

Week 5. Symbolic Equality

1 Christiano, “The Authority of Democracy”

We can assess democratic decision-making in two ways: quality of outcomes, and quality of procedure. Monists claim that “there is only one form of assessment and other assessments are reducible to it”. Instrumentalists (like Van Parijs) reduce everything to outcomes. Deliberative democrats reduce everything to procedure.

Christiano wants to defend a position that is not monistic, but that is holistic—i.e., it acknowledges independent and irreducible standpoints of evaluating democratic procedures, but it also thinks that “the fact that the democratic assembly has made the decision gives each person a pre-emptive and content-independent reason for complying”.

Questions for Discussion. (i) What does it mean for an explanation of authority to be “holistic”? (ii) Why does Christiano claim that instrumentalist accounts are “piecemeal”? (iii) Why does Christiano claim that proceduralist accounts are “holistic”?

I. A Dualistic Account of Democracy (269)

A. Democracy and the Equal Advancement of Interests

Justice requires that all interests are taken equally serious, and it requires “that the interests of individuals be equally advanced in terms of lifetime prospects”.

B. Social Justice as a Weakly Public Principle

As justice is considered with the claims of people, it is not enough that justice is done: “Justice must be seen to be done”. Weak publicity requires that each person, if she were to make a reasonable effort,

could see whether she is treated justly or not. Publicity is not an independent value, but implied by justice.

C. The Arguments for the Principle of Publicity

Arguments from justice to publicity are formal and substantive.

Formal: Each citizen must be able to appeal to the implemented principle, and this requires publicity.

Substantive: People have a fundamental interest in being publicly treated as equals: (1) Against a background of bias and fallibility, giving everyone a say protects against the errors of others. (2) Having an equal say allows one to “live in a world governed by principles one adheres to as opposed to someone else’s” (273). (3) We have an interest in having our moral status publicly recognised by others.

D. Equality and Democracy

To summarise Christiano’s argument, (1) justice requires equal promotion of interests, and (2) justice requires publicity.

Next, Christiano claims that we have no clear or uncontroversial way to measure (1)—the degree to which justice is fulfilled—due to the facts of disagreement and bias. (274–5)

However, we do know how to implement the second sense of equality: “democracy realizes equality publicly in a way that is uniquely tailored to the problem of pervasive disagreement” (275).

Questions for Discussion. (i) What is the problem of pervasive disagreement? (ii) How does the existence of the problem show the importance of democracy?

II. Democracy and Authority (277)

Raz's "Normal justification thesis" (NJT). Someone has authority over us if obeying their commands makes us better comply with the reasons that we have. Problems:

1. It ignores the difference between a just authority and an unjust authority. It can provide you with reasons to work for an unjust regime (example of George on 278-9).
2. Furthermore, NJT does not take into account disagreement (279). What ultimately counts for Raz is what I have objective reason to do; the authority in question does not have to take into account what I think is right.

Questions for Discussion. (i) Give an example where this is brought out. (ii) Why is Raz's theory commonly seen to be instrumentalist?

A. Consent Theory and the Moral Necessity of the State (280)

Why not think, on this basis, that consent is necessary for authority? Christiano: Consent theory fails to come to grips with the moral necessity of the state (281). Consent theory allows too many ways of opting out of the state, even where it is morally necessary. We need the state to establish rules of justice.

Why do we need public rules? First, coordination with others is central for us to act justly (281). Second, without public rules, the public realization of equality is impossible (282). Third, in the absence of a neutral judge, justice "becomes merely the property of the highest bidder". Fourth, the arguments from previous parts of the article about disagreement (283).

B. The Authority of Democracy (284)

The basic structure of the argument is as follows (285):

1. If legislative institutions publicly realize justice, then they have legitimate legislative authority over those people within their jurisdiction. [...]
2. If there is reasonable disagreement on the justice of legislation, then a democratic assembly will publicly realize justice in itself and only in itself. [...]
- *3. (from 1a and 2) Therefore, democratic assemblies have legitimate legislative authority if there is reasonable disagreement on the justice of the legislation at issue.
4. If and only if legislative institutions publicly realize justice in themselves, then they have genuine legitimacy, that is, they have a claim-right to rule and they are owed obedience. [...]
- *5. (from 2 and 4) Therefore, democratic assemblies have genuine legitimacy if there is reasonable disagreement on the justice of the legislation at issue.

Premise 4 expresses the idea that public equality takes precedence over others kinds of equality. In other words, the interests that individuals have in public equality are primary. First, some of these interests, such as feeling at home in a society, are fundamental. Second, "public equality satisfies these interests in a way that is compatible with equality". Third, these interests harmonize with other interests. (286)

Questions for Discussion. (i) Do you agree with Christiano's premises? (ii) If you disagree, which premises do you disagree with, and why?

C. The Limits to Democratic Authority (287)

Christiano provides a brief argument concerns with highlighting the limits of democratic authority (287-8):

1. Democratic assemblies have legitimate authority only when they publicly realize justice in themselves or they are instrumentally just.
2. Disenfranchisement of part of the sane adult population is a public violation of equality.
3. Democratic assemblies publicly realize justice in themselves only when their decisions do not publicly violate justice.
- *4. (from 2 and 3) Therefore when a democratic assembly votes to disenfranchise some of the population, it does not publicly realize justice in itself.
- *5. (from 1 and 4) Therefore, when a democratic assembly votes to disenfranchise some of its members, it does not have legitimate authority.
6. Just as disenfranchisement of part of the adult population publicly violates equality, so enslavement or suspension of the core of their basic liberal rights or some form of radical discrimination against a part of the sane adult population publicly violates equality.
- *7. (from 4, 5 and 6) Therefore, when a democratic assembly votes to enslave or suspend the core of liberal rights or radically discriminate against a part of the sane adult population, it does not publicly realize justice and so does not have legitimate authority.

