

Draft for Marc Guttman

On The Way to The Voting Booth

Politics, I was told, is concerned with the public interest.

- And what is the public interest?
- That's for politics to decide!
- Does that mean that the public interest is the interest of politicians?
- It may seem that way, but this is a democracy. It's really the people that decide about the public interest. The politicians merely fill in the details after the voters have set down the broad outlines. That's why it is important that you vote in the next election. Your vote counts as much as any man's.
- I do not doubt that it does, but how much does any man's vote count? Politicians make all sorts of statements. Their programs are complex packages in nice wrappers, sealed until after the election. We can only vote on vague promises, without knowing which ones, if any, the Elect intend to keep. And when the votes are in, the elected politicians decide what our vote meant. Give us a note, they say, and we'll turn it into a symphony. What nonsense! Why should I vote if somebody else determines the meaning of my vote? Voting is like writing a blank cheque.
- Hmm, I see. Still you cannot deny that democracy is better than dictatorship. Therefore you should vote, to demonstrate that democracy is in the public interest.

I was not quite convinced. Why should democracy and dictatorship be the only alternatives? What did my vote mean, if the only thing that seemed to matter was that I voted, regardless of how I voted? But then I was no partisan of dictatorship. And anyway, voting does not hurt -- or does it? It seemed simple enough. You go into the voting booth, mark the name of a party or a candidate on a newspaper-sized sheet of paper, which you then drop into a large box. That's it: you have fulfilled your democratic duty by exercising your democratic right to vote. A child can do it. I had done it without giving it a thought, just a few years earlier, at the previous election, the first in which I was permitted to participate.

Nobody seemed to care much about voting; it was a formality, one of those things that come along once in a while and then almost immediately pass into oblivion. True, in the weeks leading up to the election and in the week following it, the media thrive on election stories and political commentary, and some people whom you had always known as congenial good-natured folk reveal themselves to be full of hate and disgust, or pathetic enthusiasm, for one or another party or its leaders. But they are a minority. Then, things go back to normal as if there had not been an election. Within weeks there would hardly be a person who remembered any of the election results. Some would have a vague notion of who "won" and who "lost" but if one pointed out to them that some of the "winners" are in opposition and some of the "losers" in the ruling coalition then they'd shrug their shoulders and say "Well, that's politics."

Almost to a man, the people I knew thought of elections as some sort of public opinion poll, as if the question before them was "Which party or candidate do you like most?", and voted with no more consideration than they would have in answering any other opinion poll. But voting is not the same as merely expressing an opinion. Certainly the consequences of voting in a political election are different from the consequences of giving one's opinion. I felt I had to do some thinking before deciding how to vote in the upcoming election. What exactly would I be doing in casting my vote? That question loomed much larger in my mind than the question for which party I should vote.

What I had learned in school about elections was not helpful at all: "In a democracy the people freely elect their own government." Well, to begin with, in my country the elections are not free at all. Voting is obligatory; one risks a fine if one does not show up at the polling bureau on Election Day. As a symbol of freedom, our election laws couldn't be more inappropriate. We're not free to vote; at best we are free to vote for any party that the syndicate of already established parties deigns to recognise as "legitimate", that is to say, worthy of receiving tax money to keep up the good work of keeping themselves in existence.

Moreover, the election laws do not allow us to elect the Government. Instead they organise the election of People's Representatives and Senators, and these are said to be apart from the Government. That is because "the Separation of Powers" is supposed to be a pillar of our legal-constitutional order. According to that principle, The King, the Head of State, appoints the Government, and the elected Representatives and Senators should see to it that the Government does nothing without proper legal authorisation. The Government can govern only as long as it has the confidence of the elected representatives of the people.

