

GIVE YOUNG ADULTS THE VOTE

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Joshua Kleinfeld and Stephen Sachs make a significant contribution to the literature on children's disenfranchisement by describing and defending parental proxy voting: empowering parents to vote on their children's behalf. The authors' democratic critique of the status quo is particularly persuasive. Children's exclusion from the franchise indeed distorts public policies by omitting children's preferences from the set that policymakers consider. However, Kleinfeld and Sachs's proposal wouldn't do enough to correct this distortion. This is because contemporary parents diverge politically from their children, holding, on average, substantially more conservative views. The proxy votes that parents cast for their children would thus often conflict with the children's actual desires. Fortunately, there's an alternative policy that would fix more of the bias caused by disenfranchising children: young adult proxy voting. Under this approach, children's votes would be allocated to not their parents but rather young adults—the cohort of adults closest in age to children. Young adults, unlike parents, are highly politically similar to children. At present, for example, both young adults and children are quite liberal. So, to update Kleinfeld and Sachs's thesis, if we want children “to be adequately represented at the polls, we should give [young adults] the vote.”

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INTRODUCTION

In the sizable literature on enfranchising children—either directly or by proxy—Joshua Kleinfeld and Stephen Sachs’s new article stands out. Kleinfeld and Sachs eloquently argue that parents should be authorized to cast proxy votes on behalf of children whom we’re unwilling to enfranchise directly because we think they lack the capacity to exercise the franchise. The authors persuasively address the enfranchisement of children from a variety of angles. As a matter of democratic theory, they maintain that children are members of the political community, entitled for this reason to a say (by proxy) in the community’s affairs. Practically, Kleinfeld and Sachs explain how parental proxy voting could be adopted without undue difficulty. And legally, they claim (correctly, in my view) that no constitutional or federal statutory provision would be violated by the policy they advocate.

While there’s much I like in the article, what I most appreciate is its initial justification for (indirectly) enfranchising children. The authors don’t start with the conventional points that many children are capable of voting or that (essentially) all native-born children are members of the *dêmos*. Kleinfeld and Sachs’s opening salvo, instead, is that the disenfranchisement of children distorts our political process. It leads to representation and policy that are biased against the interests of children.¹ This critique resonates with me because of its consistency with the alignment theory of election law that I’ve previously developed.² According to this theory, an overarching principle of election law should be the promotion of alignment between governmental outputs and popular preferences. My first contribution in this response is thus to frame the disenfranchisement of children in the terminology of alignment. Relatedly, I present some empirical evidence about the misalignment that’s caused by this exclusion.

Next, I consider parental proxy voting through the lens of alignment. The policy would undoubtedly alleviate some of the misalignment of the status quo. But only some. The reason the policy wouldn’t be more impactful is that the political preferences of parents tend to be quite different from those of their children. In partisan terms, parents lean Republican compared to their children. Ideologically, parents are more conservative: both overall and on many individual issues. And because they’re older, parents are less willing to take positions whose benefits materialize in the long run but whose costs accrue sooner. As a result, assuming parents’ extra votes would mirror their existing ones, parental proxy voting wouldn’t

¹ See Joshua Kleinfeld & Stephen E. Sachs, *Give Parents the Vote*, 100 NOTRE DAME L. REV. (forthcoming 2024) (manuscript at 3).

² See, e.g., NICHOLAS O. STEPHANOPOULOS, *ALIGNING ELECTION LAW* (2024).

greatly change the partisanship, ideology, or temporal orientation of the median voter. The median voter certainly wouldn't be as Democratic, liberal, or attentive to the long run as if children's preferences were accurately conveyed.³

If not through their parents' (or their own) votes, how could children's preferences be more faithfully transmitted? My last aim here is to introduce what I call *young adult proxy voting*. Under young adult proxy voting, as under parental proxy voting, the votes of children would be allocated to other individuals. But under young adult proxy voting, unlike under parental proxy voting, these other individuals would be the youngest eligible members of the electorate, not parents. Under young adult proxy voting, children's votes would also be assigned on a wholesale basis at the level of a small geographic unit such as a Census block group. Suppose, for example, that there are 150 children and 100 eligible voters between the ages of eighteen and twenty-nine in a Census block group. Then each of these 100 eligible voters would cast 2.5 votes: one vote for herself and 1.5 votes in the name of the children she represents by proxy.

The core argument for young adult proxy voting is that it would be significantly more aligning than parental proxy voting. This is because the political preferences of young adults tend to be quite similar to those of children. According to surveys, the shares of young adults and of children supporting Democratic candidates, generally identifying as progressive, and specifically favoring certain policy stances, typically diverge by no more than a few percentage points.⁴ This is hardly surprising, of course, since eligible young adults were ineligible children not long ago. Consequently, the median voter under young adult proxy voting would strongly resemble the median voter if children themselves could vote.

Operationally, too, young adult proxy voting would be easier to implement than parental proxy voting in some respects. The key is the wholesale basis on which children's votes would be allocated under young adult proxy voting. To perform this allocation, the only necessary pieces of information would be the numbers of children ineligible to vote solely because of their age and of eligible young adult voters in each geographic unit. There would be no need to grapple with the numerous "special cases" that Kleinfeld and Sachs examine: parentless children, children with foster parents, children with noncustodial parents, and so on.⁵ These are all retail issues that would disappear if votes were assigned wholesale from children to young adults.

I. THE MISALIGNMENT OF THE STATUS QUO

Kleinfeld and Sachs begin their impressive article by cataloging some ways in which the disenfranchisement of children skews public policy. After the COVID-19 pandemic hit, bars were allowed to reopen well before public schools in most jurisdictions. Part of the explanation is likely that bargoers can vote while most

³ It may go without saying, but I want to emphasize that my commitment in this piece is to better alignment, not to more Democratic or liberal outcomes. In fact, there have been times in the past when my proposal of young adult proxy voting would have benefited Republicans. See *infra* notes 105-110 and accompanying text.

⁴ See, e.g., KIM PARKER ET AL., GENERATION Z LOOKS A LOT LIKE MILLENNIALS ON KEY SOCIAL AND POLITICAL ISSUES (Pew Rsch. Ctr., Jan. 2019).

⁵ See Kleinfeld & Sachs, *supra* note 1 (manuscript at 47-61).

students can't.⁶ Children's political invisibility may also contribute to "the limited supply of housing for new families, the state of public transportation and public parks, anemic support for working parents or responses to child poverty, and many aspects of crime and public-safety policy."⁷ In all these areas, "policy is observably and significantly distorted by the political weakness of children, whose interests aren't adequately defended at the polls."⁸

I think this objection to disenfranchising children is compelling. It dovetails with my view that, when designing (or litigating over) electoral rules, we should strive for better alignment between what the government does and what people want the government to do. To summarize the alignment theory, there are (at least) three important kinds of governmental outputs. Officeholders have party affiliations. They take stands on many issues. And through their collective efforts, they enact policies. The crux of the theory is that all these governmental outputs—partisanship, representation, and policy—should be congruent with popular preferences. In particular, electoral rules should be crafted to improve, or at least not to worsen, alignment.⁹

With whose views should governmental outputs be aligned? The general answer is members of the relevant political community. If we're looking at the country as a whole, national governmental outputs should correspond to the preferences of members of the national political community. If we're focusing on an individual district, the district's representative should abide by the preferences of members of the district's political community. But who exactly are these members? Are they all residents, all citizens, all eligible voters, or some other group? Unfortunately, in a version of the democratic boundary problem familiar to political theorists,¹⁰ the concept of alignment can't resolve this dilemma. Alignment becomes applicable only once we've decided who's part of our political community. This decision can be made on many grounds—custom, positive law, normative reasoning, fiat—but it can't be made on the basis of alignment itself.¹¹

With respect to the disenfranchisement of children, then, the alignment theory has analytic bite only if children are members of our political community. If they're not, then they're outside the population with whose views governmental outputs should be aligned. On this threshold issue, Kleinfeld and Sachs argue, and I agree, that citizen children are "members of the American political community if anyone is."¹² By birth or through naturalization, they possess American citizenship: a status

⁶ See *id.* (manuscript at 3).

