system of government, as presented by its historical  
35 exponents. Subsequently, epistocracy and democracy as systems of government are  
36 be contrasted; the comparison concludes that the epistocratic model should be re-  
37 jected. As a general rule, it is found that standardized age limits are being justified  
38 by their proponents on the basis that age is a meaningful and necessary proxy for  
39 political maturity. Using normative-theoretical argumentation, it is demonstrated  
40 that this line of reasoning and, as such, the voting age restrictions which are cur-  
41 rently in force, are indefensible. Taking this into account, the second part presents  
42 a model for far-reaching electoral reform: no arbitrary voting age boundaries and a  
43 system of young voter registration. Analysis focuses on three key areas: the num-  
44 ber of young people who may benefit from its implementation in the US, UK and  
45 Germany; the impact its implementation would have on electoral outcomes; and  
46 provisions to protect such a model from abuse.

47 With respect to its methodology, this contribution to democratic theory is in its  
48 normative part reminiscent of some important steps in the history of ideas; not as  
49 *l'art pour l'art*, but with explicit relevance for the political present. It is not the  
50 exegesis of historical texts which stands in the foreground, but the use of classical  
51 ideas to better clarify current debates. This usage can lead to the better evaluation of  
52 proposals for reform which will have an effect on the future of political systems. In  
53 its empirical aspects, an international comparative approach (US/UK/Germany) is  
54 employed. This article thus binds normative-theoretical and comparative-empirical  
55 analyses.

56 In terms of its scope, some limitations apply. For example, this article does not  
57 deal with parental suffrage in its original variant (also referred to as familial suf-  
58 frage), which provides parents with additional votes, corresponding to their number  
59 of children; nor does it deal with the representative and vicarious variant, whereby  
60 parents discern the vote choice of their children on the basis of trust until they are  
61 in a position to vote themselves. In their consequences, both variants lead to parents  
62 being granted control of additional votes for a specific period of time, namely those  
63 of their children. Although parental suffrage has not been introduced in any country  
64 so far, it is the subject of intense debate—especially in Germany.<sup>1</sup> Meanwhile, the  
65 proposal for a reduction in the minimum voting age to 16, 14, or 12 years old—

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<sup>1</sup> For a good political science overview article, see Westle (2006); for legal aspects, Quinterm (2010); on the potential implications for elections results after the introduction of parental suffrage, see Goerres and Tiemann (2009) and Hoffmann-Lange and Rijke (2008).

66 an even lower age—remains theoretically unexplored.<sup>2</sup> To at least begin to fill this  
67 lacuna is the aim of this article.

## 68 9.2 Democracy v. Epistocracy

69 Derived from the Greek words ‘episteme’/ ἐπιστήμη = ‘knowledge’ and ‘kratein’/  
70 κρατεῖν = ‘rule’, epistocracy is, with reference to Estlund (2008), defined as a form  
71 of government in which the wise exercise power. Hereafter, the concept is used to  
72 denote all forms of government which make political participation dependent upon  
73 the possession of the power of political judgement and deny political participation  
74 rights to the ‘ignorant’.

75 ‘Epistocracy’ must not, however, be equated with ‘aristocracy’. For the latter,  
76 there are two possible meanings: ‘rule of the best’ and ‘rule of the nobility’. There  
77 is therefore a need to differentiate the line of argument which would be necessary  
78 to justify the institutions of hereditary aristocrats (aristocracy) from the motive to  
79 propagate the rule of the wisest (epistocracy). Moreover, ‘rule of the best’, the first  
80 meaning of aristocracy, does not necessarily mean ‘rule of the wisest’.

81 Additionally, epistocracy should not be confused with a political system in  
82 which the entire population is granted the right to vote, except for those who have  
83 been diagnosed with an illness or debility by a medical practitioner. For epistocracy  
84 to exist, a significant portion of the mentally healthy population must be excluded  
85 from the franchise.

### 86 9.2.1 Epistocracy in Political Systems

87 In the political history of ideas there are various—some prominent—protagonists of  
88 epistocratic political systems.

#### 89 9.2.1.1 Plato

90 The root text of epistocracy is *Politeia*:

91 [I]n our states or those whom we now call our kings and rulers take to the pursuit of phi-  
92 losophy seriously and adequately, and there is a conjunction of these two things, political  
93 power and philosophic intelligence, while the motley horde of the natures who at present

<sup>2</sup> Most authors taking part in the German-speaking debate feature in two anthologies: Stiftung für die Rechte zukünftiger Generationen (2008); and Hurrelmann and Schultz (2014). In the English-speaking world, two reference articles are: Zeglovits (2013); and Wing Chang and Clayton (2006). The general literature referring to the status of children in political theory is of limited utility, since most sources do not touch upon the status of adolescents and teenagers. With respect to the discussion about the right to vote for younger minors and children, the following sources are helpful: Archard (2004); Beckman (2009); Cohen (1975); Schrag (1975); Schrag (2004); Harris (1982); Munn (2012a); Munn (2012b); Olsson (2008); Rehfeld (2011).

94 pursue either apart from the other are compulsorily excluded, there can be no cessation of  
 95 troubles, dear Glaucon, for our states, nor, I fancy, for the human race either. (Plato 1969,  
 96 473d)

97 The context of this quote is Socrates' answer to Glaucon's question regarding how  
 98 the ideal state can be realized. Earlier, Plato remarks that the masses are prone to  
 99 error and easily led—only very few possess the faculties expected of a state ruler  
 100 (Plato 1969, 412b–414b).<sup>3</sup> In the same way that men vary in their suitability to be  
 101 a doctor, not all were considered by Plato as capable of holding political office.  
 102 And just as good performance as a doctor requires steadfast dedication to train-  
 103 ing, political rulers must also be carefully chosen and rigorously educated. Since  
 104 the conditions of the ancient polis only partially hold in other epochs, a survey  
 105 of the positions of modern classical thinkers is conducted below. In England, the  
 106 motherland of parliamentarianism, and, more generally, in debates on political  
 107 theory from the seventeenth to nineteenth century, the universal right of men to  
 108 vote—and what restrictions should be enforced—was an issue of intense  
 109 philosophical debate.

### 110 9.2.1.2 Montesquieu and Kant

111 The sympathy of Montesquieu for elements of epistocracy is evident in many pas-  
 112 sages of his work:

113 All the inhabitants of the several districts ought to have a right of voting at the election of a  
 114 representative, except such as are in so mean a situation as to be deemed to have no will of  
 115 their own. (Montesquieu 2001, p. 176)

116 Here, Montesquieu uses free will as a criterion for the sovereignty of the people.  
 117 Who lacks free will? For Montesquieu, it was women, children, the propertyless,  
 118 uneducated and, often, non-whites. All were to be refused the right to participate in  
 119 law-making. With these views, Montesquieu found himself in the mainstream of the  
 120 progressive political theory of his epoch.