The reality is different. Not the King but the party bosses make the government, and they do so in more or less secret negotiations. In practice, the only constraint the elections impose on these political wheelers-and-dealers is that the parties in the ruling coalition should comprise a majority, however slight, of the elected Representatives. That raised a troublesome question in my mind: What remains of the vaunted Separation of Powers if the ruling parties and the parties of the parliamentary majority are the same? How reassuring is it that they can rule only as long as they can discipline their members in parliament to keep them from voting against their party colleagues in the government? To make matters worse, within the parties the most powerful and influential politicians are those most likely to end up in the government; and in parliament the most important posts tend to be reserved for politicians who are closely connected with the leadership of their party. For them there is no Separation of Powers, only a well-oiled revolving door.

Rather than a check on the government, the parliament is a stepping-stone towards a function as a minister, secretary of state, or some other executive position. Rather than a protection of the people's constitutional interest in lawful government, it is a device for protecting the government from the need to justify its actions in the face of a separate, independent power. Clearly, the textbooks were wrong in suggesting that the Separation

of Powers is a vital safeguard of our constitutional system. It is not even a part of it.

Moreover, the function of the representatives is by no means confined to checking the legality of the actions of the Government. Their primary function is to vote on bills, most of them proposed by the government itself, that impose all sorts of obligations on the people they supposedly represent. In short, these "representatives" act as if they are part of the ruling elite. And those who are in opposition, the current minority, are more inclined to complain that the Government does too little than they are likely to bewail its excessive intrusions into the lives and affairs of the citizens. After all, they have no interest in diminishing the powers that they aspire to capture, if not already in the next election then certainly in the not too distant future.

True enough, in school we had learned that the Legislative Power belongs to the People "as a matter of principle", and therefore -- or so it was alleged -- should be exercised "in practice" by the People's Representatives. However, this appeared to mean that "in practice" the parties that had colluded to form the parliamentary majority were entitled to exercise the Legislative Power, even though they were also the parties in the Government. Surely, there was something wrong here. Something crucial was left out of the constitutional equation -- but what?

I remembered from my civics classes that the doctrine of the Separation of Powers was intimately connected with another doctrine that -- so we were told -- was of the utmost importance to our constitutional order: the doctrine of the Rule of Law. According to the schoolbooks, the Rule of Law meant that we were supposed to be governed by certain laws rather than by the fickle arbitrariness of men. That was a nice thought, of course, but it began to seem rather vacuous once I tried to connect it to the real world of politics. For apart from the constitutional rules that effectively ensured government by established political parties, there were hardly any certain "laws" in sight. Already even the most common rules of daily life were being eroded by and replaced with legal rules and regulations that were inspired mainly by the programs and schemes of the parties of the ruling coalition. And that was before the rise of today's broad spectrum of Single Issue Fascists, who see a need for more taxation, regulations, inspections, quasi-autonomous agencies and other forms of government-meddling in every aspect of our way of life -- what we eat, drink smoke, wear, read, believe or think; how we raise our children, furnish our homes, work, rest or exercise, save or borrow, feed our cats or express our opinions; what words and tools we use, cars we drive, medicine we take; and so on ad nauseam.

Thinking about the idea of the Rule of Law, I realised that it was concerned primarily with freedom, and not at all with a system of politics in which the bosses of the ruling parties get their minions in parliament to vote in support of whatever their leaders in the government want to do. The Rule of Law refers to a law that is not produced by the fickle arbitrariness of men, whether the process of producing it made a detour through parliament or not. The Rule of Law, I thought, makes sense if one accepts that the Law is a principle of order that is in no way dependent on a rule of men, yet sufficient to serve as a basis for the peaceful intercourse and commerce of mankind. That Law, which some call the Natural Law, others the Law of Reason and still others the Law of God, is one

which most men most of the time spontaneously recognise as the one and only true principle of order. It is, indeed, that Law that every sane person may reasonably be supposed to know. Its primary requirements are mutual respect - respect for one another's freedom, hence for one another's physical integrity and justly acquired property -- and willingness to assume responsibility and liability for one's own life and actions. The Law further requires that any conflict be settled between the persons that are directly involved in it, according to principles of reason and justice. It does not condone the politicisation of conflicts, with its attendant mobilisation of large parties or even armies that make the many complicit in the designs of a few.

