

Phil 290: Democratic Authority, January 25, 2011
Thomas Christiano, *Rule of the Many*, to p. 58

Democracy as an answer to the question: Who should rule?

1. Why should *anyone* rule?
2. Are the only objects of democratic decision *laws*, commands, perhaps backed by coercion?
 - a. Suppose that I irrevocably alter the environment. One might think that it should have been put up for a vote. But it is not as though my altering the environment was itself a law, or issued an order to anyone, much less one backed by coercive force.

TC's "schema" of arguments from liberty:

1. Self-development consists in part in being the author of, or controlling, one's own life.
2. Laws partly determine social conditions.
3. Social conditions partly determine one's life.
4. [In order to control X, one must control what determines X.]
5. Therefore, in order to control one's life, one must control the laws.
6. By participating in democratic decisions, and only by participating in democratic decisions, one controls the laws.
 - Why not control the laws under which one lives instead by free exit and entry?
 - i. Costs of exit too high
 - ii. Costs of exit unequal
 - iii. The necessary plurality of small states would be dependent on what happened in other states, just recapitulating the problem.
7. Each has an equal right to the conditions of self-development.
8. So, each has an equal right to participate in democratic decisions.

TC then says that there are three versions of this schema:

1. Direct: democratic participation a direct expression of will
2. Epistemic: attempt to discover what one wills
3. Constructive: attempt to define what one wills

But hard to see how 2 and 3 come under this schema.

NK: Several different interests that underlie "liberties": interests that what happens conform to, or be sensitive to, one's judgment/choice.

- A. Epistemic: One's judgment/choice a reliable indicator of what is in one's substantive interests. (Interest in conformity)
- B. Planning: An interest in being able to predict what will happen. If what one chooses will determine what will happen, then one can predict what will happen. (Interest in influence)
- C. Influence-constituted activities: expression, friendship, religious observance, etc. These activities have value, or value for one, only if they flow from one's choices. (Influence)
- D. Respect: An interest in being treated by others as capable of judgment/choice. Perhaps underlies the objection to paternalism. (Influence)
- E. Self-ownership: A primitive property right in one's body. (Influence)

TC seems to be understanding the relevant “self-development” interest as a species of C. But what about the other possibilities?

Problems:

1. NK: Is 4 plausible? Do I have to control all the conditions, all the way down?
2. NK: Is it any lack of control over our lives (say from natural forces), or lack of control *over what others control* that matters to us? Observe the shift: “Citizens who do not participate in making the laws that have such a powerful influence on the shape and direction of their lives have [i] little control over their lives and [ii] are mostly the passive subjects of *those who do make the laws*.”
3. TC: Trade-off problem: Why can’t someone get greater freedom overall by giving up political liberty?
4. TC: 6 is false: I do not control the law (except perhaps in rare cases in which my vote breaks a tie).
 - Graham: Democracy maximizes control, by giving it to as many people as possible.
 - TC: But this gives *control* to no one.
 - NK: Graham’s point makes sense if we are thinking of interests in conformity, rather than interests in influence: if the liberty interest is something other than C.
 - NK: Why is my *control* necessary? Why isn’t *some* influence enough? Suppose I help to paint a giant mural with a hundred other people. This is enough to make me part “author” of the mural. Why isn’t that enough? (Maybe the overall mural often turns out against my wishes. But that seems more of an issue of conformity, rather than influence.)
 - NK: Why is *my* control necessary? Why isn’t it enough that “the People” control the law? *I* don’t control it, but *we* do. Often this is how democracy, and its value, are described.

Consent Thesis: By participating in the democratic process, I consent to the outcome.

Two roles CT might play:

1. If one consents to an outcome, so one is *free under that outcome*. This might be a reason for having a democratic process (an answer to the General Question).
 - a. Why does consent ensure freedom? How are consent and freedom being understood?
 - b. Is CT true? Why does participation imply consent?
 - c. Might one consent to laws without participating?
 - i. Not having any influence over them at all: dictator?
 - ii. Participating in a process that gives you less influence?
2. If one consents to its outcome, so one is *obligated to do one’s part in that outcome*. Not (directly) a reason for *having* a democratic process, but rather an explanation of why, if there is a democratic process, one is obligated to comply with its results (an answer to the Particular Question, given an answer to the General Question).
 - a. Oddly, TC sees the idea as playing only role 2. But role 1 seems the relevant role in the present context.
 - b. TC argues, plausibly, that participating in the democratic process isn’t obligation-generating consent.

