

Majority Rule (excerpt)

(*The Constitution of Liberty*, University of Chicago Press, Chicago, 1978 [1960], ch.7., pp. 103-106)

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1. Equality before the law leads to the demand that all men should also have the same share in making the law. This is the point where traditional liberalism and the democratic movement meet. Their main concerns are nevertheless different. Liberalism (in the European nineteenth-century meaning of the word, to which we shall adhere throughout this chapter) is concerned mainly with limiting the coercive powers of all government, whether democratic or not, whereas the dogmatic democrat knows only one limit to government—current majority opinion. The difference between the two ideals stands out most clearly if we name their opposites: for democracy it is authoritarian government; for liberalism it is totalitarianism. Neither of the two systems necessarily excludes the opposite of the other: a democracy may well wield totalitarian powers, and it is conceivable that an authoritarian government may act on liberal principles.¹

Like most terms in our field, the word "democracy" is also used in a wider and vaguer sense. But if it is used strictly to describe a method of government—namely, majority rule—it clearly refers to a problem different from that of liberalism. Liberalism is a doctrine about what the law ought to be, democracy a doctrine about the manner of determining what will be the law. Liberalism regards it as desirable that only what the majority accepts should in fact be law, but it does not believe that this is therefore necessarily good law. Its aim, indeed, is to persuade the majority to observe certain principles. It accepts majority rule as a method of deciding, but not as an authority for what the decision ought to be. To the doctrinaire democrat the fact that the majority wants something is sufficient ground for regarding it as good; for him the will of the majority determines not only what is law but what is good law.

About this difference between the liberal and the democratic ideal there exists widespread agreement.² There are, however, those who use the word "liberty" in the sense of political liberty and are led by this to identify liberalism with democracy. For them the ideal of liberty can say nothing about what the aim of democratic action ought to be: every condition that democracy creates is, by definition, a condition of liberty. This seems, to say the least, a very confusing use of words.

While liberalism is one of those doctrines concerning the scope and purpose of government from which democracy has to choose, the latter, being a method, indicates nothing about the aims of government. Though "democratic" is often used today to describe particular aims of policy that happen to be popular, especially certain egalitarian ones, there is no necessary connection between democracy and any one view about how the powers of the majority ought to be used. In order to know what it is that we want others to accept, we need other criteria than the current opinion of the majority, which is an irrelevant factor in the process by which opinion is formed. It certainly provides no answer to the question of how a man ought to vote or of what is desirable— unless we assume, as many of the dogmatic democrats seem to assume, that a person's class position invariably teaches him to recognize his true interests and that therefore the vote of the majority always expresses the best interests of the majority.

2. The current indiscriminating use of the word "democratic" as a general term of praise is not without danger. It suggests that, because democracy is a good thing, it is

always a gain for mankind if it is extended. This may sound self-evident, but it is nothing of the kind.

There are at least two respects in which it is almost always possible to extend democracy: the range of persons entitled to vote and the range of issues that are decided by democratic procedure. In neither respect can it be seriously contended that every possible extension is a gain or that the principle of democracy demands that it be indefinitely extended. Yet in the discussion of almost any particular issue the case for democracy is commonly presented as if the desirability of extending it as far as possible were indisputable.

That this is not so is implicitly admitted by practically everybody so far as the right to vote is concerned. It would be difficult on any democratic theory to regard every possible extension of the franchise as an improvement. We speak of universal adult suffrage, but the limits of suffrage are in fact largely determined by considerations of expediency. The usual age limit of twenty-one and the exclusion of criminals, resident foreigners, non-resident citizens, and the inhabitants of special regions or territories are generally accepted as reasonable. It is also by no means obvious that proportional representation is better because it seems more democratic.³ It can scarcely be said that equality before the law necessarily requires that all adults should have the vote; the principle would operate if the same impersonal rule applied to all. If only persons over forty, or only income-earners, or only heads of households, or only literate persons were given the vote, this would scarcely be more of an infringement of the principle than the restrictions which are generally accepted. It is also possible for reasonable people to argue that the ideals of democracy would be better served if, say, all the servants of government or all recipients of public charity were excluded from the vote.⁴ If in the Western world universal adult suffrage seems the best arrangement, this does not prove that it is required by some basic principle.

We should also remember that the right of the majority is usually recognized only within a given country and that what happens to be one country is not always a natural or obvious unit. We certainly do not regard it as right that the citizens of a large country should dominate those of a small adjoining country merely because they are more numerous. There is as little reason why the majority of the people who have joined for some purposes, be it as a nation or some supernational organization, should be regarded as entitled to extend the scope of their power as far as they please. The current theory of democracy suffers from the fact that it is usually developed with some ideal homogeneous community in view and then applied to the very imperfect and often arbitrary units which the existing states constitute.

These remarks are meant only to show that even the most dogmatic democrat can hardly claim that every extension of democracy is a good thing. However strong the general case for democracy, it is not an ultimate or absolute value and must be judged by what it will achieve. It is probably the best method of achieving certain ends, but not an end in itself.⁵ Though there is a strong presumption in favor of the democratic method of deciding where it is obvious that some collective action is required, the problem of whether or not it is desirable to extend collective control must be decided on other grounds than the principle of democracy as such.