121 Montesquieu also advocated—as James Harrington more clearly before him—  
 122 elements of plutocracy; more precisely, he favoured a system of class suffrage based  
 123 on income:

124 In a popular state the inhabitants are divided into certain classes. It is in the manner of  
 125 making this division that great legislators have signalled themselves; and it is on this the  
 126 duration and prosperity of democracy have ever depended. (Montesquieu 2001, p. 27)

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<sup>3</sup> Little evidence exists to support the thesis that, for Plato, the philosopher kings were merely an irony. As Plato states in *Politikos*, in the case of uncertainty the philosopher kings (*basileus*) preside over the law, since it was seen as rigid and, by itself, could not determine what was right in specific contexts. In his late work, *Nomoi*, he examines this stance, in which he contends that it is not only possible, but—except in the case of Divine Intervention—inescapable that possession of absolute power corrupts the philosopher. The impossibility of *akrasia* (the ability to act against one's better judgement) of the correctly chosen and skilful philosopher king is, however, the justification for the rule of the philosopher kings. Throughout his entire life, Plato spoke out against every form of government in which public office may only be occupied by those who enjoy a certain level of wealth.

127 For Kant too, economic autonomy stood more in the foreground than the possession  
128 of the political power of judgement. He writes:

129 The only qualification for being a citizen is being fit to vote. But being fit to vote presup-  
130 poses the independence of someone who, as one of the people, wants to be not just a part  
131 of the commonwealth but also a member of it (...) from his own choice. (...) An apprentice  
132 in the service of a merchant (...); a minor (...); all women and, in general, anyone whose  
133 preservation in existence (his being fed and protected) depends not on his management of  
134 his own business but on arrangements made by another (except the state). All these people  
135 lack civil personality and their existence is, as it were, only inherence. (Kant 1996, p. 91  
136 [§ 46 of the Doctrine of Right])

### 137 9.2.1.3 John Stuart Mill

138 With respect to Mill, we find a purely epistocratic line of thought, rather than one  
139 mixed with plutocratic or aristocratic elements. In his *Considerations on Represent-*  
140 *tative Government* (1861), Mill advocates, on the one hand, multiple voting rights  
141 (plural voting) for especially well-educated and intelligent citizens and, on the oth-  
142 er, the exclusion of all who cannot read, write or calculate from the franchise. On  
143 Mill's epistocratic exclusion criteria, he writes:

144 It would be easy to require from everyone who presented himself for registry that he should,  
145 in the presence of the registrar, copy a sentence from an English book, and perform a sum in  
146 the rule of three; and to secure, by fixed rules and complete publicity, the honest application  
147 of so very simple a test. (Mill 2004)

148 In this vein, Mill (2004) proposes that individual mental aptitude should be a cri-  
149 terion to determine the weighting of votes. As an indicator of mental aptitude, Mill  
150 was sceptical of general examinations because he regarded them as untrustworthy.  
151 He preferred using occupation as an indicator:

152 An employer of labor is on the average more intelligent than a laborer; for he must labor  
153 with his head, and not solely with his hands. A foreman is generally more intelligent than  
154 an ordinary laborer, and a laborer in the skilled trades than in the unskilled. A banker,  
155 merchant, or manufacturer is likely to be more intelligent than a tradesman, because he  
156 has larger and more complicated interests to manage (...) The liberal professions, when  
157 really and not nominally practiced, imply, of course, a still higher degree of instruction;  
158 and wherever a sufficient examination, or any serious conditions of education, are required  
159 before entering on a profession, its members could be admitted at once to a plurality of  
160 votes. (Mill 2004)

161 Additionally, Mill proposed that university graduates should be granted a plurality  
162 of votes. Given the fact of mass university education today, Mill's proposal would  
163 have much more far-reaching implications in the present than when he made his  
164 proposal, when it would have only applied to a small, well-educated elite.

165 At this point, a preliminary conclusion can be drawn: if Plato's 'rule of the phi-  
166 losopher kings' marks one end of the continuum of imaginable forms of epistocracy,  
167 Mill's model is located very close to the other end. The former excludes almost all  
168 citizens from political participation; the latter only the illiterate, who constituted a  
169 larger fraction of the population in Mill's time than today. As noted, Mill also adv-  
170 ocated multiple voting rights, meaning greater influence for well-educated sections  
171 of the population.

## 172 9.2.2 *Why Epistocracy Should be Rejected*

173 ‘Who constitutes the demos?’ For centuries this has been a core question for political  
174 theory.<sup>4</sup> Ideas about who should belong to the electorate have been subject  
175 to historical change. Two centuries ago, the demos consisted of men who paid the  
176 ‘right’ amount of taxes, had the ‘right’ skin colour, subscribed to the ‘right’ religion  
177 and were the ‘right’ age. Today, women are allowed to vote—minors still cannot.  
178 For logical reasons, the decision regarding who should belong to the demos should  
179 not be democratically decided by existing voters.<sup>5</sup> An example to demonstrate this  
180 point is the 1959 Swiss referendum on the extension of the right to vote to women.  
181 Two-thirds of men rejected the proposal and therefore defined themselves as the  
182 present and future demos. Today, such a referendum would almost certainly be  
183 deemed illegitimate. Thus, it is the weighing up of normative principles that must  
184 take precedence in deciding who should constitute the demos. The great normative  
185 paradigm of our age is the notion of the equal value of all people. In this paradigm,  
186 we reject statements as ‘racist’ when someone ascribes a lower worth to ethnic minorities.  
187 With respect to women, we use the term ‘sexism’, and with respect to the  
188 old, we speak of ‘ageism’ or ‘age discrimination’. The notion of the equal value of  
189 all people appears today as so self-evident that it often remains undiscussed. A nar-  
190 ration of the history of moral progress highlights the importance of this idea today  
191 compared with other historical epochs.

192 Differences in the value of human beings were in the past based on profession  
193 and level of education, but, above all, on ethnicity and sex. Only after the end of  
194 the first and second world wars did democracies implement female suffrage,<sup>6</sup> while  
195 ethnic discrimination remained virulent until the second half of the twentieth cen-  
196 tury. For example, in the USA in the 1960s the view that Afro-Americans were  
197 intellectually and socially inferior led to attempts to curb the voting power of non-  
198 white citizens through intimidation, electoral rigging as well as capitation taxes and  
199 reading and writing tests.

200 The basic principle of all modern democracies—‘one person, one vote’—is di-  
201 rectly derived from the postulate of the equal value of all people. Bartolini (2000,  
202 p. 127) therefore refers to the principle of ‘one person, one vote, one value’: every  
203 vote(r) has an equal value and an equal weight. To rank people with respect to their  
204 right to participate politically, as political theorists from Plato to Mill did in earlier  
205 centuries, contravenes the consensus of our time. In modernity, the notion of the  
206 equal value of all people is the premise of just political rule—and although this rule

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<sup>4</sup> Cf. Goodin (2007). Goodin (2007, p. 40) prefers this formulation over framing it as an ‘inclusion problem’, since the latter tends to obscure questions about how the inclusion of groups which are already part of the demos can be justified.