Observance of that Law is always undermined by criminals and especially by governments; for the basic action of criminals and governments is to place themselves outside or above the Law. Political parties have no interest in allowing people to solve their own problems and conflicts within the Rule of Law. Their sole interest is in making every problem or conflict seem so intractable, so intertwined with other things, that only a politically enforced solution makes sense. That is why they are always tying one thing to another, producing an endless series of Gordian Knots that only a deft strike with a sword can undo.

Political parties have no interest in allowing people to live according to the requirements of the Rule of Law. They know, of course, that there is no freedom without responsibility. That is why they always offer freedom from responsibility. That was obvious. Not a single party in the upcoming election was campaigning under the slogan "If you want something, work for it, save for it, until you can pay for it yourself!" On the contrary, every one of them was telling the electorate "If you want something, vote for us and we'll make others work and save and pay for it!" Not one of them was promising to pay for its schemes out of its own treasury (even though that was filled almost completely by generous subsidies of taxpayers' money that the parties had voted for themselves). "Don't deny yourself what you want, make others pay for it!" That seemed to be the basic theme of every party in that -- and, indeed, every other -- political election. One party was quite explicit in the matter: "Let the rich pay!", its campaign posters proclaimed. That was straightforward but somewhat out of form. Most parties came with a slightly more abstract message: "We'll organise Society in such a way that the Government will always have enough money to pay for what you want."

At the time, the proposals for "re-organising Society" still ranged from nationalising more industries and trades to using penal and fiscal measures as "incentives" -- the contemporary buzz-word for carrots and sticks -- with which to manipulate people, to get them to act in ways that would produce flattering national statistics. As absurd as the then-current socialist idea of a national economy was, it absorbed so much of the politicians' energies that they had little time or inclination to indulge themselves in the sort of micro-management of people's lives that was soon to become the norm of Western domestic politics. The old-school socialists had sought totalitarian control by proposing policies that invariably evoked the opposition of powerful interest groups. The new totalitarians' piecemeal social engineering relied on the accumulation of an enormous number of small measures, most of which remain under the radar of the public's

perception, and on the proper conditioning of people by means of the selective administration of incentives and disincentives. Of course, none of the Single Issue Fascists that set the agenda for the political Syndicate would admit to having a totalitarian design -- it's the sum of their combined agenda's that amounts to totalitarianism. However, the SIFs were not yet a prominent force on the political scene when I was summoned to the voting booth for the second time in my life. We were still supposed to vote on "ideologies" rather than incoherent collages of one-liners.

I found it fascinating and illuminating to anchor my reflections on politics in the idea of the Rule of Law. It gave me an opportunity to look beyond the ideological window-dressing of the parties at the structure of the State that made it possible for them to think that they would be able to re-organise Society merely by "winning" an election.

Under the Rule of Law, I thought, legislation would not be concerned with imposing all sorts of rules and regulations on people who abide by the requirements of the Law. Its sole concerns would be to organise resistance to those who place themselves outside or above the Law, and to keep that resistance itself within the constraints of the Law. In other words, if one chose to call the organised defence of the Rule of Law 'the Government' then legislation would be binding on the government, not on the peaceful Law-abiding citizenry. In that case, the Separation of Powers would make sense. Without the authority to make legislation binding on the citizens, the Representatives would be only representatives, not assistant-rulers, of the people. The Legislative Power would be exercised by Representatives of the People, not by a bunch of aspiring politicians eager for a seat in the Executive Branch. After all, its reason for existence is not to make sure that the people are ruled effectively and efficiently, but to make sure that nothing the Government does interferes with the rights and freedoms that people are entitled to under the Rule of Law.

