

THE CITY:
DOMINANCE, DEMOCRACY, AND THE RULE OF LAW?

ABSTRACT

London was, for centuries, the unchallenged cultural, political, and legal centre of power in the UK. Yet, despite its historical dominance, it was unable to dominate the processes associated with the UK's departure from the EU. I argue that the inability of the city to dominate can, and should, be seen in Rule of Law positive terms.

After recounting the historical and long-standing agglomeration of power in London, I consider Greater London's clear desire to remain in the EU in the 2016 referendum, and suggest that direct democracy was able to breach the city's general and historical dominance. This, however, leaves an unanswered question: is this breach a beneficial situation? To answer this question, I adopt a Rule of Law perspective. I argue that if London is *not* able to dominate (all of the time), then the UK's Rule of Law landscape is enhanced. I conclude that fundamental Rule of Law ideas—for example, the equal application of the law and a block on the arbitrary exercise of power—are, at present at least, enhanced through the check created by the relatively infrequent recourse to direct democracy.

KEYWORDS

Rule of Law; City; London; Referendum; Dominance; Democracy

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PART ONE: THE CITY AND THE *NOT*-CITY

London has been, historically, the unchallenged cultural, political, and legal centre of power in the UK. Yet, despite its dominance, it was unable to dominate the processes associated with the UK's departure from the EU. In this short comment, I argue that the inability of the city to dominate the *not*-city—the term I adopt to describe everywhere in the UK that is not part of the city as described here—can, and should, be seen in Rule of Law positive terms.

For the majority of time following its founding around two millennia ago, London has been the most populous settlement in what is now the United Kingdom. From around the seventh century, various seats of political power began to agglomerate in the protean capital. And, by the thirteenth century, it dominated as the centre of legal influence. Throughout the seventeenth century, key events that shaped the country for centuries played out a very short distance from the spot on which the settlement was first established. Subsequently, national domination became global dominance as the British Empire was controlled from London. The city's massive population (and wealth) served as a catalyst for the goods and services created as part of the industrial revolution. No single location has influenced the state to the extent that London has in the past. Yet, despite its continued existence as the largest city, as the seat of legal and political power, and as the central location for business and tourism, London's historical dominance has diminished. In Rule of Law terms, this is a good thing.

In 2016, a UK referendum posed a simple question: *Should the United Kingdom remain a member of the European Union or leave the European Union?* As is well known, the majority of votes favoured *not* remaining a member of the EU. The national leave vote constituted approximately 52% of votes and remain votes constituted the other 48%.¹ Unsurprisingly, this was not uniformly reflected across the nation. Greater London returned one of the strongest 'remain' votes.² The Greater London area represents a not-insubstantial proportion of the UK's population. The valid votes cast in the area represent more than 11% of the total votes cast in the referendum.³ In this area, the remain vote constituted approximately 60% of valid votes, and the leave vote

¹ The exact figures were 16,141,241 votes for remaining, and 17,410,742 votes for leaving. There were 33,551,983 valid votes from an electorate of 46,500,001 voters. Turnout was 72.2%. See: Electoral Commission 2019.

² I explain the boundaries and meaning of 'Greater London' below. Even within Greater London there was variation. Some areas clearly voted 'leave'. However, the overall percentage of the electorate in London that voted to remain was one of the highest. (Only Scotland and Gibraltar had higher percentages of remain votes.) For a useful summary, see London Datastore 2019a.

³ Precisely, they represent 11.256% (3,776,751 valid votes in Greater London, in relation to the 33,551,983 valid votes cast nationally. Electoral Commission 2019.

40%. When the Greater London votes are removed from the national vote, the not-city remain vote was 46.6% and the leave vote was 53.4%.⁴ The vast size of Greater London's population, the difference in opinion when compared to the rest of the aggregated UK vote, and the relative strength of the view expressed illustrate the voting pattern difference is noteworthy.

I point to these referendum-related figures and London's historical status as a hub-of power to show that, despite the centralisation of power, government, and all national-level law-making for the UK in London, the vastly different view regarding the desirability of continued EU membership that predominated in Greater London was not able to impact the ultimate outcome. As will be expanded below, this stands in stark contrast to its historical ability to dominate; a direct form of democracy functions so as to buck the trend of historical dominance. In this comment, my aim is simply to illustrate (necessarily briefly) the historical dominance of the city and contrast this to the situation evident following the referendum. I suggest that direct democracy was able to breach the city's general and historical dominance, before using the concept of the Rule of Law to show that there are real positives that flow from this process.