⁷ *Id.*

⁸ *Id.* For other scholars criticizing the disenfranchisement of children in similar terms, see Nicholas Munn, *Political Inclusion as a Means of Generating Justice for Children*, 3 *ETH., POL. & SOC'Y* 105, 116 (2023) ("As children are not included, their interests are not (sufficiently) accounted for."); and Francis Schrag, *Children and Democracy: Theory and Policy*, 3 *POL., PHIL. & ECON.* 365, 368 (2004) ("If a group of citizens with distinctive preferences were to be deprived of the franchise, it is more likely that their preferences would be ignored . . .").

⁹ See generally STEPHANOPOULOS, *supra* note 2, at 28-36. Of course, there are other theories of election law that have nothing to do with alignment. In this response, I presuppose the validity of the alignment theory and consider the disenfranchisement of children solely from this theoretical perspective.

¹⁰ See, e.g., Frederick G. Whelan, *Prologue: Democratic Theory and the Boundary Problem*, 25 *NOMOS* 13, 40 (1983) ("[D]emocracy, which is a method for group decision-making or self-governance, cannot be brought to bear on the logically prior matter of the constitution of the group itself, the existence of which it presupposes.")

¹¹ See STEPHANOPOULOS, *supra* note 2, at 41-44 (discussing alignment and the democratic boundary problem).

¹² Kleinfeld & Sachs, *supra* note 1 (manuscript at 11).

almost synonymous with membership in the American political community.¹³ Citizen children also qualify as part of the American *demos* under both of the criteria often used by political theorists. They're "affected by" many of the policies adopted by American governments, and they're "subjected to" many of these laws, too.¹⁴

The alignment theory is therefore fully applicable to the disenfranchisement of children. Conceptually, to determine how misaligning (or, in principle, aligning) this exclusion is, three types of data are necessary. The first is information about the preferences of all members of the relevant political community—including children. These preferences can be synopsisized in more or less complex ways; for the sake of simplicity, I only refer here to the preferences of the median person. Second, *actual* governmental outputs (partisanship, representation, or policy) must be identified and placed on the same scale as popular preferences. And third, *hypothetical* governmental outputs *if* children were enfranchised (directly or by proxy) must be estimated (also on the same scale). With this data in hand, the difference between actual governmental outputs and popular preferences can be compared to the difference between hypothetical governmental outputs and popular preferences. If, as expected, the first gap is larger, the margin by which it exceeds the second gap indicates how much misalignment is caused by disenfranchising children.¹⁵

This analysis is more straightforward than it may sound. Suppose that, on a scale from 0 (most liberal) to 100 (most conservative), the median member of the political community—including children—wants public policy, in aggregate, to have a score of 50. Also say that actual public policy has a score of 60 and that hypothetical public policy, if children were enfranchised, would have a score of 57. Then the difference between actual public policy and the median person's preference (ten) exceeds the difference between hypothetical public policy and the median person's preference (seven) by three units. The disenfranchisement of children is thus responsible for misaligning public policy by three units in a conservative direction.

You'll notice I've been assuming that excluding children from the franchise is misaligning. There are two bases for this assumption (which Kleinfeld and Sachs share).¹⁶ The first is that voting is a powerful aligning mechanism. Voters can choose to cast their ballots for more rather than less aligned candidates. Anticipating this behavior, officeholders can shape their records to be more instead of less congruent with voters' preferences.¹⁷ To be sure, voting is far from the only aligning activity in our political system. But as long as voting is aligning at all, it's reasonable to think that preventing certain people from voting—denying them the aligning influence of the franchise—is misaligning. At least, it's reasonable to think so if the second basis for the above assumption holds: that children have distinct partisan and policy

¹³ See *id.*

¹⁴ See, e.g., Ludvig Beckman, *Children and the Right to Vote*, in THE ROUTLEDGE HANDBOOK OF THE PHILOSOPHY OF CHILDHOOD AND CHILDREN 384, 389 (Anca Gheaus et al. eds., 2018) ("The members of the *demos* are more plausibly settled by appeal to either the all-affected or the all-subjected principle."). I take no position here on whether *non-citizen* children should also be deemed members of the American political community.

¹⁵ See STEPHANOPOULOS, *supra* note 2, at 128-32 (discussing the analysis of voting regulations' effects on alignment).

¹⁶ See Kleinfeld & Sachs, *supra* note 1 (manuscript at 3).

¹⁷ See, e.g., STEPHANOPOULOS, *supra* note 2, at 44-46 (discussing these processes of selection and adaptation).

preferences from adult voters.¹⁸ If children and adult voters have the *same* distributions of political views, then disenfranchising children probably changes no governmental outputs. Doing so increases the age of the median voter but alters neither her partisanship nor her ideology. On the other hand, if children diverge politically from adult voters, then their exclusion *is* likely to be misaligning. In this case, the median voter isn't just older than she'd be if children could vote. Her partisan and policy preferences are also different.¹⁹

Regrettably, the empirical evidence about how barring children from voting affects alignment is thin. In the United States, a mere handful of municipalities—five cities in Maryland and Oakland, California (in school board elections)—allow sixteen- and seventeen-year-olds to vote.²⁰ So the data simply isn't there for any largescale study of how governmental outputs shift when children are enfranchised. Nevertheless, there are some indicia that, as Kleinfeld, Sachs, and I all believe, disenfranchising children is indeed misaligning. First, this exclusion significantly raises the age of the median voter. According to the Census Bureau's Current Population Survey, the median voter in the 2020 presidential election was fifty years old.²¹ The median voter in the 2022 midterm election was an even grayer fifty-four.²² In contrast, the median *citizen* was just thirty-seven in 2022, or thirteen to seventeen years younger.²³ Of course, if children were enfranchised, they'd almost certainly turn out at a lower rate than older individuals.²⁴ So granting children the vote wouldn't decrease the age of the median voter all the way to thirty-seven. But this franchise expansion would make the median voter substantially younger, probably by on the order of a decade.

Second, remember that the age of the median voter isn't necessarily linked to her partisan and policy preferences. If children could vote, however, the median voter's political views *would* change because children *are* politically different from adult voters. The best data on children's and adult voters' political views comes from a pair of surveys conducted by the Pew Research Center. One poll was of Generation Z teenagers between thirteen and seventeen years old. The other was of adults sorted by their age cohort (Millennial, Generation X, Baby Boomer, and Silent Generation).

¹⁸ Technically, the relevant comparison is between children *who would vote if enfranchised*—not *all* children—and adult voters.

¹⁹ See, e.g., *id.* at 139 (observing that, for voting regulations to affect alignment, “the people prevented from voting by voting restrictions, or induced to vote by voting expansions, must have distinctive partisan and/or policy preferences”).

²⁰ See *Campaigns*, VOTE16USA, <https://vote16usa.org/> (last visited Aug. 1, 2024).

²¹ See *Voting and Registration in the Election of November 2020*, U.S. CENSUS BUREAU (Apr. 2021), <https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-585.html> (Table 1).