2 Brennan, “Politics is not a poem”

Semiotic arguments are distinct from instrumental arguments. They rely on the idea that “imbuing everyone with equal fundamental power expresses, communicates, or symbolizes respect” (113).

The Truth Behind Semiotic Claims (116)

Where certain practices express clearly immoral attitudes, like racism, the semiotic argument does have a point. However, Brennan argues that the epistocracy he imagines does not express such clearly immoral attitudes.

What Democracy Expresses (117)

We want to express the fundamental equality of every person. An initial question: But why would we need to express that by giving everyone an equal vote? We could express this in many other ways as well, without political equality.

Questions for Discussion. Is it really so difficult to see why giving everyone an equal say would signal their equality?

Judgments of Superiority (119)

Perhaps by giving some more votes than others, we’re expressing that some people are superior to others.

Brennan: the unequal vote in an epistocracy expresses that some people have better political *judgment* than others; it does not express the idea that some people are better than others.

Admittedly, in some situations it can be wrong to express one’s superior abilities. But politics, where it matters that we get things right, is not one of those—“[w]e cannot let the country choke simply because

people are sensitive about or have unjustified beliefs about their political competence” (123).

Equal Political Power and the Social Bases of Self-Respect (124)

Rawls: giving up the right to vote would be humiliating, and express the subordination of the voteless.

Brennan: but politics is not about boosting people’s self-esteem. We would also not put people on juries if they’re incompetent and this would make them feel good about themselves (126).

Furthermore, that not giving someone the right to vote is humiliating is a social constructed fact (127): our conventions in this respect could have been otherwise. We can an epistocratic society in which everyone considers everyone with equal respect (129).

In fact, we should change existing social conventions, because they are harmful (130). We should see the right to vote like medical, hunting, or plumbing license, which should be given out on the basis of competence (131).

Questions for Discussion. We live in societies where rescinding the right to vote is seen as humiliating. How does it matter that things could be different?

Insult to Disadvantaged Groups (132)

If we implement epistocracy, this will harm certain minority groups much more than others. So it expresses a particular insult to those groups.

Brennan: when we exclude these minority groups, we are merely engaging in “rational statistical discrimination” (133). Excluding the incompetent is not humiliating or unjust by itself. However, the fact

that minority groups will be disproportionately affected reflects wider background injustices (134–5).

Questions for Discussion. (i) Policing poorer neighbourhood’s more intensely than richer neighbourhoods might also be a case of “rational statistical discrimination”. But would it be just? (ii) Many disenfranchisement policies, historically, had racist motivations. How should Brennan respond to this observation? (iii) By disenfranchising certain groups, there is no guarantee that voters any longer represent the opinion of everyone. Is that not a fundamental requirement of democracy?

Democracy and Self-Expression (135)

Democracy is an important way to express our own opinion—to others, and perhaps to ourselves as well.

Brennan: voting is not a particularly good way to express yourself. Even if it would be a good way, it’s not clear why this would be a good argument to give someone power over others (137).

Conclusion (138)

The right to vote should be seen like plumbing (or other professional) licenses, and we should stop associating it with equal standing, or other types of moral standing. Political institutions are like tools, not like poems: we should judge them by what they achieve, not by what they express. (139)

Questions for Discussion. (i) Is voting really like any other skill—e.g., plumbing or medicine? (ii) Judgments of competence seem to require that we know how things ought to be done. But there is disagreement over how things ought to be done. Is this a problem for Brennan?

3 Looking Back: Equality

Issues Raised by Different Authors

Brettschneider	Fundamental distinctions (instrumentalism, proceduralism, hybrid views) Conflicts between different dimensions
Anderson	Different ways to understand democracy Democracy as a culture and a “way of life” Democracy as a way of collective learning
Dworkin	Influence vs Impact Equal Influence vs Equal Opportunity for Influence Choice-Sensitive vs Choice-Insensitive Issues
Green	Remove and Manyess “Second-Class Citizenship” Plutocracy: wealth will always be a factor
Gilens/Page	Different Theories of American Politics Actual influence is hugely unequal
Christiano	Pervasive Disagreement and Fallibility Publicity (Justice must be seen to be done) Equal Promotion of Interests as a Foundation
Brennan	Epistocracy vs Democracy Political Competence as a skill like others Problems with “semiotic” arguments

Connections

How/what can these different authors learn from each other?

Positions

pure proceduralism (<i>only</i> procedures matter)	Ceva*
impure proceduralism (<i>primarily</i> procedures matter)	Gutmann/Thompson, Christiano, Valentini* [†] , Waldron*
hybrid position (outcomes and procedures matter about equally)	Brettschneider, Anderson [†]
impure instrumentalism (<i>primarily</i> outcomes matter)	Dworkin
pure instrumentalism (<i>only</i> outcomes matter)	Brennan, Arneson

[†] The position is more complicated in some sense—e.g., Anderson rejects the simple dichotomy between instrumental and intrinsic value; Valentini claims procedures matter only under certain conditions.

* Additional readings.

Questions

1. What are the strongest arguments in favour of proceduralism?
2. What are the strongest arguments in favour of instrumentalism?