I do not, however, argue here that direct democracy, or even democracy more generally, has triumphed in this instance. Furthermore, and importantly, I do not seek to make an argument for or against Brexit. The point that I wish to make is that the breach of the city's historically dominant position, whilst against the historical trend of the exercise of power in the country, represents a Rule of Law-positive outcome. By adopting a Rule of Law perspective, I argue that if London is not able to dominate (all of the time), then the UK's Rule of Law landscape is enhanced. Due to the limitations imposed in this short comment, I provide a (very) brief history and a simple view of the referendum figures. I also do not delve deeply into much of the rich literature on 'the City' and London more specifically – I have left others to do this. Despite this, I hope my account provides a point for thought and discussion.⁵

Before going further, I must address the direct/non-direct democratic aspects of the processes I explore. I do not seek to draw an absolute connection between the City's past dominance and its inability to dominate in the 2016 referendum; differences in kind separate the two processes. I also do not argue that—notwithstanding any benefits—any important decision must now be put to referendum and, therefore, the City's historical ability to dominate has been lost. I simply use the 2016 referendum as a foil to the historical example to show the City is no longer able to dominate in at least one way.

To make this argument, in the next part, I outline (in a little more detail) the history of London's concentration of power in the UK. In Part 3, I explore the contemporary picture through the lens of the three Rule of Law road signs: predictability; non-arbitrariness; and the equal application of the law. I conclude that, whilst some facets commonly attributed to the Rule of Law may not be enhanced, fundamental ideas—for example, the equal application of the law and a block on the

⁴ Derived from the raw data provided by the Electoral Commission. See *Electoral Commission 2019*.

⁵ For some examples of this work, see Travers 2003; James and Quaglia 2019

arbitrary exercise of power—are enhanced through the check created by the relatively infrequent recourse to direct democracy. In doing so, I argue that the relative disjunction between the city and the not-city has resulted in a Rule of Law-positive outcome.

PART TWO: THE CITY AND ITS INFLUENCE

There are a number of regions that can lay claim to delineating the ‘City’ or ‘London’. For my argument, I will take this to be the area that is now governed by the Greater London Authority. I describe this as either *the City* or *Greater London*.⁶ The settlement’s origins are humbler than its contemporary form but, as I briefly explore below, a population has existed between two bends on the North bank of the River Thames to the East of the Fleet River (around the present location of London Bridge) in one form or another since Roman times. The settlement now occupying this site—whilst massively expanded—has influenced and dictated the direction to be adopted by the surrounding area, by England, and by the United Kingdom (and its empire) over a significant portion of that time. After explaining the history of its domination in the next section, I go on to explore a contemporary example where Greater London was not able to dominate: the 2016 EU referendum.

A (Brief) Historical View of London

The settlement that became Greater London can trace its founding to the invasion of Claudius, who ruled from 41–54CE.⁷ The rationale for the settlement’s original location relates to geography: the tidal range of the estuary; the location for a crossing (originally a ford near the present location of Westminster) and subsequent position at the hub of the road network; the suitability of terrain for settlement (i.e. not marshy); and, crucially for the settlement’s substantive development, the ability to bridge the Thames with a permanent bridge later in the first century.

The location of a Roman seat of power in London echoed the City’s subsequent rise to prominence. However, its rise was not instant. *Londinium* had a maximum population of around 30,000; perhaps only around 1 per cent of the population of England and Wales.⁸ Any dominance as a trading centre diminished slightly before, in the later Middle Ages, London (re)established itself as a protean capital city. This was heralded by the location of Kentish Kings’ merchant hall around 670CE and the King of Mercia’s palace in the eighth century and was strengthened in the mid-eleventh century when Edward the Confessor established his palace in what is now Westminster. This helped to stabilise London as the seat of royal power that, over the

⁶ This encompasses counties of *Greater London* and the *City of London*. My use of ‘the City’ in this paper is not reflective of the much smaller area of ‘the City of London’. My use of ‘the City’ in describing the much broader conurbation of London is adopted merely for explanatory convenience.

⁷ Several sources have been used to provide this basic overview. Sheppard 1998; Barron 2004; Harris 1990; Besant 2013.