²² See *Voting and Registration in the Election of November 2022*, U.S. CENSUS BUREAU (Apr. 2023), <https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-586.html> (Table 1).

²³ I calculated this figure using both Current Population Survey and American Community Survey data for 2022. See *B05001: Nativity and Citizenship Status in the United States*, U.S. CENSUS BUREAU, <https://data.census.gov/tables?t=Citizenship&y=2022&d=ACS%201-Year%20Estimates%20Detailed%20Tables> (last visited Aug. 1, 2024); *Voting and Registration in the Election of November 2022*, *supra* note 22 (Table 1).

²⁴ A well-known rule of American politics is that age and voter turnout are highly (and positively) correlated. See, e.g., *Voting and Registration in the Election of November 2020*, *supra* note 21 (Table 1 shows that voter turnout increased in each age cohort from 18 to 24 years to 75 years and over in the 2020 election); *Voting and Registration in the Election of November 2022*, *supra* note 22 (Table 1 shows the same in the 2022 election).

Both polls asked respondents the same questions—a rarity since most surveys either exclude children or target them with questions not posed to adults.²⁵

According to the Pew surveys, teenagers diverge considerably from adults, both overall and on individual issues. On the fundamental question of whether the government should do more or less to solve societal problems, fully 70% of teenagers want a more activist government, compared to an average of just 51% across the four adult cohorts.²⁶ With respect to climate change, 54% of teenagers believe it's attributable to human activity, versus an average of 47% for the adult cohorts.²⁷ Sixty-two percent of teenagers think increasing racial and ethnic diversity is good for society, as opposed to an average of 51% for the adult cohorts.²⁸ Forty-eight percent of teenagers say same-sex marriage is societally beneficial, compared to an average of 31% for the adult cohorts.²⁹ Fifty-nine percent of teenagers would like forms to include gender options beyond “man” and “woman,” versus an average of 40% for the adult cohorts.³⁰ And 30% of teenagers approve of Donald Trump's performance as president, as opposed to an average of 41% for the adult cohorts.³¹ At least on these matters, teenagers are consistently “different from previous generations” in that they're more likely to espouse liberal views.³²

Third, to project how the median voter's partisan and policy preferences would shift if children were enfranchised, we can build on the above estimate that, in this scenario, the median voter's age would drop from about fifty to forty. Every two years, the Cooperative Election Study (CES) asks respondents a battery of partisan and policy questions and helpfully sorts respondents into four age cohorts: 18-29, 30-44, 45-64, and 65+.³³ Today's median voter is in the 45-64 cohort, while the median voter if children could vote would be in the 30-44 cohort. In terms of partisanship, in the 2020 presidential election, 49% of voters in the 45-64 cohort voted for Joe Biden, compared to 63% of voters in the 30-44 cohort.³⁴ In the 2022 midterm election, 46% of voters in the 45-64 cohort voted for the Democratic candidate for the U.S. House, versus 57% of voters in the 30-44 cohort.³⁵ Extending the franchise to children would thus raise the odds of the median voter pulling the lever for Democratic candidates by roughly ten percentage points—an impact big enough to transform American elections.³⁶

²⁵ See PARKER ET AL., *supra* note 4; Kim Parker & Ruth Igielnik, *On the Cusp of Adulthood and Facing an Uncertain Future: What We Know About Gen Z So Far*, PEW RSCH. CTR. (May 14, 2020), <https://www.pewresearch.org/social-trends/2020/05/14/on-the-cusp-of-adulthood-and-facing-an-uncertain-future-what-we-know-about-gen-z-so-far-2/>.

²⁶ See PARKER ET AL., *supra* note 4, at 6. The authors report separate figures for each adult cohort, which I then average.

²⁷ See *id.* at 7.

²⁸ See *id.* at 10.

²⁹ See *id.* at 11.

³⁰ See *id.* at 14.

³¹ See *id.* at 2.

³² Parker & Igielnik, *supra* note 25.

³³ See, e.g., *Trends in U.S. Vote Patterns, 2008-2022*, COOPERATIVE ELECTION STUDY, <https://cooperativeelectionstudy.shinyapps.io/VoteTrends/> (last visited Aug. 1, 2024) (selecting age as the demographic variable).

³⁴ See *id.* (selecting age as the demographic variable and President as the vote type).

³⁵ See *id.* (selecting age as the demographic variable and U.S. House as the vote type).

³⁶ This is merely a back-of-the-envelope estimate, of course. Among other potential sources of error, the median voter (both today and if children could vote) might not resemble her age cohort as a whole.

As to policy, the CES asks too many questions to cover them all here. On issue after issue, though, voters in the 45-64 cohort are significantly more conservative than voters in the 30-44 cohort. To illustrate: Fifty-six percent of voters in the 45-64 cohort support a right to abortion in all circumstances, compared to 65% of voters in the 30-44 cohort.³⁷ Fifty-four percent of voters in the 45-64 cohort would strengthen enforcement of environmental laws at the cost of jobs, versus 67% of voters in the 30-44 cohort.³⁸ Fifty-nine percent of voters in the 45-64 cohort back Medicare for all, as opposed to 73% of voters in the 30-44 cohort.³⁹ Fifty-nine percent of voters in the 45-64 cohort would grant legal status to employed immigrants with no criminal convictions, compared to 70% of voters in the 30-44 cohort.⁴⁰ Sixty-eight percent of voters in the 45-64 cohort favor military action to destroy terrorist camps, versus 54% of voters in the 30-44 cohort.⁴¹ And 57% of voters in the 45-64 cohort approve of same-sex marriage, as opposed to 66% of voters in the 30-44 cohort.⁴² The median voter wouldn't just be more Democratic, then, if children were enfranchised. She'd also be more liberal on a wide range of topics.

Lastly, though I'm unaware of any study on point, current policies certainly seem different from the ones we'd expect if the electorate included children. At the outset of their article, Kleinfeld and Sachs identify pandemic response, education, housing, transportation, recreation, parental support, child poverty, and criminal justice as areas where policies are plausibly biased in favor of older individuals—and against the hypothetical median voter if children could vote.⁴³ To this list I'd add total governmental spending on the old and on the young. In both the United States and other Western democracies, “the ratio of social spending on the elderly to social spending on the young remain[s] at roughly three.”⁴⁴ It's hard to believe this stark imbalance would persist if children's and adults' preferences were weighted equally or close to it. One more probable example of policy misalignment due to children's disenfranchisement is Britain's 2016 vote to exit the European Union. This vote was a squeaker—“Leave” beat “Remain” by less than four percentage points⁴⁵—and individuals under twenty-five opposed Brexit by almost forty percentage points.⁴⁶ Had more of these individuals been able to participate in the referendum, Brexit would likely never have happened.

³⁷ See *Trends in U.S. Policy Preferences*, COOPERATIVE ELECTION STUDY, <https://cooperativeelectionstudy.shinyapps.io/PolicyTrends/> (last visited Aug. 1, 2024) (selecting age as the demographic variable and abortion as the policy topic).

³⁸ See *id.* (selecting age as the demographic variable and environment as the policy topic).

³⁹ See *id.* (selecting age as the demographic variable and healthcare as the policy topic).

⁴⁰ See *id.* (selecting age as the demographic variable and immigration as the policy topic).

⁴¹ See *id.* (selecting age as the demographic variable and military as the policy topic).

⁴² See *id.* (selecting age as the demographic variable and gay marriage as the policy topic).

⁴³ See Kleinfeld & Sachs, *supra* note 1 (manuscript at 3).