- c. Also, what if someone does not participate? Don't they *still* owe it to the others to go along?

Epistemic (Rousseau):

1. One is free only under laws that promote the common good.
 - a. Freedom requires self-respect.
 - b. Self-respect requires promoting the common good.
2. Democratically selected laws are the most likely to promote common good.
 - a. Democratic deliberation improves individual judgments. It cancels bias, by bringing all perspectives into the discussion.
 - b. Condorcet's Jury Theorem: When each votes on basis of his belief, and each is more than .5 likely to be right, then majority is *very* likely right.
3. Therefore, one is (most likely) free under democratically selected laws.

Comments:

1. Note that this argument does not require any *control* over the outcome, or indeed any conformity of the outcome, only that the outcome serves the common good. So it isn't clear how it falls under TC's schema.
2. Indeed, freedom, let alone freedom as self-development, seems inessential to the structure of the argument. What matters is simply that we have *some* reason to care about the common good.

Problems:

1. TC: Trade-off problem: Why participation rather than private freedom as a route to self-development?
 - a. NK: The freedom in question is not the freedom to participate, but instead the freedom of living under rules that serve the common good. It is plausible that, by living under rules that *don't* serve the common good, we would each enjoy greater overall liberty? If such rules gave us greater liberty, wouldn't they serve the common good?
2. TC: Problems with Condorcet:
 - a. Some might be more reliable than others on certain questions.
 - b. Better-than-random reliability less plausible when the choice is among more than two options.
 - c. NK: Also requires statistical independence of judgments.
3. NK: What if we *know* the majority is wrong? Does it *then* lose its authority?

Constructive view (J. Cohen):

1. The democratic procedure somehow makes the outcome legitimate. There is no sense in which the outcome is independently correct.
2. Individuals are self-governing when they live under laws if laws are the result of consensus that is:
 - a. free, in the sense of not being bound by prior norms,
 - b. reasoned,
 - c. between participants who are formally and substantively equal,
 - d. and who aim at consensus

3. TC's gloss: An individual is self-governing when he lives under laws that he accepts, when properly motivated and situated (e.g., free, reasoned, equal, aiming at consensus). "The fact of reasoned consensus ensures that each person adopts those terms in accordance with his or her own will. Each has his or her own will as a rule. It is also reasonably clear why participation in discussion is necessary for arriving at this consensus. Though discussion is not logically necessary for arriving at reasoned consensus, it would be absolutely extraordinary if reasoned agreement on terms of association were reached in any other way."

Comments:

1. According to TC's gloss, no control is required. The interest is an interest in conformity: that the laws be ones that one accepts.
2. What, then, is this interest?
3. Why do we need 1? Might we have an interest in conformity even if there *were* a substantively correct answer?

Problems:

1. Basic Problem: Consensus can't be achieved, so some people can't be self-governing.
2. Reply: Then it falls to majority rule.
 - a. TC: But why?
 - b. NK: Why not Graham's answer: majority rule maximizes freedom, when freedom is understood as satisfaction of interests in conformity?
3. Reply: What matters is only that consensus *could* be achieved.
 - a. TC: But why then is democratic participation necessary?
 - b. NK: And this changes the argument, since hypothetical consensus doesn't satisfy any interests in conformity.
4. Reply: Only a model for institutions to match.
 - a. Problem of the second-best.

Egalitarian theories:

- Citizens may not be self-governing, but they can be treated equally.
- Egal. theories "acknowledge fundamental conflicts of interests and convictions in society and assert that because of this lack of consensus, each person may demand an equal share in political rule."
 - Why "because"? Can't people demand an equal share even when there is consensus? What work does disagreement do?

Fair compromise:

- Substantive disagreement: about what decision to make
- Procedural disagreement: about who is to decide
- Principle of fair compromise: Resolve by dividing the right to decide into equal shares.

Problems:

1. Why not try to achieve a *substantive* compromise?
2. Why are *equal* shares fair? Suppose that some want to be dictators, others want democracy?

3. *Self-defeating*: Suppose there is disagreement about the principle of fair compromise itself. According to the principle of fair compromise, it is wrong to implement a principle with which some disagree. So the principle of FC says that it is wrong to implement FC.
4. *Regress*: Suppose people agree about the principle of fair compromise, but disagree about its application. Then we need to reapply the principle of fair compromise. A regress threatens.
5. NK: What motivates the principle of fair compromise in the first place?

Equal consideration of interests, rather than judgment:

- Equal well-being can be achieved without democracy.
- Democracy may not lead to equal well-being