⁸ Sheppard 1998, 35.

following centuries, would solidify as administrative layers of governance agglomerated in the City.

The influence of London—as a city—on the exercise of power was apparent as early as the thirteenth century. The Magna Charta is heralded by some to have constituted some of the earliest Rule of Law-like constraints on the exercise of power.⁹ By signing the document in 1215, King John confirmed London’s importance in at least three ways: first, by agreeing—in clause 17—that the location of the court of common pleas should not simply reflect the King’s current location, this made way for the court to be seated in London; second, the liberties and customs of London were specifically acknowledged in clause 13;¹⁰ and, third, clause 61 created a council of 25 barons that specifically included the commander of London’s militia and the Mayor of London.¹¹ Whilst the Magna Charta ultimately failed to completely curb the powers of the King, London’s influence was apparent. There was a subsequent sedentarisation of the exercise of power by the mid- to late-fourteenth century when Parliament’s meeting place was regularised at Westminster. In the revolutionary period of the seventeenth century, London played a central role in resisting the exercise of royal power; the Commonwealth government, and the relative importance of Parliament, were orchestrated and facilitated in the City. Other key events illustrating London’s fundamentality to the exercise of power include: the Popish Plot and the Exclusion Crisis; the reaffirmation of the City’s importance by James II’s restoration of the City’s ancient rights; and, William and Mary’s inclusion of London’s representatives when they summoned MPs that had sat in the previous Parliament.

In the seventeenth century and beyond, the revolutionary movement was fuelled—and suppressed—by the printing and dissemination of pamphlets principally from within the capital.¹² The dissemination of pamphlets, formed part of the cases against London based agitators and revolutionaries like John Wilkes who was arrested on a ‘general’ warrant.¹³ The ramifications of these and similar events can be seen in the seminal case of *Entick v Carrington*—a case considered by many to be the genesis of the Rule of Law in the UK.¹⁴ Once newspapers were established, Fleet Street—which had formed a natural boundary of the City for several centuries—became synonymous with journalism and what may now be seen as a ‘fourth branch of government’. Fleet Street, and the London press, still influence the country through the national media.

⁹ See, for example, Krygier 2015; Endicott 2016; Fernández-Villaverde 2015.

¹⁰ Whilst other cities were also granted their liberties and customs, *only* London is specifically singled out. The Translated text reads: ‘And the city of London is to have all its ancient liberties and free customs, both on land and water. Moreover we wish and grant that all other cities, boroughs, towns and ports are to have all their liberties and free customs.’ See “The Magna Charta Project - Clause 13” 2019.

¹¹ This is also described as a suffix to the document. See “Magna Carta Project” 2019 It is also suggested that the barons’ capture of London prior to the document being signed was instrumental in convincing the King to agree to the document’s terms. SHEPPARD 1998, 91 (FN84).

¹² For an excellent example of London’s influence, see HARRIS 1990.

¹³ SHEPPARD 1998, 252. See also Tomkins and Scott 2015.

¹⁴ *Entick v. Carrington* 1765. This case is a fundamental staple in teaching the Rule of Law in Public Law subjects across the UK. However, it is little known outside of the UK. See Burgess 2016; Tomkins and Scott 2015.

As traditionally the largest population in the country, London has—by sheer weight of numbers—exerted influence beyond its boundaries. Around 1550, London’s population accounted for around 2.5 per cent of England’s population; by 1700, this was around 11 per cent.¹⁵ The population required a large volume of goods and services which, in turn, resulted in a further population influx. As a result, by 1800, over a million people lived within 10 miles of Westminster and by 1891, almost 20 per cent of the entire population of England and Wales lived within Greater London.¹⁶ This percentage—that far exceeded that of equivalent capitals—became doubly important in the late-nineteenth century as the franchise expanded and the City’s representation within Parliament more closely reflected the population’s distribution.¹⁷ The population of Greater London in the twentieth century continued to rise and reached a high of a little over 8.6 million (21 percent of the population of England and Wales) in 1939.¹⁸ Whilst both the population and percentage decreased in following decades, the population of Greater London is now around 8.8 million people—around 13 percent of the UK population.¹⁹

The City has, through weight of numbers, the operation of economic forces, and direct proximate influence on the location of the exercise of power and decision making, historically dominated the UK’s direction over the vast proportion of the last two millennia. But, as we will see, its domination is not absolute or perpetual.