⁴⁴ Munn, *supra* note 8, at 116; see also, e.g., Sita Nataraj Slavov, *Age Bias in Fiscal Policy: Why Does the Political Process Favor the Elderly?*, 6 TOPICS THEOR. ECON. 1, 1 (2006) (“In the United States, individuals over the age of 65 receive more than seven times as much public spending per capita as those aged 20-35. A similar pattern holds in other OECD countries as well.” (internal citations omitted)).

⁴⁵ See *2016 United Kingdom European Union Membership Referendum*, WIKIPEDIA, https://en.wikipedia.org/wiki/2016_United_Kingdom_European_Union_membership_referendum (last visited Aug. 1, 2024).

⁴⁶ See David Stockemer & Aksel Sundstrom, *Age Inequalities in Political Representation: A Review Article*, 49 GOV'T & OPPOSITION (forthcoming 2024) (manuscript at 6).

II. THE MISALIGNMENT OF PARENTAL PROXY VOTING

To this point, Kleinfeld and Sachs and I are on the same page. Disenfranchising children is democratically troubling because (among other reasons) this exclusion is misaligning. Children’s political preferences are distinct from those of adult voters. So when children can’t participate in elections, governmental outputs are skewed in favor of adult voters and against the hypothetical median voter if children could vote. Turning from diagnosis to prescription, though, I worry that Kleinfeld and Sachs’s proposed reform—parental proxy voting—isn’t aligning enough. Parents *are* more politically similar to their children than are adult voters overall. That’s why Kleinfeld and Sachs’s proposal *is* aligning relative to the status quo. But parents’ and their children’s political preferences still diverge substantially. That’s why Kleinfeld and Sachs’s proposal doesn’t remedy all (or most) of the misalignment due to children’s disenfranchisement.

To see how parents’ and their children’s political preferences diverge, go back to the surveys I cited earlier. When the Pew surveys were in the field in 2018, the median parent of a child under eighteen was at the younger end of Generation X (born between 1965 and 1980). The median age of a parent when a child is born is now about thirty in the United States (the oldest age at childbirth in American history).⁴⁷ The number of American children of each age between zero and seventeen is also roughly constant (at around four million).⁴⁸ The median parent of a child under eighteen is therefore close to thirty-nine years old. Older parents of children under eighteen were in the heartland of Generation X in 2018, while younger such parents were among the oldest Millennials (born between 1981 and 1996).

According to the Pew surveys, Generation Z teenagers are more liberal across the board than Generation X adults (who included the median parent of a child under eighteen in 2018).⁴⁹ Seventy percent of teenagers want a more activist government, compared to 53% of Generation X.⁵⁰ Fifty-four percent of teenagers think climate change is attributable to human activity, versus 48% of Generation X.⁵¹ Sixty-two percent of teenagers think increasing racial and ethnic diversity is good for society, as opposed to 52% of Generation X.⁵² Forty-eight percentage of teenagers say same-sex marriage is societally beneficial, compared to 33% of Generation X.⁵³ Fifty-nine percent of teenagers would like forms to include gender options beyond “man” and “woman,” versus 40% of Generation X.⁵⁴ And 30% of teenagers approve of Trump’s performance as president, as opposed to 38% of Generation X.⁵⁵ On all these matters,

⁴⁷ See, e.g., *Motherhood Deferred: U.S. Median Age for Giving Birth Hits 30*, NBC NEWS, May 8, 2022, <https://www.nbcnews.com/news/motherhood-deferred-us-median-age-giving-birth-hits-30-rcna27827>.

⁴⁸ See *National Population by Characteristics: 2020-2023*, U.S. CENSUS BUREAU (June 25, 2024), <https://www.census.gov/data/tables/time-series/demo/popest/2020s-national-detail.html> (Annual Estimates of the Resident Population by Single Year of Age and Sex for the United States: April 1, 2020 to July 1, 2023).

⁴⁹ Again, this data is merely suggestive since the median parent of a child under eighteen might not resemble Generation X as a whole.

⁵⁰ See PARKER ET AL., *supra* note 4, at 6.

⁵¹ See *id.* at 7.

⁵² See *id.* at 10.

⁵³ See *id.* at 11.

⁵⁴ See *id.* at 14.

⁵⁵ See *id.* at 2; see also MTV & AP-NORC: COMPARING THE POLITICAL VIEWS OF YOUNG PEOPLE AND THEIR PARENTS’ GENERATION 1 (2018) (polling respondents between the ages of fifteen and thirty-four, and parents of

the median parent thus doesn't accurately reflect the political preferences of teenagers. If parents could cast proxy votes for their children, these votes would frequently advance views more conservative than those held by the children themselves.

The CES tells an analogous story (albeit based on even stronger assumptions). This survey asks respondents if they have children.⁵⁶ So parents' partisan and policy preferences can be directly observed—not inferred from their membership in a particular cohort. However, the CES polls only adult respondents.⁵⁷ So it provides no data at all about children's views. To estimate these views, the best we can do is to suppose that children are attitudinally similar to respondents between the ages of eighteen and twenty-nine (the youngest respondents polled by the CES).⁵⁸ As I discuss in Part III, Generation Z teenagers *do* strongly resemble Millennial adults in their political preferences.⁵⁹ Accordingly, respondents between the ages of eighteen and twenty-nine *are* a passable proxy for children. But a passable proxy is all these respondents are. It would obviously be better to have CES data about children's own views.

With this caveat, the CES shows that parents are considerably more Republican and more conservative than young adults. In terms of partisanship, in the 2020 presidential election, 52% of parents voted for Biden, compared to 69% of young adults.⁶⁰ In the 2022 midterm election, 49% of parents voted for the Democratic candidate for the U.S. House, versus 68% of young adults.⁶¹ These are yawning gaps indicating that parents would poorly capture young adults'—and, presumably, children's—partisan preferences if parents were given extra votes. Parents would cast these votes as swing voters while young adults—and, presumably, children—would want parents to go to the polls as steadfast Democrats.

As to policy, sixty percent of parents support a right to abortion in all circumstances, compared to 69% of young adults.⁶² Sixty-three percent of parents would strengthen enforcement of environmental laws at the cost of jobs, versus 70% of young adults.⁶³ Seventy percent of parents back Medicare for all, as opposed to 77% of young adults.⁶⁴ Sixty-seven percent of parents would grant legal status to employed immigrants with no criminal convictions, compared to 76% of young adults.⁶⁵ Fifty-eight percent of parents favor military action to destroy terrorist camps, versus 44% of young adults.⁶⁶ And 61% of parents approve of same-sex marriage, as

children between the ages of fifteen and twenty-six, and finding that “[p]arents are more likely to approve of President Donald Trump (42 percent vs. 26 percent)”.

⁵⁶ See, e.g., *Trends in U.S. Vote Patterns, 2008-2022*, *supra* note 33 (selecting parental status as the demographic variable). However, the CES doesn't distinguish between parents of children younger versus older than eighteen.

⁵⁷ See, e.g., *id.* (selecting age as the demographic variable).

⁵⁸ See, e.g., *id.* (selecting age as the demographic variable).

⁵⁹ See *infra* notes 97-104 and accompanying text.

⁶⁰ See *id.* (selecting parental status and then age as demographic variables). Note that, because the CES distinguishes between married and single parents, I average these groups' responses weighing them by the groups' relative proportions (about 2.5 to 1). See *National Single Parent Day: March 21, 2024*, U.S. CENSUS BUREAU (Mar. 21, 2024), <https://www.census.gov/newsroom/stories/single-parent-day.html> (Figure FM-1).

⁶¹ See *id.* (selecting parental status and then age as demographic variables).