<sup>5</sup> As per Goodin (2007, p. 47): ‘It is logically incoherent to let the composition of the initial demos be decided by a vote of the demos, because that demos cannot be constituted until after the demos votes.’

<sup>6</sup> With the exception of Switzerland, where women were only granted the right to vote in 1971 at the national level. At cantonal level this advance was realized earlier in some areas but in others only later conceded (Appenzell Innerrhoden 1990).



207 takes a different concrete form in individual cases, no regulation may contradict it  
 208 diametrically. As such, democracy is preferable to its alternatives because it ensures  
 209 that citizens, whose future prospects are determined by democratic outcomes, are  
 210 treated with the same degree of respect. Terminologically, a form of government  
 211 that contradicts the principle of the equal value of all citizens and excludes a cross-  
 212 section of the electorate without reasonable grounds for doing so is not even an  
 213 immature or partial democracy: it is not a democracy at all.

214 In contrast, the division of cross-sections of the population into ‘better’ and  
 215 ‘worse’ voters is the basic principle of epistocracy. When such opinions are voiced  
 216 in the present—in this vein Brennan (2011) advocates ‘tempered epistocracy’—  
 217 they are rejected by the mainstream with valid arguments.<sup>7</sup> This is because the core  
 218 argument of epistocratic thinkers—that the educated are in a position to identify  
 219 and represent the general interest – does not hold. Scepticism is based on a number  
 220 of grounds. Firstly, it is not possible that the interests and wishes of a group, even  
 221 with the very best intentions, can be better identified by a third-party than by the  
 222 affected group itself. The paternalistic conception that men understand women’s  
 223 needs better than women themselves was successfully rejected by women during  
 224 their long battle for the right to vote. By the same token, we deny that the interests  
 225 of Afro-Americans could have been adequately represented by their white masters  
 226 during the era of the declaration of independence, which was neither demanded  
 227 by—nor beneficial for—the represented. The following truism, expressed by John  
 228 Stuart Mill in his *Considerations on Representative Government* (1861), remains  
 229 valid today (notwithstanding Mill’s own limitations):

230 Rulers and ruling classes are under a necessity of considering the interests and wishes of  
 231 those who have the suffrage; but of those who are excluded, it is in their option whether  
 232 they will do so or not; and, however honestly disposed, they are, in general, too fully occu-  
 233 pied with things which they must attend to to have much room in their thoughts for any-  
 234 thing which they can with impunity disregard. (Mill 2004)

235 That citizens themselves best understand their own interests is a generally accept-  
 236 ed principle. Interests, according to the pluralist ‘point of view’, vary from one  
 237 societal group to another. Furthermore, there is no point of reference for how to  
 238 adjudicate between competing claims. Whether a general interest exists which is  
 239 distinct from the aggregation of the individual interests of citizens has been one  
 240 of the most discussed questions in philosophy and political theory for thousands  
 241 of years. But even if such a general interest is held to exist, historical evidence  
 242 demonstrates—with very few exceptions—that ruling elites of political systems  
 243 promote their own interests at the expense of those who are unable to adequately  
 244 represent their own. Knowledge per se does not liberate man from self-interested  
 245 thinking. In ethics, it is contested whether ethicists who are able to identify the gen-  
 246 eralizable, ‘moral point of view’ act with greater moral integrity. If at all, a higher  
 247 capacity for empathy is the crucial character trait, rather than a higher IQ or a better

<sup>7</sup> Dahl (1989) explains this argument in his defence of democracy against its critics; in part, through a fictitious dialogue between a democrat and an epistocrat called ‘Aristo’. Brennan’s arguments fall back on those of Dahl’s fictitious ‘Aristo’, whom Dahl lets have his say ‘for the sake of the argument’, in order to play devil’s advocate against democracy.

248 academic record. And even if this is true, how can other citizens (s)elect these espe-  
249 cially empathetic peers other than through their own judgement and free elections?  
250 The problem of how the best, most intelligent and progressive politicians are to be  
251 found is one of the greatest weaknesses of epistocracy and it cannot be satisfactorily  
252 solved. The experience of the recruitment of the ruling elite in Marxist-Leninist  
253 states demonstrates that the problem does not just concern how to choose politi-  
254 cians, but also how to remove them from office. And in this respect, no other form  
255 of government—other than democracy—offers a mechanism which is as smooth  
256 and unproblematic as the institution of free elections. Epistocracy, then, does not,  
257 either in theory or in practice, offer greater scope for the attainment of the ‘general  
258 interest’ or lead to necessarily better political outcomes.

259 A system of government requires justification; such justification requires that  
260 those who are subject to that system of government have an equal and universal  
261 right to participation. In democracy, this justification comes from the fact that all  
262 those who are subject to the rule of a government and its decisions can exert power  
263 through elections to affect that very government. This allows all to have influence  
264 over the laws which regulate their lives.<sup>8</sup> It is this promise alone that makes it toler-  
265 able for all political forces to accept possible defeat. As such, democracy is proce-  
266 durally better at regulating conflicts of interests than any alternative. Subordination  
267 under existing laws is especially palpable for citizens in two fields: taxation and  
268 compulsory military service. These intrusions into one’s personal freedoms are only  
269 acceptable when determined by a just mechanism: universal and free elections. The  
270 compelling slogan ‘no taxation without representation’ encapsulates the democratic  
271 consciousness, whereby it is untenable to tax cross-sections of the population with-  
272 out allowing them to vote. And when one is torn from private freedom and family  
273 life for the sake of defending one’s country, the right must in principle exist for that  
274 person to be able vote on the government of the day, which decides upon war and  
275 peace. For this reason, wars with compulsory military service were also great ac-  
276 celerators of democracy, especially WWI.

277 To summarize, then, the plea of the democrats against the epistocrats is as fol-  
278 lows: whoever, as a citizen of a state, is subject to the rule of government, must—  
279 in line with contemporary democratic thought—be able to have a meaningful say  
280 regarding the composition of that government and its removal from office. The  
281 principle ‘one person, one value, one vote’ today—after 2000 years of experience  
282 with political systems and after the achievements of the Enlightenment—belongs  
283 to the consensual core of the understanding of legitimate, just governance. The op-  
284 portunity to cast a vote legitimizes the resultant outcome, even for the political los-  
285 ers. In its absence, election results are morally illegitimate and potentially legally  
286 contestable. It is only in democracies that the ruled also act as the rulers; objects  
287 of state rule also become its subjects. For all of these reasons, democracy is more  
288 normatively justified than epistocracy.

