



October 2023

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Recommended Citation

Koreman, Samantha (2023) "The Incompatibility of Democracy and Equal Freedom," *International Journal of Undergraduate Research and Creative Activities*: Vol. 11: Iss. 2, Article 6.

DOI: 10.7710/2155-4838.1188

Available at: <https://digitalcommons.cwu.edu/ijurca/vol11/iss2/6>

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Res Cogitans

ISSN 2155-4838 | Res Cogitans is published by the Pacific University Libraries

Volume 10, Issue 1 (2019)

The Incompatibility of Democracy and Equal Freedom

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<https://doi.org/10.7710/2155-4838.1188>

Abstract

It is commonly believed that democracies are freedom preserving. In a limited, consequentialist sense, this presumption may be correct. However, if someone were to look critically at an application of liberal democracy, she would discover that democracy is not as consistent with freedom as it appears to be. This paper argues that democracy is incompatible with equal freedom as realistic applications of democracy undermine liberty on both a practical and structural level. To accomplish this task, this paper discusses the role of group agents in a democratic political system. While voting allows citizens to express their opinions, voting cannot—in practical or theoretical terms—preserve equal freedom as a result of an individual vote's lack of efficacy. By forcing individuals to act as groups, democracy undermines equal freedom.



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People frequently assume that the most popular opinion must be the one they ought to hold. It is often said that democratic governments best protect the interest and freedom of their people. The question of whether idealized democracy—defined as theoretical form of government that requires the unanimous consent of each constituent to create and legitimate the rule of law—is compatible with liberty is almost vacuous. In its ideal form, there is no concept of democratic coercion as every citizen consents to every law that is created. But the purpose of any government structure is not to be an ivory tower ideal. Instead, political theories must be applied and tested. In the case that a single citizen did not consent to either democratic rule or a specific policy option determined via a democratic procedure and was forced to obey the law, it seems as though the law would undermine liberty. While theoretically democracy could be compatible with liberty, modern governments that embody democratic structures are incompatible with both political and personal liberty. At best, realistic applications of democracy do not provide as much liberty as its proponents believe it does—democracies provide an illusion of free choice to individual citizens and afford limited liberty to group agents.

Although democracy seems simple to define, in reality it is quite difficult to define it comprehensively. In the context of this paper, a proponent of democracy could argue that because a democracy is defined by a government’s adherence to democratic ideals—fairness, equality, free speech, or free expression—democracy most obviously prioritizes freedom. Procedural or structural accounts of democracy (i.e. the methods of electing individuals to govern a constituency) are more useful to discuss in the context of freedom because any type of government could, hypothetically, embody most democratic ideals— a dictatorship could allow for each citizen to be equal to every other citizen, provide for a fair criminal justice system, and ingrain freedoms of speech and expression into its legal code. The question of the relationship between democracy and freedom is one of whether the structure of electing representatives via an organized system is compatible with freedom.

Freedom cannot be defined by “a list of circumstances in which we would describe situations as ‘free’ or ‘unfree’” and our background contexts of human behaviors associated with freedom (Hyland 1995, 39–40). Liberty can best be understood as a specific form of freedom, where freedom is defined as “independence from being constrained by another’s choice” (Ripstein 2009, 240). The behaviors associated with a use of liberty are mainly unseen— a person with a positive right to liberty will have the ability to choose between all possible options, with no options taken away from her by anything other than her own choice. The question of

compatibility is not one of comparison. It asks whether, conceptually and in terms of application, independence of choice is consistent with democracy.

Constitutively, any government with normatively justified political authority will infringe on absolute liberty via rightful coercion. Even in the most mundane, well-intentioned, and minimal exercises of coercion, the government makes a citizen's choice to perform certain sets of actions dependent on state laws. By creating a law—and placing penalties on citizens for breaking the law—the government puts a constraint on a potential action that a citizen would make. The question at hand is whether a democratic government will infringe on liberty in ways that violate equal freedom, defined as freedom that balances the freedom of all individuals and never uses one person's freedom as a means to the freedom of another (Ripstein 2009, 6). Institutional decisions cannot choose to ignore or preference the liberty of certain constituents over others and still qualify as ensuring equal freedom as it would undermine the notion that everyone's access to liberty is valued to the same extent.