⁶² See *Trends in U.S. Policy Preferences*, *supra* note 37 (selecting age as the demographic variable and abortion as the policy topic).

⁶³ See *id.* (selecting age as the demographic variable and environment as the policy topic).

⁶⁴ See *id.* (selecting age as the demographic variable and healthcare as the policy topic).

⁶⁵ See *id.* (selecting age as the demographic variable and immigration as the policy topic).

⁶⁶ See *id.* (selecting age as the demographic variable and military as the policy topic).

opposed to 74% of young adults.⁶⁷ These are sizable differences, again, which mean that the policy views that parents would further with extra votes would systematically differ from those of young adults—and, presumably, children. On issue after issue, parents wouldn't be as liberal as young adults—and, presumably, children—would like.

Two more polls confirm this account of parents being more conservative than their children. In 2004, the Gallup Youth Survey asked teenagers between the ages of thirteen and seventeen to compare their political preferences to those of their parents.⁶⁸ Twenty-two percent of teenagers replied that their views were more liberal, while only 7% said their views were more conservative.⁶⁹ In 2024, the Walton Foundation posed the same question to today's teenagers.⁷⁰ Once more, the proportion of teenagers who thought they were more liberal than their parents (23%) was substantially higher than the share who deemed themselves more conservative (14%).⁷¹ Importantly, the respondents in the 2004 poll were Millennials while the respondents in the 2024 poll were members of Generation Z. The ideological mismatch between parents and their children has therefore been a fixture of American politics over at least the last two decades.

Kleinfeld and Sachs anticipate this critique of parental proxy voting: that “parents and children might disagree about how to vote.”⁷² Their response is that, when children become capable of forming meaningful political preferences, we should simply enfranchise them directly. We shouldn't allocate their votes to parents or to anybody else. “[T]he voting age ought to be lower than it is,” so “children [who] are ready to make their own independent decisions” can cast their own ballots.⁷³

This response is persuasive with respect to children with coherent political views. I'd also prefer letting them vote to trusting other individuals (including young adults) to vote on their behalf. But note that the population of currently disenfranchised children who are “ready to make their own independent [political] decisions”⁷⁴ is potentially quite large. The Pew surveys I've summarized asked teenagers between the ages of thirteen and seventeen an array of questions about political and social issues.⁷⁵ There's no sign in the teenagers' answers that their preferences are chaotic, contradictory, or confused. The teenagers' answers are *different from*—more liberal than—those given by adult respondents. But the teenagers' answers aren't any less intelligible or worthy of respect as the genuine attitudes of members of our political community.⁷⁶ Consequently, Kleinfeld and Sachs's response significantly limits the

⁶⁷ See *id.* (selecting age as the demographic variable and gay marriage as the policy topic).

⁶⁸ See Linda Lyons, *Teens Stay True to Parents' Political Perspectives*, GALLUP (Jan. 4, 2005), <https://news.gallup.com/poll/14515/teens-stay-true-parents-political-perspectives.aspx>.

⁶⁹ See *id.*

⁷⁰ See *Generational Comparisons: Gen Z Versus Millennials*, GALLUP, <https://www.gallup.com/analytics/506663/state-of-students-research.aspx#ite-643289> (last visited Aug. 1, 2024) (Generational Comparisons: Gen Z Versus Millennials data).

⁷¹ See *id.*

⁷² Kleinfeld & Sachs, *supra* note 1 (manuscript at 32).

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ See PARKER ET AL., *supra* note 4, at 19.

⁷⁶ See also, e.g., Julian Aichholzer & Sylvia Kritzinger, *Voting at 16 in Practice: A Review of the Austrian Case, in LOWERING THE VOTING AGE TO 16: LEARNING FROM REAL EXPERIENCES WORLDWIDE* 81, 94-95 (Jan Eichhorn & Johannes Bergh eds., 2020) (studying voting by sixteen- and seventeen-year-olds after they were enfranchised in

scope of the policy they advocate. If we allowed children with meaningful political preferences to vote directly, parental proxy voting would apparently be an option only for younger children. It would seem to be precluded for many or all teenagers.

Moreover, even for younger children, parental proxy voting likely wouldn't be a very aligning reform. This is because the political views of younger children, even if still inchoate, can reasonably be expected to be closer to the preferences of older children—and further from the preferences of parents. Consider children right below the voting age (eighteen today, maybe thirteen if children “ready to make their own independent [political] decisions”⁷⁷ could vote). As soon as these children cross this threshold, we have a good sense (from surveys) of which candidates and policies they'll support. Right before these children reach this point, the most plausible hypothesis is that their views, if not yet as structured or informed, are substantively about the same. It would be shocking if children just below the voting age actually resembled their parents politically, only to adopt the sharply different preferences of individuals just above the voting age as soon as they celebrated their franchise-conferring birthdays. I'm certainly aware of no evidence that younger children's views move in this odd trajectory.

This logic holds for children well below the voting age (whatever it may be). These children's political preferences are even less coherent than those of children right below the voting age. But when these children can eventually vote, assuming they're like their peers in recent years, they'll favor Democratic candidates and liberal policies. Until this time, proxy votes cast by these children's more Republican and more conservative parents will often be noncongruent with the views the children will hold upon gaining the franchise. During this period, parental proxy votes are also apt to clash with the children's maturing (but not yet mature) preferences. Again, the only way to avoid this conflict is if, improbably, the children share their parents' political views for years, only to spurn them when the children are old enough to vote themselves.

Kleinfeld and Sachs might offer one more reply to the objection that parents are too politically different from their children to cast proxy votes in their name.⁷⁸ This reply would center on the word, *preferences*, which I extensively use but the authors almost completely shun in favor of *interests*.⁷⁹ At least some children, Kleinfeld and Sachs might argue, have no subjective preferences entitled to any weight in democratic decision-making. But all children *do* have objective *interests* that should be “proportionally represented” in governance.⁸⁰ Kleinfeld and Sachs might continue that, by virtue of their position, parents are better situated than anybody else to identify and promote their children's interests.⁸¹ In this case, parental proxy voting

Austria and finding no “consistent pattern that distinguishes adolescents from the older first-time voters in terms of the quality of vote”); Markus Wagner et al., *Voting at 16: Turnout and the Quality of Vote Choice*, 31 ELECTORAL STUD. 372, 379-81 (2012) (same).

⁷⁷ Kleinfeld & Sachs, *supra* note 1 (manuscript at 32).

⁷⁸ The authors hint at this reply but don't state it explicitly—understandably since their article precedes this response.

⁷⁹ I count just one reference to *preferences* (not including quotations), *see id.* (manuscript at 9 n.20), compared to more than a hundred to *interests*.

⁸⁰ *Id.* (manuscript at 10).

⁸¹ *See, e.g., id.* (manuscript at 18) (describing “the depth of *contact* between parents and children and the degree to which parents *know* their children and their interests”).

might not greatly improve alignment between governmental outputs and popular preferences. But it could be quite aligning in the sense of making governmental action considerably more consistent with people's interests.