The 2016 EU Referendum

Notwithstanding its status as the largest conurbation in the UK, Greater London’s population compared to the rest of the UK means that when (more) direct democratic processes are applied, the City cannot wholly dictate the national agenda. This was clearly illustrated by the 2016 referendum. Historically, a strongly-held view in the City would have, absent direct democratic processes, dominated the nation’s answer to the question posed; however, the City’s view, if the aggregate total of individuals’ votes can be reified in this way,²⁰ was not able to direct the national agenda in 2016.

I have already touched on some of the figures associated with the referendum. For ease, they are reproduced as percentage in Table 1.²¹

¹⁵ Sheppard 1998, 127 (fn 3).

¹⁶ *Sheppard 1998, 250, 251 (fn 4), and 290 (fn 4).*

¹⁷ In relation to voter reform—in 1832, 1884–5, and 1867 increasing MPs for the metropolitan area—see Sheppard 1998, 296–97.

¹⁸ London population figures, from a variety of sources, are collated in these terms in the Appendices to Sheppard’s text: *Sheppard 1998, sec. Appendix 1 and 2.*

¹⁹ This is based on a population estimate at 2016. See London Datastore 2019b; Office for National Statistics 2019.

²⁰ There are, expectedly, clear differences across the various Greater London electorates. For a visualisation, see: London Datastore 2019a.

²¹ Calculation has been required to obtain the percentages expressed in this paragraph. The data in the table and the following paragraphs are available in raw form at: Electoral Commission 2019; London Datastore 2019c.

	Remain	Leave	(Difference between leave and remain)
National vote	48.1	51.9	(3.8)
The City vote	59.9	40.1	(19.8)
The not-city vote	46.6	53.4	(6.8)

Table 1. Percentage vote share in 2016 EU referendum.

The national vote (as the overall percentage of valid votes cast across the UK) for leave and remain and the City Vote for leave and remain are relatively well known. Yet, a simple comparison does not adequately convey the difference in opinion that existed between the City and the not-city because the national vote also incorporates the City vote. Accordingly, a not-city vote for leave and remain is calculated by subtracting the number of leave and remain votes cast in the City from those in the National Vote.

Within these data, we see the national vote reflects a desire to leave; however, the 3.8% difference between remain and leave votes does not evince a *strong* national desire. When the City and not-city differences are independently calculated, the City vote expresses a *very strong* desire to stay in the EU with a difference of nearly 20% between the remain and leave votes.²² The not-city vote expresses that region's *strong* desire to leave with a difference of almost 7% between the remain and leave votes. When taken together, these differences reflect that there is both a difference in the broad desire whether to remain or leave *and* that there is a relative difference in the strength of that desire. When the relative strengths of feeling are compared, the strength of the City's desire to stay dwarves the not-city's desire to leave.

Where the relative view of the City and the not-city is of interest, the difference between percentages of votes cast—for leave or remain (as the differences are the same regardless of which is examined)—in the regions is instructive. The difference is 13.3%.²³ I will call this the *regional difference*. By considering the difference of opinion in this way, the scale of the difference becomes more apparent; there is a clear difference between the sentiments expressed by the two regions.²⁴

When comparing the not-city vote with the national vote, it becomes apparent that the impact of Greater London's overall remain vote was to shift the leave sentiment expressed by the not-city *toward* remain from 53.4%, to 51.9%: a shift of

²² On any view, Greater London—together with other regions like Scotland that expressed a similarly strong opinion—sought to remain in the EU. Seven of the ten areas with the highest percentage of remain votes were in Greater London.

²³ To clarify, this is either the difference between 53.4 and 40.1 (the leave votes for the not-city and City respectively), or 46.6 and 59.9 (the remain votes for the not-city and city respectively).

²⁴ This difference would be even starker if City votes were contrasted with only the rest of England and Wales (and strong remain sentiments in Scotland and Northern Ireland are removed).

1.5%.²⁵ I will call this the *City impact*. This is not an insubstantial impact where the leave vote was carried based on a 1.9% majority. The City impact was not, however, enough to dictate the result. This is, of course, due to the size of Greater London's population (or the relative strength of feeling) being insufficient to have garnered a large enough City Impact to have dominated the not-city. Even if the City's population as a percentage of the nation had been at its peak (21% in 1939), and if the City had voted with the same desire as in 2016, then the outcome would not have been different. For the City impact to have changed the ultimate result, assuming the relative strengths of feeling remained unchanged, the City's population would have needed to be a little over 25% of the nation's population. Put another way, to achieve a City impact capable of changing the eventual outcome the voting population in the City needed to have more than doubled.²⁶ This suggests there is, in any realistic population increase, no feasible way that the City can dominate—based on the strength of feeling expressed in the referendum—when recourse is made to a more direct form of democracy.

