

AN ARGUMENT FOR VOTING ABSTENTION

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INTRODUCTION

Voting abstention is often regarded with disdain, as if voting is a pressing civic duty that admits of few if any exceptions. This view has little to be said for it, but I will not directly criticize arguments for it here. Others have already done this (Brennan forthcoming; Brennan and Lomasky 2000). My aim is somewhat more ambitious. I defend an argument of the following form.

1. Voting is a right.
2. One should not exercise one's rights badly.
3. Therefore, one should not exercise one's right to vote badly. (1,2)
4. There are conditions where, if one votes, one can only vote badly.
5. Therefore, one should not vote in such conditions. (3,4)
6. Such conditions obtain in ϕ .
7. Therefore, one should not vote in ϕ . (5,6)

The " ϕ " is a stand-in for particular political entities. My concern here will be with modern nation states and the relatively large-scale general elections they hold. But ϕ could also stand for other political entities like cities or communities.

Since I am most familiar with the U.S. electoral system, I will frame my discussion in those terms. I argue that, by means of the above argument, a reasonable person could conclude that she should not vote in a national U.S. election because of certain features of the electoral process and the prevailing electoral conditions. While arguing for this thesis, I will emphasize the importance of some distinctions often overlooked in popular discussion of voting. I will also identify conditions that may be reasons to abstain and offer some general criteria for identifying such conditions. This may give some indication of how the argument, or weaker variants of it, could be applied to other cases.

I begin with a discussion of the first three premises. I then present a case that establishes premise 4. This case highlights paradigmatic conditions that make abstention obligatory and suggests criteria for identifying similar conditions. I formulate some rough criteria, identify such conditions, and offer a tentative defense of premise 6 as it applies to the U.S. case. Premise 6 is obviously the most

controversial premise and will be the subject of much reasonable disagreement. I contend only that there is a plausible case for it as it applies to the United States. I conclude by considering objections.

I. WHEN ONE SHOULD NOT VOTE

I take premise 3 to be a fairly uncontroversial claim about voter responsibility. Jason Brennan argues that premise 3 follows from an obligation not to engage in collectively harmful activities when refraining would not impose significant personal costs (Brennan forthcoming). Premise 3 also follows from my fairly plausible-looking premises 1 and 2, though I grant the possibility they may overlook differences between the right to vote and other rights.

I will not offer a comprehensive defense of premise 3, but will effectively assume it. It is intuitive, and others have offered able defenses of it. My concern is to defend a broader conception of voting badly than most are likely to first adopt. I will use this broader conception to argue for my thesis. Brennan, for example, claims that one tends to vote badly if one votes from immoral beliefs, from ignorance, or from epistemic irrationality and bias (Brennan forthcoming). I hope to show that the nature of the electoral process and the conditions in which it occurs must also factor into one's reasons for voting or abstaining. Sufficiently bad processes and conditions can make it such that one votes badly irrespective of the reasons one might have for wanting a particular candidate elected or policy implemented.

I offer premises 1 and 2, not as decisive reasons for 3, but to explicitly emphasize some crucial preliminary distinctions within the argument. First, there is a distinction between having a right and exercising it in certain ways. Second, and related, there is a distinction between the value of a right and the value of a particular exercise of it. One can have a very valuable right, but exercise it badly.

Take the right to free speech. It is valuable, but the use of it to engage in hate speech is nevertheless bad. It does not follow from the fact that a right is valuable that any way of exercising it is valuable. Nor does it follow from the fact that a right is valuable that its holder must be in a position to exercise it well. One can be in a position where the only available ways of exercising a valuable right are bad. For example, one can have a right to free association but be in a position where the only people one can associate with are bad. A young adult who has grown up in an isolated community of fanatical white supremacists may be in such a position (cf. Brennan forthcoming).

With this in mind, consider the following case. Suppose you are a prospective voter in a nation with an upcoming election. Unfortunately, the incumbent administration is corrupt. It wants to appear legitimate but is unwilling to risk losing power. Rather than use explicitly authoritarian methods, it has decided to hold a purportedly democratic election and not compete fairly. In this way it hopes to

secure the appearance of legitimacy that an election—and citizens' participation in that election—would confer on it. The administration does various things to rig the election. It engages in fraud, gets its supporters to intimidate journalists and the opposition, and so on. The unfairness is significant and, for the moment, ineliminable, but it has not captured widespread attention. You know all this. You also know that opposition candidates have no chance of gaining power under these conditions, despite their considerable appeal. Even if they were to receive enough votes to get elected, the incumbent administration would simply misreport the votes.