In principle, there's nothing wrong with focusing on interests instead of preferences. As Kleinfeld and Sachs point out, several theorists agree that "democracy is at least *partly* designed to defend voters' interests by taking proportional account of them."⁸² The idea that the government ought to do things that objectively increase people's wellbeing—better their lives—is also inherently appealing. In practice, however, interests are much harder to ascertain than preferences. To find out people's preferences, we merely have to ask them (via polls) or see how they vote in candidate elections and issue referenda. But since the main distinction between interests and preferences is that the former are objective while the latter are subjective, these methods don't help us to determine people's interests. To pin them down, someone (but who?) has to decide (but how?) which policies (out of which set?) would lead to people enjoying the best overall lives (whatever that means). As these parentheticals suggest, these inquiries are exceedingly, even hopelessly, difficult. They require omniscience—perfect information about both people and policy—not to mention the confidence to override (actual) preferences when they diverge from (supposed) interests. Democratic models that prioritize interests thus fail, in the words of one theorist, because "questions regarding voters' interests, in contrast to their preferences, are not susceptible to certain resolution."⁸³

But say this epistemological point is too strong. That is, say at least some interests *are* cognizable. Even if so, I want to resist Kleinfeld and Sachs's claim that parents are especially good at identifying their children's *political* interests in what *the government* should do. Outside the political context, in areas like schooling, activities, and physical and mental health, parents are indeed privy to unique information about their children's strengths, weaknesses, histories, and learning styles. Thanks to all their interactions with, and observations of, their children, parents can also make reasonable (if hardly flawless) predictions as to which choices would be most beneficial for their children. In the political arena, though, parents' deep, nuanced information about their children is largely irrelevant. Many public policies currently affect children on the basis of characteristics that non-parents can easily ascertain. Many more policies will affect children, in the future, on the basis of variables that no one can now anticipate. Additionally, while parents (hopefully) learn from experience which private acts help or harm their children, they have no particular expertise on the consequences of governmental decisions. In this respect, they're *less* informed than many officeholders, bureaucrats, and analysts.⁸⁴

To make this discussion more concrete, return to some of the policies asked about by the CES. Why are parents best positioned to determine whether their

⁸² *Id.* (manuscript at 9).

⁸³ Jane Mansbridge, *Rethinking Representation*, 97 AM. POL. SCI. REV. 515, 519-20 (2003); see also, e.g., Jane Rutherford, *One Child, One Vote: Proxies for Parents*, 82 MINN. L. REV. 1463, 1508 (1997) (observing that "we do not have any universal standard for what constitutes children's 'best interest'").

⁸⁴ For another scholar arguing that parents aren't uniquely capable of identifying their children's political interests, see Miklós Könczöl, *Parental Proxy Voting and Political Representation*, 51 J. CONST. THEORY & PHIL. LAW ¶ 21 (2023) ("[Parents] cannot be expected to perform above the average when it comes to representing the best interests of children *qua* children . . .").

children have an interest in abortion being available? Parents know the gender of their children, but so do non-parents. And no one today can forecast which children (or their sexual partners) will want or need abortions tomorrow. Similarly, what gives parents any unique insight into whether Medicare for all is in their children's interest? Parents have information about their children's financial and medical situations, but sharing this data is straightforward. Parents also know no more than the general public (and much less than specialists) about the likely effects of Medicare for all. And at the risk of gilding the lily, why should we credit parents' perception of their children's interest in military action to destroy terrorist camps? Armed intervention is certainly pertinent to children; it consumes resources that could have been used elsewhere and shapes the peace and security of the world in which children grow up. But parental status doesn't plausibly lead to any better understanding of these issues.

Lastly, there's some evidence that parents are actually *worse*—not just no better—than non-parents at identifying their children's political interests. Children's defining feature, with respect to public policies, is that they're young. They'll be alive for longer than adults so they have a bigger stake in what conditions will be well into the future. Given children's temporal orientation, we'd expect and hope that parents (especially parents casting proxy votes on behalf of children) would be particularly attentive to the long run. However, one psychological study of parents and non-parents finds that “parents revealed a stronger *short term* orientation than childless interviewees.”⁸⁵ Another experimental study concludes that parental proxy voting *reduces* the money that parents are willing to give to improve future conditions. In this experiment, parents with or without children under the voting age were allocated funds and then asked to vote, with or without parental proxy voting, on how much of the total pool should be distributed to nonprofit groups focusing on education and the environment.⁸⁶ Startlingly, parents of underage children voted to give less money under parental proxy voting than under ordinary voting.⁸⁷ The total funds disbursed were also lower under parental proxy voting.⁸⁸

What could account for these results? One possibility is that parents, unlike children, aren't very young. I noted earlier that the median parent of a child under eighteen is thirty-nine.⁸⁹ This is two years older than the median citizen⁹⁰—and three decades older than the median child under eighteen. With respect to their own lives, parents' time horizons thus aren't especially extended. Based on the above studies, parents might also be unable to switch from their own shorter-term to their children's longer-term perspectives.⁹¹ Another explanation has to do with parenting itself (not parents' age). Parenting can be arduous, overwhelming work, requiring parents to make enormous outlays of time, money, and effort to care for and raise their children. In the middle of this often all-consuming project, parents might not think much about

⁸⁵ Stephan Wolf et al., *Votes on Behalf of Children: A Legitimate Way of Giving Them a Voice in Politics?*, 26 CONST. POL. ECON. 356, 367 (2015) (emphasis added).

⁸⁶ See Yoshio Kamijo et al., *Effect of Proxy Voting for Children Under the Voting Age on Parental Altruism Towards Future Generations*, 122 FUTURES 102569, at 2-3 (2020).

⁸⁷ See *id.* at 4.

⁸⁸ See *id.*

⁸⁹ See *supra* notes 47-48 and accompanying text.

⁹⁰ See *supra* note 23 and accompanying text.

⁹¹ See, e.g., Andrew Rehfeld, *The Child as Democratic Citizen*, 633 ANN. AM. ACAD. POL. SOC. SCI. 141, 156 (2011) (observing that “most parents have only imperfectly overlapping interests with their children”).

how to advance their children's interests years or decades down the road. Their attention might be diverted by changing the next diaper, calming the next tantrum, or paying the next bill.⁹²

III. YOUNG ADULT PROXY VOTING

While promising, then, parental proxy voting is unlikely to be highly aligning. This is because parents tend to have quite different political preferences from their children, in whose name they'd cast extra votes. This difficulty also can't be resolved by directly enfranchising children with meaningful political views or by changing the relevant concept from preferences to interests. Addressing concerns along these lines, Kleinfeld and Sachs imply that the only possible proxies for children are their parents or generic voters. "[T]he question isn't whether some parents are flawed, or even whether many are; it's whether parents will better represent their children than a random voter would."⁹³

But this isn't the right question. The critical issue, rather, is whether parents will better represent their children than a *non-random subset of voters* would. If there's a subset of voters who are more politically similar to children than are parents, then they would make better proxies for children than parents. Empowering these voters to cast extra votes on behalf of children would lead to more alignment than enabling parents to do so. And there *is* a subset of voters who politically resemble children more than do parents: *young* adults, the cohort of voters closest in age to children. Based on the available data, young adults and children are more politically proximate to each other than either group is to parents (let alone to generic voters).⁹⁴

Revisit the Pew surveys. I've already explained how Generation Z teenagers politically differ from *all* adults (including the Millennial, Generation X, Baby Boomer, and Silent Generation cohorts)⁹⁵ and from the median parent of a child under eighteen (a member of Generation X when these polls were conducted in 2018).⁹⁶ This narrative of divergence reverses when, instead, Generation Z teenagers are compared to the youngest group of adults: Millennials born between 1981 and 1996. Seventy percent of teenagers, and 64% of Millennials, want a more activist government.⁹⁷ Fifty-four percent of teenagers, and 56% of Millennials, think climate change is attributable to human activity.⁹⁸ Sixty-two percent of teenagers, and 61% of Millennials, think increasing racial and ethnic diversity is good for society.⁹⁹ Forty-eight percentage of teenagers, and 47% of Millennials, say same-sex marriage is

⁹² See, e.g., Philippe Van Parijs, *The Disfranchisement of the Elderly, and Other Attempts to Secure Intergenerational Justice*, 27 PHIL. & PUB. AFF. 292, 324 (1999) (noting that some parents, "being subjected to more pressing needs, have a more short-term orientation on policy issues").