Of course, we do not have the Rule of Law. What we have is a rule of parties that seek to undermine and abolish the Rule of Law with impunity.

Voting for a Representative of the People under the Rule of Law seemed to make sense. The question before the voter would be: Who, in your opinion, is most capable of checking the powers of the government so that it will not deprive people of their freedom or property? However, that was not the question I had to answer on the occasion of that particular election. Not living under the Rule of Law, I had to answer another question, to wit, Which party, in your opinion, would you like to tax and rule not only yourself but also all other persons who are subject to the power of this State? In short, I was asked to choose not only my own master, but also the master of everybody else in the State. I could not imagine what right I had to make that choice. True, the chance that my vote would be decisive was almost nil, but that was hardly a good reason to put aside all moral qualms. Some people's votes would be decisive -- and what right did they have to impose their choice on all and sundry?

Under the Rule of Law, voters would be able to check whether a particular representative or group of representatives did a decent job of checking the abuses of the government.

They only would have to watch the effectiveness of their representatives in restraining the power of the government from rising above the Law. Absent the Rule of Law, how could voters check whether their elected rulers did a good job of ruling others? What moral weight can one attach to the fact that I like the way he rules and taxes you, or to the fact that you like the way he rules and taxes me? What sort of justification does a politician provide when he dismisses your complaint by noting that he did what he did with my permission, or shoves aside my grievance by noting that he had your authorisation for doing what he did?

I soon realised that there was a weak spot in my thinking. How could one avert the risk of collusion between the elected representatives and the government? Or rather, if history provides any lessons, how could one avert the near-certainty of such collusion, not only in the short but also in the long term? That was a vexing problem, but I was quite certain that voting arrangements would be at best a small part of the answer -- if there were an answer.

In any case, given the actual conditions, I could not avoid the conclusion that if I were to vote, I would be repudiating all the principles that I had been told were so essential to civilised co-existence: the Rule of Law, the Separation of Powers, the principle that the Government had to justify itself to the Representatives of the People and that the actions of the latter would be null and void if they were to attempt to rule the People (as against merely representing its interest in the Rule of Law).

- But you should vote. Your vote may make a difference.
- Yes, and that is part of the problem. If I were to cast the decisive vote, the vote that makes the difference, would I not be like a dictator, deciding on my own the fate of millions of others?
- True, but you would not know that your vote was decisive.
- Is that your conception of democracy: a dictatorship shrouded in anonymity, sanctified by serendipity?
- Look, you have to be realistic. You cannot change the System. If you can't beat 'em, join 'em.
- Run with the mob? Anyway, how does "Your vote may make a difference" rhyme with "You cannot change the System"?
- Maybe you can change the System, but you have to do it from within.
- As if voting would place me within the System? The System is constantly being changed from within; that's how it continues to exist. Change! Innovation! A New Start! Rejuvenation! New faces! It's in every party program. You wouldn't want the voters to get the idea that they can spot your goofs before you can assure them that from now on things will be different, would you?

- So why should I vote?
- Because if you do not vote, you'll lose in any case.

Clearly, that was not an answer but merely a restatement of the problem. It meant that to have even the slightest chance of winning, one has to vote. And what does "win" mean in

this context? Nothing else than to have one's own party in power so that it can do, with virtual impunity, whatever it likes to everybody. As soon as one allows oneself to get involved with politics, even in such a minor role as that of a voter, one must adopt its barbaric premise: We are all enemies. Consequently, I'll have to defeat you lest you defeat me; and in order to defeat you I must join a party and accept its discipline lest your party imposes its discipline on me. But what if that premise is a superstition, itself the carefully cultivated fruit of politics?

Being invited to yell Yes or No, on cue, every four years or so, was not my idea of freedom. I decided to take my chances and abstain from casting my vote. That was almost forty years ago. In the intervening years I never saw a party that showed any understanding of, let alone commitment to, the cause of freedom. Maybe they were just too busy deciding what the public interest is.

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