

Phil. 2200

Notes #7: Authority of Democracy (Christiano)

I. Two Kinds of Defense of Democracy

- Defenses of the legitimacy/authority of democratically chosen laws:
 - Instrumental: Democracy chooses good policies.
 - * Can imply that only some decisions have authority, or only some people have political obligation.
 - “Procedural”: Democratic decision-making is a fair (or otherwise just) process.
- Christiano’s view:
 - “Dualistic”: both instrumental and procedural requirements for legitimacy.
 - But this article is mainly about the procedural argument.
 - Holistic: seeks to justify the system as a whole, for everyone.
 - Legitimacy is (mostly) independent of the content of the laws. I.e., even laws that are wrong have authority.

II. The Justice of Democracy

- Principles of justice:
 - Equal Advancement of Interests. The state should serve everyone’s interests equally.
 - Justice should be public. It should be possible with reasonable effort to see that justice is done. [But actually, he takes this back, since many people will disagree on what is just. (274) I think he means: the *equality* of the system should be easily seen.]
- **Thesis:** Democracy is the only way of implementing *Equal Advancement of Interests* in a *public* way.
- The need for publicity:
 - Fallibility & disagreement → Bias.
 - Bias & conflicting interests → Need to verify fairness for ourselves.
 - * The example of the unverified debt payment. (270)
- Ways of implementing Equal Advancement of Interests:
 - Direct pursuit of equal welfare. Problem: Hard to measure, no scheme will be publicly justifiable.
 - Direct distribution of goods. Problem: “But we think of the common world as essentially a non-divisible good; we cannot divide it into resources and then distribute them.” (275) (??) [Don’t know what he’s talking about, but:]
 - * This may lack publicity.
 - * Does not deal with public controversies over things other than wealth distribution.
 - Equal say in decision-making process. This is achieved by democracy (1 person, 1 vote).
 - * Note: The interpretation of *equality* here is uncontroversial. This is not so for equality in other realms, e.g., economic & welfare.
 - * Shows equal respect for the judgment of everyone. No other decision-making process is like this.
 - * Everyone needs a say in policy, to protect their interests.
Ability to debate not enough: opinions of people without power will be discounted.
- A Theory of Political obligation:
 - Failure to obey democratically chosen laws = failure to treat others as equals = asserting that one’s own interests matter more.

[If one dissents from an outcome that has been democratically chosen and one attempts to bring about

another outcome by means of revolution or intrigue or manipulating the system, one is acting in such a way that cannot be thought of by others as treating them as equals. One is putting one's judgment ahead of others' ... one is in effect expressing the superiority of one's interest over others. (277)

- Political obligation is owed *to the other citizens*

III. Critique of Consent Theory

- Consent theory: The state has authority over you only if you consent.
- Problem: What if you refuse to consent for bad reasons? Perversity, selfishness, malice, etc.
- Why we need the state:
 1. Justice requires that people follow a consistent set of rules. Need to know what to expect from others, etc.
 2. But justice underdetermines *which* rules we should adopt. Many possible sets of rules would be acceptable; there isn't just one that is obviously right.
 - * Example: How loud can you play your stereo at night?
 - * Can you build a building that blocks the sunshine from your neighbor's yard?
 - * What must you do to acquire land?
 - * Who gets to broadcast on a given radio frequency?
 3. So to have a consistent set of rules, we need a central, rule-making authority. (Supported by 2.)
 4. So, justice requires a central authority. (Supported by 1, 3.)
- Because of this, you should not be able to opt out. "[O]ne cannot treat others justly unless one submits to an authoritative rule maker." (282)

IV. Limits to Democratic Authority

- Democratic state may not treat a (significant) group of people (very) unequally. Why:
 - The authority of the state depends on the principle of Equal Advancement of Interests.
 - So if the state is obviously violating that principle, it lacks authority.
 - Examples: Slavery, disenfranchisement, large abridgements of "liberal rights" (includes freedom of association, freedom "to choose one's own aims in life" (289), and what else?).
- Consequence: If the state thus treats a large number of people very unequally, then
 - The state *as a whole* is illegitimate. (This is especially clear for inequality *in the decision-making process*)
 - Citizens would then lack an obligation to obey the law.
 - You could probably refuse to pay your taxes. [He doesn't discuss this explicitly.]
- [To Discuss: On this view, how many states have been legitimate? When did the U.S. government first become legitimate?]