This poses a fundamental problem for democracy—modern democracies do not require unanimous voting to pass a policy. If a democracy enacts a law—perhaps about mandatory vaccinations in the name of public health—and it passes through a democratic process even though certain citizens did not vote for it, then the democracy undermines liberty. Even if a citizen chooses to shirk the rule of law, she would then place herself in a situation where an entity may enact punishment on her. The fear of punishment alters the would-be-free choice of a citizen. Liberty is not an intrinsic part of a democratic process. Part of the draw of democracy is that the exercises of authority by the democratic state are said to be done by the people that it governs. Because modern democracy functions via a majority rules system where the most number of votes wins, applications of democracy deny the freedom of the minority in favor of enacting the wishes of the majority.

If liberty has this relationship with choice where “an agent has autonomous control over some... state of affairs only to the degree that their actions can change, affect, or make a difference regarding that object or state of affairs,” then exercises of liberty under democracy are limited to individual acts of deliberation like voting (Brennan 2016, 88). While a citizen could exercise autonomous control over her individual vote, she exerts no control over the law once it is created. There is also a stronger dilemma. Because democracy requires coalitions, groups dominate the decision-making process. Furthermore, the larger the population, the less likely individual votes are to affect outcomes. Just because an individual is free to join a coalition or cast a vote, it does not mean that she can independently influence politics.

This is a point of tension. If a tenet of democracy is that there is equal participation, and—under a cynical view—the only autonomous individual is the one that casts the deciding vote, then there is some degree of inequality in regard to political participation. Some people act as sub-groups, others act as individuals. And the decisive power of either the sub-group or the individual is unequal, depending on the numbers of a particular vote. The proponent of democracy may rightfully and easily answer this specific objection back by emphasizing democracy's care for equality of political *participation*, rather than equality of ends. However, this response misses the more upsetting component of democracy's care towards groups.

Democracy breeds a façade of choice. Structurally, political equality prioritizes a rational creation of coalition building and the establishment of groups. Individuals have a myriad of opinions regarding policy. Even well-informed, well-educated individuals disagree about the best possible policies to implement. Democracy recognizes this and, hypothetically, allows for individuals to disagree and debate. In encouraging this, democracy contradicts exercises of liberty in two main ways.

First, because of structural concerns in modern democratic states, certain votes have more power than others. To maximize votes, candidates cater towards groups that will win them the most votes. A single example would be areas of great populations like metropolitan areas (Warf 2009). For certain issues, individuals in metropolitan areas may have different opinions than individuals in rural areas based on the geographic differences between large cities and small towns— for example, preferences about agriculture policy or allocations towards public transportation. Direct democracy incentivizes policymakers to pander to the largest number of voting blocks and ignore the opinions of the minority— undermining notions of equal freedom.

Second, the idea that individual votes are meaningful in a democracy is a farce. Even if a democracy were to allow for absolute freedom of expression and open discourse, certain ideas will naturally gain more popularity than other ideas. This is not by itself a problem— people ought to be free to believe in whatever warranted belief they possess regardless of that belief's popularity. But the idea that certain beliefs are more popular poses a special problem for democracy. Because democracy determines policies—or, elected officials—via a vote, the most popular belief will ultimately win out. This is what democracy wants. But the idea that individual votes are meaningful fails because “individual votes in fact have almost no instrumental value” (Brennan 2016, 86). Instead, because the majority does in fact rule in a democracy, coalitions gain power. Parties and groups have real autonomy in a democracy to drive decisions; individuals do not. When democratic assemblies make decisions, an individual

does not always on her own have the ability to influence the rest of the group to do exactly as she pleases. Even if she did, an ability to change the minds of the rest of the group to comply with her request would override the autonomy of other members of the group.

In a democracy, for practical reasons, political views are never free from interference. This can be seen in a few ways. First, large groups of power have the ability to make change in a democracy— individuals do not have that power unless they are part of a group. One vote for a policy that one person is very passionate about will never make a difference. Individuals are required to join a group to make their wishes matter to the democratic process. If they want to exercise their right to participate in a democracy in any broadly efficacious way, individuals do not have the liberty to refrain from joining a group.

Second, the majority voices in a group “cannot be relied upon to produce consistent...implementable attitudes or decisions, even when there is nothing wrong with the attitudes of members...even perfectly consistent individuals can deliver inconsistent majority votes on connected issues” (List and Petit 2011, 8). Because of the sorts of behaviors that groups have, it is unlikely that individuals would be able to freely cast their opinion and remain inside of the group if their opinions differed in some ways from the group. As individuals outside of groups have little political power—and, as political power is necessary for laws not to undermine liberty—individuals do not have the free ability to leave groups.