What can be seen when the 2016 referendum is used as an example is that, contrary to its historical role, the City was not able to dominate the rest of the UK. Despite the strongly held desire to remain in the UK in the City, the referendum process—as a simple 50%+1 carries-the-day approach—resulted in the City's desire *not* being sufficiently impactful to dominate the rest of the country. Accordingly, what we can see is a relative lack of dominance that is illustrated by the 2016 referendum results when compared to historical precedent.

Next, I consider the Rule of Law benefits relative to the example of the referendum and the historical way in which Greater London has dominated the UK's direction. By considering the relative loss of Greater London's impact and influence, I argue that the imposition of the not-city's direct democratic will on a previously dominant city can be seen in Rule of Law-positive terms.

PART THREE: THE RULE OF LAW BENEFITS

The potential benefits of the Rule of Law depend, obviously, on what the Rule of Law is taken to be. The Rule of Law is, however, a highly contested concept.²⁷ Accordingly,

²⁵ This is apparent when the difference between either the leave or remain not-city vote is compared to the leave or remain votes for the National vote; i.e. this is the difference between either 53.4 and 51.9, or between 46.6 and 48.1.

²⁶ The actual percentage of the national population that Greater London would need to reach is 25.45442%. This is calculated based on the valid votes and voting percentages in the City and not-City expressed above. It does not change if the increased percentage for the City comes from either simply adding voters to the City (more than doubling the valid votes in the City from 3,776,751, to 10,167,083) or if the national voting population is maintained and the percentage of valid votes between the City and not-City is merely altered (where the City voting population would need to be increased to 8,540,462).

²⁷ In support of the idea that the Rule of Law is essentially contested, it is common to refer to Waldron's article. Waldron 2002. Martin Krygier also identified this trend in Krygier 2016, 1. Notwithstanding any debate regarding its *essential* contestedness, it is clear its content is highly contested. Krygier 2014, 1. See also Burgess 2017; Burgess 2019.

and given the constraints of this short comment, I do not seek to engage in the debate regarding the conceptual boundaries of the idea. Instead, in what follows, I apply a broadly stated—yet, hopefully, uncontroversial—idea of what I will take the Rule of Law to be. I then explore the city’s dominance in terms of that Rule of Law idea.

The Rule of Law

The Rule of Law I discuss relates to a specifically (and peculiarly) Anglo-American concept that finds particular expression through a number of ‘usual suspects’—thinkers as diverse as Aristotle, Locke, Dicey, Hayek, Fuller, and Raz—that are frequently invoked to evidence what the Rule of Law *is*.²⁸ Whilst their ideas are very different, common ideas like predictability, non-arbitrariness, and the equal application are commonly seen.²⁹ I will use these to illustrate the concept’s meaning.³⁰ Whilst this approach could be criticised, it enables a lot of analytic ground to be covered when ascertaining whether a particular process enhances or diminishes the Rule of Law’s operation. Accordingly, I will use these road signs to consider the relative Rule of Law benefits regarding the referendum and Greater London’s historical dominance.

Greater London’s Dominance and the Rule of Law

Despite its historical role, the City did not dominate in 2016. The reason for this is alluded to above: the exercise of a more direct democratic process allows the views of the majority to trump that of the minority. And, whilst Greater London is the largest concentration of voters in any single conurbation in the UK, and even though they represented one of the strongest ‘remain’ voices, the City impact was insufficient to overcome the remain sentiment in the UK. In going beyond this—and in going beyond any pro- or anti-Brexit argument—a more interesting discussion can be found. In simplifying the situations described thus far, two processes exist: the historical process—in which Greater London was able to dominate future directions; and, the contemporary process—in which Greater London is not able to dominate future directions. Considering the relative Rule of Law benefits of these processes is the focus of the remainder of this comment.