V. Nozick's Tale of the Slave

- Discuss: At which stage does he cease to be a slave? Why is each answer implausible?
- Analogy between the story and modern democracy.

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Notes #8: Instrumental Value of Democracy (Mill, Sen)

I. Mill's Argument

A. Democracy promotes good governance

- Individuals are the best guardians of their own interests.
 - Other people may not value your interests. Each person desires his own interests most.
 - Other people may not understand your interests. Each person knows his own interests best.
- Democracy takes account of everyone's interests.
- Empirical evidence: Democratic countries have been most prosperous.

B. Democracy promotes good character

- The best kind of character is *active*, rather than passive. Constant striving for improvement.
 - This is obvious in intellectual & practical matters.
 - Also true in moral matters:
 - * People who desire things but will not act to attain them become envious, resentful.
 - * Envy is a vice & socially destructive.
 - * Envy most common when success is due to chance.
[Discuss: (a) Is this true? (b) Mill seems to be confusing capitalism (economic freedom) with democracy (popular political power)?]
- Democracy promotes the active character.
 - Dictatorships deliberately suppress ambition.
 - Ambition is even more suppressed by the knowledge of one's impotence.
 - Participation in social functions improves character:
 - * Makes people think in terms of abstract, moral principles. (Intellectual improvement.)
 - * Makes people work with their fellow citizens.
 - * Makes people look beyond self-interest.
 - Conclusion: Promote the most participation, by the most people.

II. Sen's Argument

- Arguments against democracy & freedom:
 1. Some argue that freedom hampers economic growth.
 2. And poor people don't care about freedom.
 3. And freedom is a "Western" value that Asians don't care about.
- Democracy & Economic Growth
 - Direct empirical evidence is mixed: Some Third World dictatorships have had large growth; some have had small growth. Overall: no obvious correlation.
 - Causes of econ. growth are compatible with freedom:
 - * Competition
 - * International trade
 - * Literacy & education
 - * Land reforms. (This is a broad term referring to changes in ownership & use of land. Commonly involves allowing farmers to own their own land.)
 - * Incentives for investment
- Do poor people care about freedom & democracy?
 - Little data on this.

- The best way to find out would be to put it to a vote.
- In India, freedom has been affirmed in elections.
[Discuss: this is one case. How much freedom would be affirmed in America? Would the Bill of Rights pass in a referendum?]
- Instrumental value of political freedom
 - Free discussion helps form values. Example: Has led to decreased fertility in India.
 - Democracy prevents disasters.
“[N]o substantial famine has ever occurred in any independent country with a democratic form of government and a relatively free press.” (152)
 - We need free discussion to understand what our economic needs are.
- The working of democracy
 - Democracy good in preventing obvious, acute disasters.
 - Not so good in preventing lesser, chronic problems: illiteracy, malnutrition.
 - Democracy not *sufficient* for good policy. Only creates opportunity.
 - Solution: we need “fuller practice of democracy”. (154) (?)
 - Need opposition parties to call attention to problems.
- Democracy has also created stability in diverse countries.
 - Experience of India. [Compare U.S.]
 - [Discuss: Why might this be so?]

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Notes #9: Why Vote? (Lomasky/Brennan)

I. Thesis

- There is no general duty to vote.
 - Voting is not morally better than non-voting.
- But voting is fine if you like it.
- This argument concerns certain conditions:
 - You have no *special*/circumstances (did not promise to vote, etc.)
 - It is a general election (not a jury or a department meeting)
 - It's not legally required (like Australia)
 - It's a typical, large nation-state.

II. Prudential Reason to Vote

- Claim: "Your vote makes a difference." "Every vote counts."
- Reality: Voting has approximately no impact on policy
 - Voting affects outcome only if all other votes are tied.
 - The probability of this is ~ 0 .
- You might get other benefits:
 - Entertainment.
 - Warm glow.
 - Avoiding a fine (in Australia)
 - But none of these establishes a general duty to vote.