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<sup>8</sup> For different versions of the so-called ‘all-affected-principle’, see e.g. Beckman (2013, p. 778); Dobson (1996, p. 124; and Dryzek (1999, p. 44).



289 **9.2.3** *The Exclusion of the Underaged from the Franchise*

290 In Western democracies, the principle of the equality of the vote applies just as  
291 much to Nobel Prize winners as it does to unskilled labourers without professional  
292 training; it applies just as much to people with an IQ of 120 as it does to those  
293 with one of 80. Yet not as much to 88 year-old pensioners as it does to 17 year-old  
294 children. As Lecce (2009, p. 135) writes, the argument that ‘vindicates egalitarian  
295 democracy from Plato’s elitist shadow also casts serious doubt on the continued  
296 exclusion of children from the franchise.’ Robert Dahl, too, wonders why this ob-  
297 jection has not been at the centre of a disciplinary debate in political science (Dahl  
298 1989, p. 58, 123, 127). In an epistocracy, the exclusion of young people who wish  
299 to vote by means of an age limit can be legitimized. In all modern democracies,  
300 however, such a limit is incongruent with the normative justification of democracy  
301 and is, as such, an injustice against those who are excluded. It is for this reason  
302 that epistocratic principles are not applied to adults and rejected by political theory  
303 and in legal practice; hence illiterate adults are not denied the right to vote.<sup>9</sup> Even  
304 adults who are demonstrably not in full possession of their mental capacities—such  
305 as those who are totally intoxicated—may still take part in elections. Notably, the  
306 jurisprudential literature unanimously rejects the notion of a maximum voting age.  
307 The German administration cites the ‘potentially declining ability of older people  
308 to actively participate in the solution of societal problems’ as ‘no criterion for their  
309 generalised exclusion from the franchise once they pass a certain age, since, con-  
310 versely, its presence or absence is no criterion for the granting of the right to vote.’  
311 (Wissenschaftlicher Dienst des Deutschen Bundestages 1995, pp. 14–15). Though  
312 the right to vote is not explicitly linked to reciprocal responsibilities and should not  
313 be in the future, it is worth pointing out that young people who are at present ex-  
314 cluded from the franchise, still—for all intents and purposes—have societal respon-  
315 sibilities. As citizens of the state, they are all subject to the laws of the land, even  
316 if children and adolescents do not feel the full force of the law. Consumption tax  
317 rates in no way favour the young over the old, even if the tax yield may fluctuate ac-  
318 cording to age groups. In many senses, then, they have no inherent advantage over  
319 adults. In the US and Germany, one can even sign up to become a regular soldier in  
320 the armed forces at just 17.

321 Prima facie, the existing age limits for national elections are defended in the fol-  
322 lowing way: under-18s are not discriminated against on the basis of their age. This  
323 would be just as repugnant as the exclusion of women from the franchise on the  
324 basis of their sex or of old-age pensioners just because they are old-age pensioners.  
325 Rather, age is a meaningful and necessary proxy for the ability to exercise politi-  
326 cal judgement. This line of reasoning is, however, indefensible. It is not one which  
327 applies to older generations and cannot, therefore, be used to argue in favour of a  
328 minimum voting age. The deliberations which lead to the rejection of epistocracy

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<sup>9</sup> According the World Illiteracy Foundation, one in every five UK adults has difficulties in reading and writing, with some unable to use a chequebook. In the US, 1 in 4 children are raised without being taught how to read or write.

329 must, to avoid internal contradictions, also reject as indefensible any quantitative  
330 threshold as a proxy for human knowledge. Even a minimum age threshold of 16,  
331 14, or even 12 would be a form of epistocracy, albeit milder. In other words: every  
332 age boundary is arbitrary.

333 Moreover, it is worth pointing out that the proxy argument is not applied to  
334 basic political rights which are *less* important than the right to vote. The right to  
335 demonstrate, for example, is effective from one's first year of existence, without  
336 age restrictions. The same is true of the freedom of speech. That the majority of 13  
337 year olds are not capable of writing a book or composing musical scores is not an  
338 argument which can be deployed to deny freedom of expression to a 13 year old.  
339 It is her basic right, regardless of what the rest of her cohort is able to do. As noted  
340 earlier, criminals and the psychologically ill are only excluded on a case-by-case  
341 basis. In this context, the (age) proxy argument for the removal of the right to vote  
342 is also justifiably impermissible.

343 The basic consensus is that all citizens in a democracy are in principle entitled to  
344 influence the composition of their government through elections. Therefore, a shift  
345 in the burden of proof is justified: it is not young people who must justify why they  
346 should be permitted to vote, but those who wish to deny that right to young people.

347 The history of the right to vote is, of course, one of expansion.<sup>10</sup> Yet, even though  
348 the end goal of granting the right to vote to all adult citizens has already been largely  
349 reached in democratic countries,<sup>11</sup> the historical path towards this varied from country  
350 to country. Table 9.1 traces the US, UK and German paths, with a special emphasis  
351 on changes in age boundaries.<sup>12</sup>

352 Worldwide, too, the trend is towards a gradual lowering of the minimum voting  
353 age, but not without some backlash (Grotz 2000, p. 14). Latin American states were  
354 in the vanguard of countries which lowered the voting age from 21 to 18 years old.  
355 Argentina, Costa Rica and Paraguay lowered it during the nineteenth century and  
356 Brazil, Costa Rica and Paraguay by the early twentieth century. In the majority of  
357 countries, the voting age was not lowered in one large step, but in frequent, small  
358 ones. The most important exception was the 'third wave of democratization', during  
359 which a multiplicity of African and Asian states introduced a minimum voting age  
360 of 18 in a single stroke.

361 Twenty-first century experiences have disproved the assumption that the ex-  
362 tension of the right to vote to include women, the 'lower classes' and those be-

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<sup>10</sup> On the history of the right to vote, Bartolini (2000, p. 118) writes: 'Prior to the French Revolution, membership in a corporate estate—as the nobility, the clergy, or city corporations—was a condition for access to the vote. After the American and French Revolutions, individual wealth requirements supplanted the early corporate requirements, and suffrage qualifications were usually based on property, income, or tax contribution; education and or other cultural skills; and sex and age. This history of franchise expansion is the history of the progressive lowering of these qualification barriers and thresholds, frequently characterised by important "reversals"; that is, by the disenfranchisement of previously enfranchised people.'

<sup>11</sup> Excluding the aforementioned restrictions on the voting rights of convicted criminals and the psychologically ill on a case-by-case basis, which today vary from one democracy to another.

<sup>12</sup> Bartolini (2000, p. 120).