The City’s inability to dominate enhances the non-arbitrariness idea of the Rule of Law by ensuring power cannot be arbitrarily exercised by one region over the whole. Whilst this requires the partial reification of Greater London, the arbitrary exercise of power can be avoided when a single entity—either a region or an individual—is *not* able to make decisions on behalf of the whole. The Greater London

²⁸ Burgess 2019.

²⁹ See, for example, Locke 1988, II §135; Dicey 1979, 188–198 and 202–203; Aristotle, Sinclair, and Saunders 1981, para 1287aI. For secondary commentators reflecting on this, see, for example, Bedner 2010, 50; Krygier 2017, 39.

³⁰ A rich literature exists regarding the Rule of Law’s elements. See Burgess 2017; Bedner 2010. The road signs arise in a large number of other usual suspects’ accounts. See, for example, those cited in note 29.

region itself was not elected in any form of representative capacity; nor, as other similarly reified regions may say, does it represent the views of the not-city despite being a substantial (more than 10%) sample size. This much is clear from the difference in the referendum results and, in particular, the regional difference. Accordingly, regarding non-arbitrariness, the City's non-domination through the referendum is Rule of Law-positive.

Equal application of the law is not necessarily enhanced through non-domination; but equal application is *not* enhanced through domination. What I mean by this is clear through considering a situation envisioned by one of the usual suspects. Dicey describes what he sees as the two-tier system of laws in France. There, he suggests, servants of the state are not subject to the same laws as other members of society. Dicey sees this as a non-Rule of Law system.³¹ The elevation of City-people above not-city-people could reflect this two-tier system. In the historical form of dominance, or if the City was able to dictate the answer to a question like the one in the 2016 referendum, this would result in an outcome desired by one group being preferred over another's. However, it does not reflect the specific operation of a law in a different way on the City/not-city. In this second sense, domination as explored here does not impact this aspect of the Rule of Law.

Predictability is enhanced when domination is removed. The application of law should be predicable; it should not be subject to the whims of a particular person or entity. Predictability requires both that one can rely on an outcome matching the existing rules on the books and that rules will not be changed in the interim. The City's domination, either in the way that it has historically or through an enhanced City impact in a referendum, increases the risks associated with both. This happens through giving a single institution (the City) more power relative to another (the not-city) which may facilitate the abuse of that power. Increasing the risk in this way can be seen, in the least, as a Rule of Law negative. In contrast, but for similar reasons, non-domination increases the prospects that the two predictability requirements will be satisfied; when one institution does not dominate another, change requires consent—or at least acquiescence—of the parties. Where parties actively participate and are actively involved in decision-making, the risk of increasing un-predictability in this sense therefore appears to be obviated. Hence, the City's non-domination provides a more positive Rule of Law outcome.

PART FOUR: THE CITY AND THE RULE OF LAW

In the preceding parts, I have argued that a Rule of Law-positive effect flows from the City's current inability to dominate or dictate the direction of the rest of the UK. This has been couched in terms of direct democratic processes, in which the current dispersion of the current population forms the basis of the Rule of Law

³¹ Dicey 1979, 328–29. In comparing the Rule of Law and *Droit Administratif*, Dicey takes issue with the French system.

positive outcome.³² This conclusion may be nothing more than stating what may be seen as obvious in a Western liberal society: domination = bad; non-domination = good. However, there is benefit in the process of reaffirming this position in the contemporary and historical operation of the City. Considering the *reasons* why this obtains is beneficial.

The Rule of Law, which is universally lauded as being a societal good, provides one such reason why domination by the City should not be seen as being generally of benefit;³³ this facilitates comparison between a historical precedent and a contemporary event (if not a wider practice) and illustrates that a move of this sort—from a situation where domination by the City existed, to one where there is either no or a greatly reduced incidence of domination—is undoubtedly a Rule of Law positive. Further, if we are given reasons to suggest that where London is not able to dominate (all of the time), the UK’s Rule of Law landscape is enhanced. We see that predictability and a block on the arbitrary exercise of power are enhanced through the check created by the relatively infrequent recourse to direct democracy or the shift from dominance more generally. For these reasons, the imposition of the not-city’s direct democratic will on an historically dominant city can, and should, be seen in Rule of Law-positive terms.

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³² I focus on direct democratic processes as this forms the core of the paper. Non-direct processes, for now, must be left to one side.

³³ See for example, Shklar 1987, 1. It is suggested that the ‘good vibrations’ associated with the Rule of Law have resulted in its use for a variety of ends. Waldron 2015, 61.

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