⁹³ Kleinfeld & Sachs, *supra* note 1 (manuscript at 27); see also *id.* (manuscript at 28) ("[W]e should ask whether median adult voters would make a more or less intelligent use of the children's share of electoral influence than parents would.").

⁹⁴ However, young adults turn out to vote at a lower rate than parents. See *supra* note 24 and accompanying text. Young adults' lower turnout dampens the aligning impact of enabling them to cast proxy votes for children.

⁹⁵ See *supra* notes 26-32 and accompanying text.

⁹⁶ See *supra* notes 49-55 and accompanying text.

⁹⁷ See PARKER ET AL., *supra* note 4, at 6.

⁹⁸ See *id.* at 7.

⁹⁹ See *id.* at 10.

societally beneficial.¹⁰⁰ Fifty-nine percent of teenagers, and 50% of Millennials, would like forms to include gender options beyond “man” and “woman.”¹⁰¹ And 30% of teenagers, and 29% of Millennials, approve of Trump’s performance as president.¹⁰² Commenting on these results, the Pew authors write that “the views of Gen Z . . . mirror those of Millennials.”¹⁰³ In fact, the Pew report is titled, “Generation Z Looks a Lot Like Millennials on Key Social and Political Issues.”¹⁰⁴

Note that, while teenagers and young adults are similarly *Democratic* and *liberal* today, there’s no iron rule that these groups must be left of center. Individuals who turned eighteen when the New Deal order fell apart in the 1970s, or during the Reagan Revolution of the 1980s, have been majority-Republican blocs for essentially their entire voting lives.¹⁰⁵ The same goes for people who became eligible to vote when Dwight Eisenhower was in the White House—they liked Ike as well as almost all his Republican successors.¹⁰⁶ So the point here isn’t that teenagers and young adults are necessarily to the left of parents and voters as a whole. It’s that teenagers and young adults share a political perspective with each other, but not (to the same extent) with other members of the electorate. Since the 1990s, this common outlook has been relatively Democratic and liberal.¹⁰⁷ But it has been more rightwing at other times in the past, and could again be so in the future.

What explains the political kinship between teenagers and young adults? According to studies, this time of life is a particularly formative one with respect to partisan and policy preferences. During people’s teenage years and twenties, they learn a great deal about politics, build their political worldviews, and adopt durable views of parties based on parties’ records in this crucial period. One pair of scholars thus finds that “[t]he formative years for retrospective presidential evaluations are at roughly the ages of 14-24”—a few years before to a few years after becoming eligible to vote.¹⁰⁸ Another research team discerns “a roughly similar pattern, in which political events had the largest impact at age 18-19, with impact declining progressively from there.”¹⁰⁹ Teenagers and young adults aren’t politically similar, then, merely because they’re close in age. The key is that they’re close in age *and* this age is a uniquely impressionable one: the time when political attitudes are debated and, frequently, decided.¹¹⁰

¹⁰⁰ See *id.* at 11.

¹⁰¹ See *id.* at 14.

¹⁰² See *id.* at 2.

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ See, e.g., Drew DeSilver, *The Politics of American Generations: How Age Affects Attitudes and Voting Behavior*, PEW RSCH. CTR. (July 9, 2014), <https://www.pewresearch.org/short-reads/2014/07/09/the-politics-of-american-generations-how-age-affects-attitudes-and-voting-behavior/>; Yair Ghitza & Andrew Gelman, *The Great Society, Reagan’s Revolution, and Generations of Presidential Voting* 11 (June 5, 2014).

¹⁰⁶ See, e.g., DeSilver, *supra* note 105; Ghitza & Gelman, *supra* note 105, at 11.

¹⁰⁷ See, e.g., DeSilver, *supra* note 105; Ghitza & Gelman, *supra* note 105, at 11.

¹⁰⁸ Ghitza & Gelman, *supra* note 105, at 8.

¹⁰⁹ *Id.* (discussing ROBERT S. ERIKSON ET AL., *THE MACRO POLITY* (2002)).

¹¹⁰ Note that this logic doesn’t necessarily apply to pre-teenagers and young adults. Pre-teenagers aren’t yet in the critical period during which political beliefs are set. So it’s possible that, when they eventually reach this period, pre-teenagers will develop political views different from those now being adopted by young adults. However, too much shouldn’t be made of this potential divergence. Again, since the 1990s, all cohorts who have become eligible to vote have been relatively Democratic and liberal. See, e.g., DeSilver, *supra* note 105; Ghitza & Gelman, *supra* note 105,

Normatively, the case for allowing young adults to cast proxy votes in children's name should now be clear. Because young adults politically resemble children more than do parents, young adult proxy voting is more aligning than parental proxy voting. Operationally, here's one way that young adult proxy voting could work: First off, a jurisdiction would compile two pieces of information for small geographic units such as Census block groups: (1) the number of children ineligible to vote solely because of their age; and (2) the number of eligible young adult voters between, say, the ages of eighteen and twenty-nine. Next, the first quantity would be divided by the second one, yielding the ratio of ineligible children to eligible young adults in each unit. Lastly, each eligible young adult would be granted that many extra votes to cast (if she wished) on behalf of local ineligible children.

For instance, the average Census block group currently has about 1,400 residents.¹¹¹ Assuming this block group has the same proportion of citizen children as the nation as a whole (23%),¹¹² the block group has 328 citizen children. With the same assumption for citizens between the ages of eighteen and twenty-nine (comprising 14% of the country's population),¹¹³ the block group has 192 citizen young adults. The ratio of ineligible children to eligible young adults is therefore around 1.7 (328 / 192) in the block group. Consequently, under young adult proxy voting, each eligible young adult in the block group would be entitled to cast another 1.7 votes for ineligible children.

As sketched here, young adult proxy voting differs from parental proxy voting in not just who children's proxies are but also how votes are allocated to them. Under parental proxy voting, *particular* parents cast additional votes for *particular* children—their children. Under young adult proxy voting, in contrast, young adults *as a group* cast extra votes for local children *as a group*. The rationale for assigning votes on this wholesale basis is that the aligning impact of young adult proxy voting stems from the group properties of children and of young adults: their similar population-level political preferences. The aligning impact of young adult proxy voting—unlike that of parental proxy voting—*doesn't* depend on any specific young adults having any distinctive insight into the views of any specific children. Moreover, other than maybe in the case of siblings, there's no intuitive way to decide which young adults should cast proxy votes for which children. The wholesale allocation of children's votes to local young adults avoids the need to make this intractable decision.

Two more observations about this proposal: First, I've followed Kleinfeld and Sachs's lead in recommending that the votes of children ineligible to vote *solely because of their age* be assigned to *eligible* voters.¹¹⁴ Young adult proxy voting thus wouldn't apply to children also ineligible to vote for another reason, such as lack of citizenship,

at 11. So at no point over the last few decades have pre-teenagers ultimately ended up politically different from contemporaneous young adults.

¹¹¹ The country's current population is about 337 million, see *U.S. and World Population Clock*, U.S. CENSUS BUREAU, <https://www.census.gov/popclock/> (last visited Aug. 1, 2024), and there are 84,414 Census block groups at present, see *Tallies – 2020*, U.S. CENSUS BUREAU (July 18, 2022), <https://www.census.gov/geographies/reference-files/time-series/geo/tallies.html>.