III. The (altruistic) Consequentialist Case

- Argument: Voting can be rational, if (i) there are momentous issues at stake, and (ii) you take into account the benefits/costs for everyone.
- Reply:
 - When the election is close, you probably do not know the right answer. Some uncertainties:
 - * Political issues are complex and difficult.
 - * Candidates may not stick to their positions once elected.
 - * Unexpected historical events may occur.
 - * You may be biased, ignorant, etc.
 - * Hence, you might make the outcome *worse*
 - When it is obvious what the right choice is, your vote is not needed.
 - * Other people will make the obviously correct choice without you.
 - Differences between candidates are rarely large.
 - * Economic theory: candidates in 2-party races should take positions next to each other, near the median voter.
 - In any case, you should only vote if you are *relatively good* at political evaluation. People who are bad at it should abstain.
 - * So no general duty to vote.

IV. The Generalization Argument

- Argument: “If no one voted, it would be bad. Therefore, you should vote.”
- Sometimes this form of argument is good; sometimes it is bad.
 - Good: If everyone walked on the lawn, it would be bad ...
 - Bad: If everyone gave up farming for dentistry, it would be bad ...
- When does the argument work?
 - Works when: Your action is *unfair*.
 - Works when: There is a negative marginal effect of 1 person doing X, on the people who don't do X.
 - Doesn't work: (a) The effect of additional people doing X is to increase incentives for others not to do X, and (b) this results in a stable, acceptable equilibrium.
- The voting argument is like the farming case:
 - Non-voters benefit voters by making their votes more influential.
 - As fewer people vote, there are stronger incentives for others to vote. The equilibrium is stable, acceptable.
- Objection: But there might be much less than full participation!
 - Don't see why that is bad.

V. The Expressive Argument

- Initial argument: “If you don't vote, you have no right to complain.”
 - Seems to assume that you had a chance to do something. But see (II), (III) above.
- More sophisticated argument:
 - Sometimes we have expressive duties.
 - * E.g., to friends.
 - * As fans of a baseball team.
 - * Standing at the national anthem, not stepping on the flag.
 - * None of these are justified by consequentialist reasons.
 - Non-voting violates such a duty.
 - * Expresses lack of interest in the concerns of the polity.
 - * Might express lack of allegiance to the system.
 - * If you do that, then it is improper for you to then complain about what is happening.
- Replies:
 - You could express allegiance through residence & obedience to laws.
 - Voting does not express much engagement, because it does not require (and usually does not involve) much knowledge, thought, or effort.
 - Because ballot is secret, it lacks essential characteristics of most expressive acts.
 - Non-voting may also be valid expression:
 - * Opposition to all candidates.
 - * Opposition to some policy.
 - * Lack of faith in the system.

VI. Why Do People Believe in the Duty?

- **It made sense in an earlier time.**
 - **When fewer people participated (or could participate), it made more sense for those who could to do so. (Argument of II didn't apply as much.)**
- **It promotes self-esteem of voters. They feel they're doing something important and valuable.**
- **Promotes interests of ruling elites.**
 - **Elites want people to feel they have a say in the system, that they are listened to & respected.**
 - **But they don't want people to meddle too much.**
 - **Ideal solution for elites: Promote belief that some ineffectual, symbolic act constitutes meaningful participation.**

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Notes #10: Elitism

I. Thesis: The Irony of Democracy

- Elites, not masses, govern America.
- Preservation of democracy depends on elites.

II. Why Elections Do Not Provide Policy Mandates

Policy Mandate Authorization given by the public for a specific policy. Sometimes thought to be provided by certain elections, in which the people's will can be discerned from the election results.

1. *Candidates do not offer clear policy alternatives.*

- The American system gives a chance to only two candidates.
- Winning strategy is to occupy the center of the political spectrum.
 - If opponent occupies position X, where X is other than the center, then the vote-maximizing strategy is to occupy a position slightly closer to the center than X.
 - Modification: candidates may move slightly left or right to (a) differentiate themselves from each other, (b) increase voter turnout for their party, (c) get more money from contributors.
 - Another good strategy: Offer ambiguous positions, platitudinous positions, or no positions.
 - * Many people will vote against a candidate on the basis of a single issue.
 - * Few people will vote *for* a candidate based on a single issue.