Third, if it is the case that groups are empowered by democracy, then one ought to determine whether groups possess agency in a democracy. After all, if people somehow gain liberty by belonging to a group in a democracy, then that would be a plausible reason in favor of democracy’s compatibility with liberty. However, there is an unfortunate double bind resulting from the dilemmas of group agency. Either voting groups inside of a democracy meet sufficient standards to be considered group agents that possess true liberty and infringe on the liberty of individuals, or these groups are not considered group agents and the buck gets passed back to whether democracies afford liberty to individuals.

Ideally, political groups would be coherent enough to be considered group agents. The groups that would be the best equipped to create policy changes favorable to their members would be those that can best facilitate collective action (Olson 1982). These groups are often small with a very specific interest. But even in the case where individuals freely join a small group that adequately represents their interests, the

structure and function of the group will violate conditions for liberty. For these groups to be considered group agents, they require the limiting of “certain profiles of individual attitudes, or permit less than fully rational group attitudes, or make one member a dictator, or treat different propositions differently in determining the group’s attitudes” (List and Petit 2011, 59). Individuals in a small union may elect someone to speak on their behalf that not every member agrees with. Perhaps all these members all chose to join the union because of some benefit that they hope to receive—a more favorable law governing their field—but in order to make the union effective, its members may be asked to compromise some preferences. They are no longer given the paradigmatic ability to exercise choice free from others even prior to any law being enacted.

One could respond with an argument advocating for a social contract theory— if a person consented to electing an official or joining a coalition, then she would have consented to bending her political opinions in favor of the group. First, it is not coherent to say that universally giving up liberty is a legitimate exercise of liberty as “valid consent requires a reasonable way of opting out” (Huemer 2013, 25). If an agent cannot opt out or if the costs for opting out are too great, then the contract is inherently coercive. For political groups, because individuals only have power within these groups, leaving the group would take away an individual’s ability to influence politics. The costs are too great in the context of democracy. Second, social contract theories are notoriously weak— it is not clear what constitutes consent to rule, how consent is to be renewed, or what the limits of consent are. Third, actual democracies do not function in terms of social contract theory. If a person votes against a policy and indicates her non-consent, a democracy will still obligate her to follow the law, ignoring explicit dissent in favor of some implicit agreement that social contract theory does not justify (Huemer 2013, 26).

The second prong of the dilemma is more troubling and best illustrated using political parties. Modern political parties use coalitions of different voters to garner enough power to make a political difference. In doing this, these parties lose the coherence necessary to be considered group agents as they grow too large to have internally consistent rational views on policies (i.e. current data on ideological inconsistencies in the Republican Party, see Lupton et. al. 2017). Furthermore, by drawing upon coalitions, parties lose systematicity— a necessary component of group agency that states that the “group attitude on each proposition depends only on the individuals’ attitudes towards it,” rather than any outside influences (List and Petit 2011, 49). If groups inside of democracies do not possess a coherent conception of agency, then they cannot possess liberty as there is no unified thing inside of them that allows

for a freely made choice to be made. Instead, individuals in the groups must be the non-unified driver of each group's choice. The question is then, once again, do these individuals possess liberty and—as per the first and second reasons in this paper—they do not.

Fourth, because people belong to multiple interpersonal groups, empowering one particular group does not necessarily empower the particular individuals inside of those groups. Voting along the lines of a single policy may impede individuals along another intersectional line. Furthermore, it is not true that “empowering everyone within a group to vote protects that group. After all, that depends on how they vote, including whether they are well informed enough to vote in ways that protect their interests. It also depends on how others outside the group vote, including whether they vote to harm other groups or not” (Brennan 2016, 98). This argument indicates multiple important implications. Primarily, that there are tradeoffs of liberty inside of democracy that violate constraints of equal freedom.

Fifth—and most straightforward—individual votes do not have a meaningful ability to illustrate non-consent. There is no amount of voting that will allow a person to not be beholden to a particular law. Even if a person uses their political right to cast a vote, her future actions are determined by the votes of other people. Mainly, the laws that control her conduct are determined by the winning vote.