**Table 9.1** A short history of the (progressive) extension of voting rights in the US, UK and Germany. (Source: Own diagram based on White (2013) and KQED (2004))

Year	Voting rights reform
1787	US: The constitution of the United States is passed in September 1787. No agreement is reached on a national voting age, since the states retain competency in determining voting rights. In practice, only white, male landowners over the age of 21 were able to vote
1815	Germany: After the founding of the German state, a bicameral system was created in a number of German states ( <i>Länder</i> ) in which the members of the second chamber were elected. In general, those eligible to vote had to be 25 years old, Christian and be able to demonstrate a minimum level of wealth, income and tax contributions
1832	UK: Prior to 1832, the right to vote was regarded as the privilege of the wealthiest in society. In 1831, 127 years after Locke's demise, only 3.8% of the population aged 20 or over in England composed the electorate. Only male, aristocratic landowners over 21 were allowed to vote. However, following the upheavals of the French Revolution, the Representation of the People Act 1832 (better known as the (Great) Reform Act) extended the franchise to include small landowners, shopkeepers and tenant farmers. It is also extended the franchise to homeowners who paid £10 or more in rent per annum Bartolini (2000, p. 120).
1848	Germany: All male citizens who were able to demonstrate 'personal self-reliance' (a criterion which had a varying interpretation between the different Germany states) were granted the right to vote in elections of the German national assembly (' <i>Paulskirchenparlament</i> '). Despite its shortcomings, this reform, at a stroke, increased the percentage of eligible voters to 35%. The minimum voting age corresponded directly to the age of consent, which varied from state to state (from 21 to 30)
1856	US: After North Carolina's removal of property qualifications on the right to vote in 1856, property qualifications on the right to vote ceased to exist throughout the US. All white men over 21 could vote
1867	UK: The Second Reform Act reflected popular support for further electoral reform after the Representation of the People Act (1832). It extended the latter by granting the right to vote to lodgers over 21 years old in boroughs (urban areas) who paid a rent of over £10 per annum. It also relaxed property qualifications to extend the franchise to tenants and landowners with very small holdings Germany: Article 20 of the constitution of the North German Parliament of 16 April 1867 granted the universal and direct right to vote in secrecy (secret ballot) to over-25 year olds
1868	US: The Fourteenth Amendment to the constitution of the United States established a right to vote for former slaves by defining them as citizens and forbidding states from denying the right to vote to citizens, even though voting regulation (including regulation of voting age) remained a state competency
1871	Germany: The founding of the German Empire led to a slightly modified version of the North German constitution being adopted, including the direct adoption of Article 20 on voting rights
1884	UK: The Third Reform Act empowered rural voters (in the counties) by establishing the same voting rights for them as voters in the boroughs (21 years old with property qualifications). Women, however, remained completely excluded from the franchise

**Table 9.1** (continued)

Year	Voting rights reform
1918	UK: In 1918, as a result of the women's suffrage movement and the changing view of women after the instrumental role they played domestically during World War I—fulfilling many traditionally 'male' tasks in industry—women gained the right to vote in the UK, but only when aged 30 and over. Women also became eligible to stand as MPs Germany: After defeat in WWI, the Council of People's Deputies on 12 November 1918 declared an equal, secret, direct and universal right to vote for all men and women over 20 years old. Excluded from the vote remained those who were under the care of another and those who, through a legal ruling, had lost their civil rights. The voting age was not a point of consensus for the architects of the constitution. The 'Deutsche Volkspartei' (German People Party) representatives rejected a proposal to set a minimum voting age of 20 years old on the basis that, if it were accepted, one could also grant voting rights to infants
1919	Germany: Article 22 of the Weimar Constitution (11 August 1919) declared that representatives would be elected by men and women over 20 years old in universal, equal, direct elections using a secret ballot. The electoral system was proportional representation. With this reform, the number of eligible voters increased sharply for the second time in German history
1920	US: The Nineteenth Amendment to the constitution of the United States established equality between sexes with respect to voting rights at both the state and federal level, permitting women over the age of 21 to vote
1964	US: The right to vote in federal elections was decoupled from tax: failure to pay tax no longer denied anyone over 21 years old the right to take part in national elections. Yet, at the state level, it was only after the Supreme Court ruling <i>Harper v. Virginia Board of Elections</i> (1966) that the right to vote was also decoupled from tax at the state level
1969	UK: The legal voting age in all UK elections was lowered from 21 to 18 for both men and women.
1970–1972	Germany: Through a constitutional change (1970), the wording of Article 38 II of the German constitution was amended. From this moment on, eligible voters were those were over 18; eligible candidates in elections were those who had reached the age of consent. German electoral law was correspondingly amended in 1972. Hence in 1972, 18–20 year olds were able to vote for the first time
1971	US: The Twenty-Sixth Amendment to the Constitution of the United States is signed by President Richard Nixon in July 1971, lowering the voting age from 21 to 18 in federal elections. The key argument made by proponents for this change (mainly Vietnam war protesters) was that those old enough to go to war should also be able to vote
2006	UK: The Electoral Administration Act became law in 2006, lowering the age at which one can stand as an MP from 21 to 18, which replaced previous regulation dating back to the Parliamentary Elections Act 1695
2013	UK: In January 2013 a motion was passed in the British House of Commons by a large majority (119–46) to lower the voting age from 18 to 16 in all UK elections—but the outcome was not binding on the government, which opposed such a change US: In May 2013 Takoma Park in Maryland became the first city to grant those as young as 16 the right to vote in municipal elections and referendums (Powers 2013)

363 tween 18 and 25 years old would have catastrophic consequences. On the contrary:  
364 history teaches us that even the most well-meaning paternalism is inappropriate  
365 and harmful to the objective of increasing the level of political education of previ-  
366 ously excluded groups of the population, who require that the system accepts them  
367 as politically mature. For example, it was only in 1968, after the extension of the  
368 franchise, that a law was passed to introduce elementary schools for general educa-  
369 tion in England.

### 370 9.3 Gradualness v. Absoluteness

371 Any pragmatic solution to end the epistocratic and outright exclusion of minors  
372 from the franchise must confront two established facts. The first is the gradualness  
373 of the maturing process of children and adolescents. Here, there may be controver-  
374 sies over when certain stages of psychological development are reached, both with  
375 respect to specific individuals and on average. Additionally there is a differentiation  
376 to be made between ‘experience’ and ‘biological mental maturity’.<sup>13</sup> That political  
377 judgement is gradually reached, however, is not in doubt. The second fact which  
378 must be recognized is that the core idea of democracy—the collective authorization  
379 of laws through a people, which is also subject to them—is *not* gradual. Democracy  
380 as a form of government is inseparably connected to the normative idea of voting  
381 rights for all citizens, independent of the extent of their political maturity. To make  
382 comprises would put democracy itself at risk.