2. *Most people do not vote on the basis of policy issues.*

<u>Voter category</u>	<u>Percentage</u>
Issues/ideology	19.4
Group benefits	30.0
Nature of the times	28.1
Candidate image/other	21.5

Money Drives Elections:

- Candidates must raise millions of dollars, hundreds of millions for Presidential candidates.
- Presumably, this makes a big difference to how people vote.
- [Discuss:
 - According to theory, democracy works when voters vote on the basis of their self-interest. The first three types of voters might all be contributing to the working of democracy.
 - Problems for this theory:
 - * Does not consider *strength* of interests.
 - * Does not consider long-term interests.
 - * Most importantly: Voter has no reason to vote for his interests, if he knows that his vote will have no effect on the outcome.
 - * Voter has no reason to collect information about policies and candidates.]

3. *Elections do not reveal policy preferences, even for policy-oriented voters.*

- Candidate has many different positions. No way to determine from election result: (a) which positions were favored by the majority of people, (b) how strong voter preferences are on each issue.

4. Elected officials are not bound by their campaign positions.

- Officials can break their promises.
- In most cases, voters have no idea what representatives are doing.

5. Most people don't vote

- Voter turnout: about 50% for Presidential elections. About 40% for off-year elections.
- Turnout higher for more educated voters.

[Extra point: 6. Most laws are not made by elected officials.

- Three kinds of laws:
 - *Statutes* Made by legislature; most commonly thought of laws. Federal statutes found in the United States Code. Ex.: murder laws, anti-theft.
 - *Case law*: Made by judges. Found in books of court decisions. Ex.: The rules of discovery, the Miranda rule.
 - *Regulations* Made by bureaucrats (regulatory agencies). Found in books published by these agencies, and the Code of Federal Regulations. Ex.: FDA regulations of drugs, health & safety requirements for businesses and buildings.
- Only statutes are made by elected officials.
- Statutes are the smallest class of laws.
- Growth of regulations:

<u>Year</u>	<u>Length of the CFR:</u>
1960	22,877 pages
1970	54,834 pages
1980	102,195 pages
2007	144,040 pages

Sources: http://usgovinfo.about.com/library/weekly/blfedregs_b.htm; <http://cei.org/pdf/6018.pdf>

III. The Function of Elections

- Elections provide symbolic participation. Makes masses feel better.
- Legitimization: Elites seek to legitimize their actions by blaming them on “the people”.
- Choose personnel.

IV. What Can Students Do?

How can you preserve democratic values?

- Have realistic (modest) image of your ability to influence the world.
- Think critically. Be suspicious of common beliefs and things others' try to teach you. (Except philosophy professors, of course.)
- Learn about technology & law.
- Learn about freedom in history. Also compare U.S. to other nations.
- Distrust government, take responsibility for own life.

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Overview of Unit 3

At the end of unit 3, students should know:

These ideas:

Instrumental vs. procedural arguments for democracy
Equal Advancement of Interests
Publicity requirement for justice
Generalization arguments
Expressive obligations
Elitism
Policy mandates

These examples & what they show:

Farmer/dentist
Walking on lawn
Stepping on flag/standing for national anthem, etc.

These people's views:

Christiano

Holistic view of legitimacy
Equal advancement of interests
Publicity requirement for justice
How democracy satisfies above principles
On political obligation, incl.: whom it is owed to
Limits of the state's authority

Mill

Why democracy promotes good policies
What good character traits it promotes & why

Sen

Relation between democracy & economic growth, incl.: causes of growth & how they relate to democracy
Instrumental values of democracy, incl.: about famines & other disasters, value changes, stability.

Lomasky & Brennan

Their view of voting behavior
Prudential argument for/against voting
Consequentialist argument
Generalization argument, incl.: when generalization strategy is plausible
Expressive argument, incl.: what voting might express; what non-voting might express; why voting might not be meaningful expression
Why elites promote duty to vote

Dye & Zeigler

Conditions for elections to provide policy mandates
Why candidates take similar positions
What determines how people vote
Why elections don't reveal policy preferences
The real function of elections