This is not a confusion of a concept of democratic political authority. Instead, this is a comment on the specific form of coercion a person is subjected to under democratic law. If democracy derives its authority from the consent of those who participate in it, then there is a tension. Because it is in this sense of an appeal to political authority that perhaps democracy is, theoretically, compatible with liberty— if every participant in a democracy happened to freely vote for a particular policy, then there would be liberty. The law created would constrain no preference, inclination, or action that any individual in that society would have. Each individual would have utilized liberty to make a decision consistent with liberty. But even in this ideal case, there is still one limit on liberty— if any one of those individuals were to change her opinion, then her liberty would be infringed upon. It could be said that she had no right to change her opinion. It could be said that she had no right to break the law once it is established. But neither of these rights based claims sufficiently respond to the purely descriptive claim that some liberty— some freedom defined broadly from before as merely the ability to act totally through the means of her own choice—has been infringed upon. Even in this ideal case, liberty is only contingently compatible with democracy for a mere moment in time.

This concern also raises an additional question— are the above anti-democratic checks done for the purpose of ensuring democratic participation acceptably democratic? The answer here is not clear. Take, for example, a check against the extreme tyranny of the majority that set up some provision that did not allow for the majority to enslave the minority. Obviously, enslavement is and incompatible with liberty and likely is immoral as a result of that incompatibility and additional violations of side constraints. A defender of democracy could argue that because of principles of equality that are associated with democracy, “any radical suppression of basic liberal rights...would fall afoul of the basic requirements of public equality” (Christiano 2004, 290). Because of that violation of the necessary conditions for political equality—included in the third portion of Hyland’s definition of democracy—curtailing permissible democratic decisions would be justified democratically. This is a powerful argument in favor of democracy’s compatibility with liberty, as if what democracy is attempting to assure procedurally is liberty, then democracy is constitutively compatible with liberty.

But there is once again a problem. This example is a clear-cut example of a policy that violates liberty. But it is not clear what decisions would be invalidated by this. It would depend on what conception of liberty one were to use. The case of enslavement is a clear-cut case as it violates a whole list of moral rights. To enslave someone would be to commit a moral wrong, and therefore one could make the argument that the state is justified in banning slavery because individuals did not possess any right to enslave their fellow humans to begin with. But what about the case of tax policy? Even coming from the assumption that taxation is a legitimate use of political authority, it does seem like—on the same grounds of equality— there could be reasonable disagreement about what the most fair and equal tax policy would be. Currently, there are disagreements about whether a flat rate tax policy is more or less justified on the grounds of fairness and equality than a progressive tax policy. Let us take the difficult case—not assuming that the two policies are equally just— and ask whether it be compatible with liberty to force someone to pay an unjust tax that they did not vote for? The answer seems to be no, as the very enforcement of the tax law indicates that liberty is curtailed.

Another response that the democratic proponent could make would be to exploit the idea that there can be degrees of democracy. But ultimately this argument about a spectrum of democracy is of no real use to the proponent of democracy. One can concede that this spectrum does exist and still claim that regardless of how many shades of gray there are in between black and white, there is a point when a gray becomes so dark that one cannot distinguish it meaningfully or functionally from white.

We can, and we do, distinguish between democratic and non-democratic states. Furthermore, it is intellectually bankrupt for the proponent of democracy to claim that she only protects the purest form of democracies. If a system is to be meaningfully used, it must be able to be used. A political system cannot simply sit on a shelf. In theory, communism sounds like a great idea. But every attempt at creating a communist utopia has failed for numerous reasons. A charitable defense of democracy's compatibility with liberty is respectful. A blind belief in its compatibility by a person wearing rose colored glasses is absurd.

If we do define democracy by its most necessary components and the application of those components contradicts with equal freedom, then democracy can never be truly compatible with liberty. In order to ensure equal protection of liberty, democracies ought to institute procedural checks that ensure liberty. One example might be to return to the case of compulsory vaccinations— if people vote for a policy that violates the bodily autonomy of non-consenters, then the policy ought to include a reasonable way for those people to opt out of the policy free from punishment. A more extreme position might be to claim that democracies ought to require unanimity to pass a policy and forms available to indicate a withdrawal of support for the policy where even a single withdrawal constitutes an invalidation of the policy. Because of the sheer size of most democratic states, this is not a feasible option for bureaucratic reasons. Because of the general irrationality of voters and the myriad of varied opinions people possess, this is not a feasible option for anyone but a radical anarchist as no policies would ever be passed. The best response a proponent of democracy could make may be correct— because of contingent truths about the world that we live in and the choices in politics that we have, democracy does a relatively good job of ensuring a limited sense of liberty as it gives certain people the ability to self-legislate.

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