¹¹² I calculated this figure using both Current Population Survey and American Community Survey data for 2022. See *B05001: Nativity and Citizenship Status in the United States*, *supra* note 23; *Voting and Registration in the Election of November 2022*, *supra* note 22 (Table 1).

¹¹³ I calculated this figure the same way. See *supra* note 112.

¹¹⁴ See Kleinfeld & Sachs, *supra* note 1 (manuscript at 9-10).

lack of residency, or incarceration after a felony conviction. Nor would young adults ineligible to vote themselves, on any ground, be permitted to cast proxy votes for children. These limitations are sensible since the topic at hand is the disenfranchisement of children qua children—not other kinds of exclusion from the franchise. Second, I’ve suggested that children’s votes should be allocated to young adults within *small* rather than *large* geographic units. This allocation could be conducted at any geographic level: by county, by state, even for the whole country in one fell swoop. By conducting the allocation within Census block groups (or similarly sized units), however, young adults would share not just population-level political preferences but also geographically based views with the children for whom they’d vote. These place-based views would likely be especially important in lower-level elections focused on local issues.

Constitutionally, young adult proxy voting should be indistinguishable from parental proxy voting. This is because, under both policies, eligible voters are entrusted with votes that, legally and normatively, belong to and are meant to represent children. Kleinfeld and Sachs explain that, under parental proxy voting, “parents may cast [votes] only because, and to the extent that, their children would in adulthood have the right to cast these votes themselves.”¹¹⁵ The same is true for young adults under young adult proxy voting (with the caveat that the children for whom they vote aren’t theirs). Once it sinks in that young adult proxy voting, like parental proxy voting, really is *proxy* voting—not *multiple* voting—the equal protection objections to it melt away. Young adult proxy voting isn’t a literal violation of “one person, one vote”¹¹⁶ because, under it, each young adult indeed casts only one vote for herself. Of course, each young adult may also cast proxy votes for local children. But again, these are officially the children’s votes, which the children will be able to cast themselves as soon as they reach the voting age.¹¹⁷

Likewise, it’s unclear if a voting *expansion* like young adult proxy voting could ever be unlawful under the equal protection doctrine on voting *restrictions*.¹¹⁸ Even if a voting expansion could be invalid, it would probably be one that unjustifiably made it easier for some people, but not others, to vote.¹¹⁹ Young adult proxy voting isn’t that sort of policy because it doesn’t facilitate anyone’s exercise of the franchise. It authorizes young adults to cast proxy votes for children, but it doesn’t selectively help young adults to register, vote, or otherwise participate in the political process. As for the theory that young adult proxy voting dilutes the voting influence of other voters—adults no longer young—the federal courts are hostile to novel claims of vote dilution. The Supreme Court, for example, recently held that partisan gerrymandering (a far more familiar form of dilution) is categorically nonjusticiable.¹²⁰ Additionally, any

¹¹⁵ *Id.* (manuscript at 39).

¹¹⁶ *E.g.*, *Gray v. Sanders*, 372 U.S. 368, 381 (1963).

¹¹⁷ More provocatively, one might say that proxy voting for children (by parents or by young adults) *realizes* rather than *offends* the one-person, one-vote principle. Under the status quo, children are persons (and members of the political community), yet have no votes. Under proxy voting for children, children do have votes, just ones cast by their proxies until they’re old enough to vote themselves.

¹¹⁸ *See, e.g.*, *Burdick v. Takushi*, 504 U.S. 428 (1992); *Anderson v. Celebrezze*, 460 U.S. 780 (1983).

¹¹⁹ *Cf.* *Katzenbach v. Morgan*, 384 U.S. 641, 657 (1966) (stating that “the principle that calls for the closest scrutiny of distinctions in laws denying fundamental rights” is inapplicable to a law that “does not restrict or deny the franchise but in effect extends the franchise to [certain] persons”).

¹²⁰ *See* *Common Cause v. Rucho*, 588 U.S. 684 (2019).

theory of dilution requires a compelling benchmark relative to which a group's diminished influence can be measured. The benchmark of children being fully disenfranchised, though, is quite unappealing. It does correspond to the status quo, but it also entails the complete exclusion of acknowledged members of the political community.

Finally, young adult proxy voting has some practical advantages over parental proxy voting. These advantages are hardly dispositive—they pale, in my view, compared to the normative argument that young adult proxy voting is more aligning—but they're worth mentioning in closing. Recall that, under parental proxy voting, particular parents must be paired with, so they can cast votes for, particular children. This pairing is often uncontroversial, but it sometimes becomes much trickier. Kleinfeld and Sachs therefore devote fully a quarter of their article to “special cases” in which it isn't obvious who (if anyone) should be able to vote for certain children.¹²¹ These special cases include parentless children, children in orphanages, children with foster parents, children with noncustodial parents, and children with different residences from their parents.¹²²

Under young adult proxy voting, in contrast, these special cases become utterly ordinary. All these children (if ineligible to vote solely because of their age) are simply tallied in the geographic units where they're residents. Their votes are then allocated to eligible young adults who are residents of the same units. This allocation is so much easier than under parental proxy voting for two reasons. First, the special cases all involve unusual relationships between children *and their parents*. But parents are irrelevant under young adult proxy voting. They're not the ones to whom children's votes are assigned (unless they're young adults, though even then they're children's proxies because of their young adulthood rather than their parenthood). Second, the special cases are all difficult because, under parental proxy voting, specific parents must be matched with specific children. But young adult proxy voting does away with retail, one-to-one matching and relies instead on the wholesale, group-to-group transfer of votes from children to young adults. Accordingly, *no one's* atypical circumstances make any difference under young adult proxy voting since the policy takes into account only age, residence, and voting eligibility.

Again, I agree with Kleinfeld and Sachs that “narrow problems” shouldn't be “a bar to broad solutions.”¹²³ By themselves, the obstacles to implementing parental proxy voting are insufficient, I think, either to reject it or to endorse young adult proxy voting over it. But these obstacles aren't immaterial either. If they could be overcome by another policy that also has other benefits relative to parental proxy voting, that's policy greater practicality should count in its favor. Young adult proxy voting, I've argued here, is precisely such a policy. Not only does it better promote the core democratic value of alignment, it's easier to design and operate as well.

¹²¹ See Kleinfeld & Sachs, *supra* note 1 (manuscript at 47-61).

¹²² See *id.*

¹²³ *Id.* (manuscript at 47).

CONCLUSION

Kleinfeld and Sachs make a significant contribution to the literature on children's disenfranchisement by describing and defending parental proxy voting: empowering parents to vote on their children's behalf. The authors' democratic critique of the status quo is particularly persuasive. Children's exclusion from the franchise indeed distorts public policies by omitting children's preferences from the set that policymakers consider. However, Kleinfeld and Sachs's proposal wouldn't do enough to correct this distortion. This is because contemporary parents diverge politically from their children, holding, on average, substantially more conservative views. The proxy votes that parents cast for their children would thus often conflict with the children's actual desires. Fortunately, there's an alternative policy that would fix more of the bias caused by disenfranchising children: young adult proxy voting. Under this approach, children's votes would be allocated to not their parents but rather young adults—the cohort of adults closest in age to children. Young adults, unlike parents, are highly politically similar to children. At present, for example, both young adults and children are quite liberal. So, to update Kleinfeld and Sachs's thesis, if we want children “to be adequately represented at the polls, we should give [young adults] the vote.”¹²⁴

¹²⁴ *Id.* (manuscript at 64).