383 At least in appearance, legal provisions regarding the right to vote offer an all-or-  
384 nothing solution: young people are either eligible to vote or not.<sup>14</sup> Accommodation  
385 is not made for both the categorical equality of all humans as a normative premise  
386 of democracy and the gradualness of the maturing process. For child right experts  
387 such as Kiesewetter (2009) or Weimann (2002)—in the tradition of Farson (1974)  
388 and Holt (1974)—a solution to the problem is that a right to vote from birth should  
389 be established. From a philosophy of law perspective, it is based on the demand for  
390 human rights equality for children. According to this view, the right to vote should  
391 not be dependent on the ability to exercise it. Children are entitled to it, simply be-  
392 cause they are human beings. As Weimann (2002, p. 53) notes: ‘Because children  
393 are humans, the inviolability of human dignity must apply equally to them as it  
394 does to adults. The human rights which are derived from human dignity and apply  
395 to adults must therefore also apply to children.’<sup>15</sup> The focus of this argument is not  
396 on the act of voting itself, but the legal right to vote. Since the latter is not regarded  
397 as gradual, discussions about *pragmatic* solutions are regarded as unnecessary. Kie-  
398 sewetter (2009, p. 271), writing with regards to voting age boundaries on pragmatic  
399 grounds, arrives at the following conclusion: ‘When it comes to fundamental rights,

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<sup>13</sup> Cf. Tremmel (2008).

<sup>14</sup> Cf. Lecce (2012) and Archard (2004, p. 12).

<sup>15</sup> Own translation.

400 this type of pragmatic justification is indefensible. When, from one day to the next,  
401 one loses entitlements, it may lead to bitterness borne out of arbitrariness – but this  
402 is to be distinguished from the withdrawal of a fundamental right.’<sup>16</sup>

403 The assumed nexus between human rights, civil liberties and the right to vote  
404 is, however, problematic. First of all, human rights and civil liberties are not co-  
405 terminous; and even if, in light of this, the line of argumentation shifts from the  
406 right to vote as a human right to it being the most important of civil liberties, the  
407 right to vote is still, like every law, subject to justification. Laws cannot be final  
408 justifications.<sup>17</sup> Human rights did not fall out of the clear blue sky; they are neither  
409 God-given nor a product of nature (Tremmel and Robinson 2014). Rather, they  
410 are an invention of man. According to this reason-based, anti-natural rights posi-  
411 tion, humans only have rights (including fundamental and human rights) because  
412 they have been granted to them. For the most part, child rights in international law  
413 were granted by a special Convention on the Rights of the Child (1989), not by the  
414 Universal Declaration of Human Rights (1948). The former postulated additional  
415 rights for under-18s, even though universal human rights already existed and young  
416 people are clearly human beings. This is meaningful: for some rights, such as sexual  
417 self-determination, special regulations are necessary for children. For understand-  
418 able reasons, special protection provisions—e.g. the ban on the pornographic pre-  
419 sentation of one’s own body—must be added to the formal rights that apply to all  
420 humans equally (Maywald 2010, pp. 8–15). When child rights experts object that  
421 rights must not be *guaranteed* because they already *exist*, it must be questioned why  
422 the advocacy efforts of child rights experts for the legal anchoring of a right to vote  
423 from birth has until now been unsuccessful.

### 424 **9.3.1 A Pragmatic Proposal: A Voting Right** 425 **for Minors Through Registration**

426 If the premise that the right to vote is a human right and all humans are therefore  
427 entitled to it is abandoned, scope for pragmatic solutions becomes available. This  
428 article does not therefore advocate a right to vote from birth; even the description  
429 ‘voting rights for children’ would be misleading. Rather, what is recommended here  
430 is that all young people who *want* to vote are incorporated into the electorate by  
431 means of a ‘right to vote through registration’. This solution prioritizes intent over  
432 age boundaries; the will of young people is its focus.

433 A ‘right to vote from birth’ would require all citizens to be included on the elec-  
434 toral register from birth onwards. A ‘right to vote through registration’ does not  
435 necessitate such a practice. Minors are, at first, not included on the electoral regis-

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<sup>16</sup> Own translation.

<sup>17</sup> There is not sufficient space here to thoroughly analyze legal-philosophical issues regarding the nature and existence of rights. For such analysis, see Tremmel and Robinson (2014), p. 145–190 and Tremmel (2009), p.46–63.



436 ter and therefore have no right to take part in elections. In the model put forward  
437 here, they instead have the right to register as a voter to take part in elections. It is  
438 undeniable that a fraction of under-18s has no interest in politics and no desire to  
439 vote. This fact is entirely normatively unproblematic: it does not contravene the  
440 basic principle of the equal value of all citizens. In many democracies voting is not  
441 compulsory—a right to abstain exists.

442 This paper advocates that young people and children should be able to claim  
443 the right to vote, at a point in time chosen by them. In practice, the decision would  
444 be taken by the child by means of a visit (in person) to the authorities of his or her  
445 respective electoral constituency, where a registration process could be complet-  
446 ed. Once there, the young person would have to inform the authorities that he/she  
447 would like to be registered on the electoral roll for under-18s. Such a registration  
448 would not be an ‘application’—an application can be rejected—but a ‘declaration  
449 of intent’. An examination of the electoral aptitude of young people would not take  
450 place in any form whatsoever. As there are elections on different levels (national,  
451 local, and European), the young person would decide for him/herself which elec-  
452 tions he/she would like to take part in—or the young person can register for all of  
453 them, just like an adult.

454 An appropriate name for this voting rights model is ‘the right to vote for minors  
455 through registration on the electoral register’ (for short: ‘the right to registration for  
456 voting’). It would be a right to vote without age limits, but it would not be a right  
457 to vote from birth onwards as all babies, infants as well as large fractions of older  
458 children and young people would be excluded from the right to vote by this model.  
459 For defenders of the status quo, this model is likely to go too far, while for the child  
460 rights movement, it may not go far enough. To answer the criticism of the latter, it  
461 is important to note that very old voters are *often* not in possession of the power of  
462 political judgement. One year olds, on the other hand, *always* lack this faculty. The  
463 notion that the opportunity to vote should be extended to babies and small children  
464 is absurd, both at first glance and after long consideration. Babies would prefer to  
465 eat the ballot paper than fill it out (Lecce 2009, p. 137). Defenders of the status  
466 quo, meanwhile, may argue that modes of political participation should correspond  
467 to age. References to youth parliaments and children’s rights should not, however,  
468 be used to block the debate on a right to vote for under 18s who wish to do so.  
469 Consequential political choice (in actual elections) is the ritual and feast of democ-  
470 racy<sup>18</sup>—and for the large majority of the general public, choice through elections is  
471 their only form of political engagement.

### 472 9.3.2 *Estimated Number of Under-18s Who Want to Vote*

473 To ascertain the number of young people who wish to vote in the US, UK and  
474 Germany, Table 9.2 multiplies the number of individuals in each age cohort by an  
475 assumed participation rate. The assumed rate for 16 and 17 year olds is based on

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<sup>18</sup> Cf. Eith and Mielke (2006).

**Table 9.2** Estimation of underage people who want to vote in the US (2010), UK (2011) and Germany (2013). (Source: Based on own calculations)

Age cohort	Number of young people			Assumed percentage of willing voters (%)	Additional new voters/number of excluded voters		
	US	UK	Germany		US	UK	Germany
17	2,420,000	665,300	846,000	55	1,331,000	366,000	465,300
16	1,940,000	648,000	823,000	45	873,000	292,000	370,350
15	1,480,000	650,900	791,000	35	518,000	228,000	276,850
14	1,040,000	640,700	788,000	25	260,000	160,000	194,500
13	820,000	629,100	802,000	20	164,000	126,000	160,400
12	620,000	618,900	817,000	15	93,000	93,000	122,550
11	410,000	605,500	791,000	10	41,000	61,000	79,100
10	210,000	586,800	774,000	5	10,500	29,000	38,700
9	80,000	571,900	772,000	2	1,600	11,000	15,440
8	40,000	572,800	738,000	1	400	6,000	7,380
Sum	9,060,000	6,189,900	7,932,000		3,292,500	1,372,000	1,730,570

476 the actual participation rate of these age cohorts in German regional elections, for  
 477 which the minimum voting age is 16 years old. For younger age groups the rate was  
 478 then proportionally scaled down. Following this method, it is possible to determine  
 479 that a right to vote through registration would translate into the addition of 1.7 mil-  
 480 lion votes of young, politically engaged Germans to the German national election  
 481 results. This estimate is in fact rather conservative when one takes into account that  
 482 voter participation rates for national elections are higher than for regional ones; thus  
 483 the number of young people who wish to vote but are excluded from the franchise  
 484 could—not unrealistically—be 2 million. The youngest accepted age cohort is 8  
 485 year olds (1%).

486 When the German youth participation rate is applied to the UK and the US on  
 487 the assumption that a similar number of young people would vote in those countries  
 488 as they do in Germany, it can be deduced that the implementation of a right to vote  
 489 through registration would add the votes of 1.4 million young people in UK national  
 490 elections, and in the US the votes of 3.3 million additional young Americans would  
 491 be taken into account. To emphasize: these are conservative figures based on turn-  
 492 out rates at regional, not national elections, and are therefore likely to understate the  
 493 number of willing but excluded voters. The actual figure for the UK could be closer  
 494 to 2 million, and the US figure more likely to be 5 million.

495 Perhaps political theorists and legal practitioners would have already taken the  
 496 contradictions in electoral law more seriously if young people themselves had spo-  
 497 ken out more strongly. Yet despite the fact that evidence of young people protesting  
 498 against their exclusion from the franchise is plentiful, their voices have been largely  
 499 marginalized in the media. For example, the UK ‘Votes at 16’ coalition, which is  
 500 composed of young people, politicians and youth organizations, has already attract-  
 501 ed 3,440 members since its creation in 2003. In Germany, a petition created by a

502 children's rights NGO (*Kinderrechtszaenger*) has been signed by over 1,000 young  
503 people who are too young to vote but wish to be granted the right to do so.<sup>19</sup> Another  
504 group has challenged the outcome of the September 2013 German election on the  
505 basis that many 16 and 17 year olds were excluded against their will.<sup>20</sup> Participation  
506 rates in youth elections speak for themselves: UK Youth Parliament elections attract  
507 over 500,000 voters nationwide. Meanwhile, in Germany, a similar youth election  
508 takes place, known as the U18 Election (*U18-Wahl*); it is held shortly before Ger-  
509 man national elections and is open to all children and young people.<sup>21</sup> According  
510 to data from the U18 website ([www.u18.org](http://www.u18.org)), 127,208 children took part in the  
511 German U18 Election in 2009; in 2013, around 200,000 participated. They had the  
512 opportunity to vote in 1,500 temporary polling stations which were set up by youth  
513 centres, ensuring comprehensive coverage. On their polling card for the 2013 elec-  
514 tion, which took place on 13 September 2013, the young participants were given the  
515 opportunity to voluntarily declare their age and sex, and two-thirds did so.<sup>22</sup>

### 516 9.3.3 *Ramifications for Election Results*

517 Due to a lack of data, predictions about the effects a right to vote through registra-  
518 tion would have on the election results of any nation-state is far from a perfect  
519 science—demoscopic institutes tend to only concern themselves with the voting  
520 behaviour of eligible voters. We have therefore based our calculations of the U18-  
521 elections in Germany. Such data is suitable for our purposes because there is no age

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<sup>19</sup> The original petition statement (own translation): 'I am under 18-and I want to vote. Like all people who live in this country, I am affected by political decisions: especially, in the present, by child, youth, families and education policy; and long-term by, for example, the implications of today's public debt as well as environmental and pensions policy. Other policy fields, such as questions of war and peace, social and economic policy or public policies towards minorities also concern me to some extent. In a parliamentary democracy, political decisions are reached by representatives who are elected by eligible voters, whose interests they claim to represent. The interests of those who are not eligible to vote are often noticeably neglected—though the representatives should, in fact, represent the entire population. This is because policies are mainly designed for those who can vote. If, one day, decisions are made at the national level in another form (e.g. through referendums), I would also like to participate. I would like to be taken seriously and be recognized as a person equal in value to others. A right to vote in elections would be a clear statement to this end. Please create the legal basis for me to be able to participate in elections and votes—in person and without parental proxy voting.' The number of ineligible young voters was retrieved from <http://www.ich-will-waehlen.de/index.php?kat=Statistik+der+Petition&alter=>. Last accessed on 01.12.2014.

<sup>20</sup> [wir-wollen-waehlen.de](http://wir-wollen-waehlen.de). Last Accessed on 01.12.2014.

<sup>21</sup> The U18-Wahl is organized by many youth organizations and NGOs as well as the Berliner U18-Network. It is financially supported by the German Ministry for Family, the Elderly, Women and Young People and the Federal Agency for Civic Education.

<sup>22</sup> The data can be summarized as follows: 5.87% of the young people were 17 years old; 9.83% were 16; 13.04% were 15; 11.93% were 14; 9.93% were 13; 7.16% were 12; 4.95% were 11; 3.42% were 10; 1.49% were 9; 0.77% were 8; and the rest (0.54%) were younger.

**Table 9.3** Results of the German national elections and the U18 elections (2009 and 2013) compared. (Source of the U18 election results: [www.u18.org](http://www.u18.org))

	CDU/ CSU	SPD	Die Grüne	FDP	Linke	Piraten	NPD	Tier- schutz	Other
Political position	Centre- right	Centre- left	Green party	Centre- right	Left- wing	Pro- trans- parency	Far- right	Animal rights	
U18 (2013) (%)	27.1	20.4	17.0	4.6	7.8	12.1	3.2	1.8	7.9
National (2013) (%)	41.5	25.7	8.4	4.8	8.6	2.2	1.3	0.3	2.5
U 18 (2009) (%)	19.4	20.5	20.0	7.6	10.4	8.7	4.2	5.2	4.1
National (2009)	33.8	23.0	10.7	14.6	11.9	2.0	1.5	0.5	2.0

522 restriction on participation and a high level of motivation is necessary to actually  
 523 vote. The minors were required to locate a voting booth—an experience that was  
 524 probably unknown to most of them prior to taking part—and successfully negotiate  
 525 the voting procedure. Table 9.3 compares the results of the U18-elections elections  
 526 with the national election results in Germany for 2009 and 2013.

527 The results demonstrate consistent differences in party preferences between the  
 528 currently eligible electorate and minors across 2009 and 2013. Most strikingly, the  
 529 major parties performed relatively badly among young voters: the CDU/CSU loses  
 530 roughly one-third of its share of the vote among minors and the SPD approximately  
 531 one-fifth. Linke and the FDP both received roughly as many votes from minors as  
 532 they did from adults. The clear winners of an introduction of a right to vote through  
 533 registration for minors in 2009 and 2013—mainly profiting from the losses of the  
 534 main parties—would have been the Piraten (the party received a share of the vote  
 535 from minors which was 4–5 times larger than from adults), Tierschutz (6–10 times  
 536 larger) and the NPD (3 times larger). It should be noted, however, that even despite  
 537 the increases, the German political party for animal rights (Tierschutz) (2009: 5.2%;  
 538 2013: 1.8%) and the German far-right party (NPD) (2009: 4.2%; 2013: 3.2%) still  
 539 only received a small share of the overall vote. The so-called ‘pirate party’ (Piraten)  
 540 (2009: 8.7%; 2013: 12.1%), a newly-founded pro-transparency party, on the other  
 541 hand, received a considerably more significant share.

542 Despite these findings and the temptation to draw conclusions for other coun-  
 543 tries, anticipated election results are an illegitimate criterion for the granting of the  
 544 right to vote. Voting patterns of eligible voters already vary: there is already varia-  
 545 tion between the voting patterns of 20–30 year olds and 70–80 year olds—but no-  
 546 body would deploy this line of reasoning to advocate for the exclusion of these age  
 547 groups from the franchise. Moreover, one would be very dependent on conjecture

548 (as per our analysis): demoscopic institutes have, until now, not carried out enquiries  
549 into the voting preferences of young people without age limits.

550 This line of reasoning poses fundamental questions of any type of 'right to vote  
551 on trial' for certain age groups. The history of voting age boundaries demonstrates  
552 that almost every lowering has been 'no strings attached', in the sense that lowering  
553 has not been linked to empirical variables, such as the party preferences of new  
554 voters. In Norway in 2011, however, the minimum voting age was lowered from  
555 18 to 16 for local elections only—and only in 21 of 430 boroughs.<sup>23</sup> The so-called  
556 'Norwegian 2011 voting-age trial' is an attempt to test the political maturity of  
557 young Norwegians—and then to decide if the voting age should be lowered from  
558 18 to 16 for all boroughs. Apart from the empirical outcome of the 'test', the experiment  
559 highlights the difficulty involved in operationalizing the concept 'political  
560 maturity': can a preference for a transparency party, animal rights party or even  
561 a 'radical' party at the left or right-end of the political spectrum be indicative of  
562 immaturity? History is replete with examples of established party positions which  
563 were considered 'extreme' for the majority of one generation, and for the following  
564 'mainstream'. It is simply unimaginable that the older fraction of an existing demos  
565 could expel the younger fraction on the basis that the latter did not 'vote correctly'.  
566 It would be understood as the organized defence of the old against the young, and  
567 the right of every generation to determine the values of the society in which it lives  
568 would be undermined.

#### 569 **9.3.4 Provisions to Prevent Abuse**

570 The threat of abuse of a new regulation does not in all cases mean that it should  
571 be repealed. Often, there is no other choice than to find a lesser evil. Nevertheless,  
572 before the introduction of a 'right to vote through registration', possible abuses  
573 should be anticipated and, to the greatest extent possible, minimized. For instance,  
574 it is conceivable that, on the basis of their dependence, young people are unable  
575 to vote freely. More than all other voting groups, they could be at risk of being influenced—in this case, by their parents. With respect to such arguments, the basic principle of the freedom of choice applies, which stipulates that all voters should be protected from influences which are able to compromise their freedom to choose, legitimizing the use of secret ballots. In particular, this basic principle stipulates that the authorities should not have any influence; that is to say, no system should exist—set up by the ruling government, for instance—which binds voters into voting for a particular party/nominee. The freedom to choose, however, is not intended to imply the elimination of all influences from contemporaries—such as parents, partners or friends. One cannot even ensure the elimination of influence with respect to voters who are over 18. If it were attempted, it would not only be the end of party

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<sup>23</sup> Bergh (2013).

586 political broadcasts on radio and television, but would require all political discus-  
587 sions to be banned. Since freedom from influence among adult voters is neither in-  
588 tended nor feasible, it could be argued freedom from influence among young voters  
589 must not be problematized. In the final analysis, all young voters would be alone in  
590 the voting booth and can, as a result, tick whichever box they want.

591 On the other hand, parents may have completely different means of creating  
592 pressure on their children than adults do in relation to one another—but voting in  
593 person would be of great value in negating it. It therefore appears advisable that the  
594 (formerly) underaged are not permitted to take part in postal voting. Here, there is a  
595 distinction to be made between ‘real’ postal voting, whereby a vote is cast by post,  
596 and preselection, whereby a vote is cast at the polling station through the delivery  
597 of a voting card. Postal voting and, in particular, ‘real’ postal voting are generally  
598 more susceptible to electoral corruption than a vote cast at a polling station. A direct  
599 influence on the underaged by family members to the point of filling in the voting  
600 card on the child’s behalf cannot be ruled out, since in contrast to the polling sta-  
601 tion, adherence to secret voting cannot be observed. That is not to imply that a large  
602 number of parents or older siblings would behave in such a way—but even a small  
603 percentage would be too much. Yet it would seem legitimate to protect the under-  
604 aged by only allowing them to vote in person and ruling out the possibility of them  
605 taking part in postal voting.

## 606 Conclusion

607 It has been demonstrated with reference to the history of idea that the current exclu-  
608 sion of young people and children from the franchise is a last, anachronistic bastion  
609 of epistocratic thought which contradicts democratic principles, as they are today  
610 generally understood. This delay is the result of both the superficiality of the current  
611 debate and the voicelessness of young people in the media. As Dahl (1982, p. 98)  
612 notes, ‘[the problem of inclusion] is an embarrassment to all normative theories of  
613 democracy, or would be were it not ignored.’

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