Consider your voting options here. Given what you know, you vote badly if you vote for the administration. But if you vote for the opposition, you arguably vote badly too. This is because you know that the opposition currently has no chance of gaining power via the electoral process and that voting risks contributing to the false and harmful appearance of legitimacy sought by the administration.

One might object that voting for the opposition nevertheless has value because it is a way of expressing various things, however ineffectually. These might include support for the opposition and lack of support for the incumbent administration. But one can express these things in other ways without participating in the flawed process—ways that do not risk contributing to the false and harmful air of legitimacy sought by the administration. Abstention itself can be one such way (cf. Brennan and Lomasky 2000, pp. 82–84; Goldman 1999, p. 215).¹ So it looks like there is a compelling case for the claim that one should not vote here.

In the next section, I will develop some rough criteria for identifying conditions that may be reasons to abstain in more realistic situations.

II. VOTING, ILLEGITIMACY, AND UNFAIRNESS

My case shows that premise 4 is true. But the case is artificial and significantly different from many contemporary elections, even many flawed elections. The conditions are certainly different from those in the United States. Moreover, few, if any, voters are as epistemically privileged as the voter in my case. So the case does not establish my thesis. But it does demonstrate some important claims. One's reasons for wanting a particular candidate elected or policy implemented—ideally, the main reasons one has for voting for the candidate or policy—are not the only ones that matter. One's reasons for voting at all also matter, and one may be in a position where there are decisive reasons to abstain. This is because voting is not the mere expression of a preference, but something more complex.

Voting is, roughly, a conventional means of expressing one's political preferences that can directly influence government in ways determined by the existing electoral process (cf. Goldman 1999). It is a formal, direct way of trying to shape government to match one's preferences. The right to vote is the right to be able to influence government in some such way. By voting, one engages with the political

process on its own terms. But the consequences of voting in an election are not restricted to influencing the outcome of that election. As we have seen, voting can have other consequences too. The consequences of voting are determined by the nature of the electoral process and the wider context in which that process is embedded. Arguably, citizens should not engage themselves in this way with just any such process in whatever circumstances. But how are citizens to decide whether and when to do this?

The case I discussed, along with some additional considerations, may offer suggestions. Consider the significance that voting and voting rights have, both in democratic theory and in the popular mind. By shaping themselves and their policies to reflect citizens' will, as expressed by their votes, democratic governments are a means by which citizens can govern themselves to some extent. Moreover, democratic governments purport to do this fairly, say by guaranteeing citizens equal voting rights, giving citizens' votes equal weight, actually counting their votes, and so on (Christiano 2004, pp. 275–276). The fewer citizens there are who vote or who can vote, the less plausible it is to say that government policy reflects the will of the citizenry. Hence, abstention can detract from the apparent democratic character of government—both its actual and apparent character (cf. Brennan forthcoming). Moreover, unless the electoral process is fair, a government cannot be said to govern fairly. Hence, an unfair process also threatens the democratic character of government.

All this suggests some broad criteria for identifying conditions that might be reasons to abstain: illegitimacy and unfairness. The illegitimacy of an electoral process that purports to be democratic can be a reason to abstain. One reason why is that voting in such a process can help confer an appearance of legitimacy upon it. Observers who see significant electoral participation often take this as evidence that an electoral process is legitimate (even when they should not).² Given this, voting can hinder attempts at reform and can therefore perpetuate the illegitimacy, at least relative to other options. I will come back and touch on these points in more detail when discussing objections.

One way an electoral process can be illegitimate is by being unfair. If an act is unfair, that is a *prima facie* reason to refrain from it. If an act perpetuates unfairness, that is also a *prima facie* reason to refrain. So if voting would be unfair or if it would perpetuate unfairness, there is a *prima facie* reason to abstain (cf. Brennan forthcoming; Brennan and Lomasky 2000, p. 76). An act of voting can be unfair because of the unfairness of the electoral process. If the unfairness is to one's advantage, one arguably takes unfair advantage of others by voting. This is a *prima facie* reason to abstain. If the unfairness is not to one's advantage, one may nevertheless have a *prima facie* reason to abstain if voting helps confer an appearance of legitimacy on a process that takes unfair advantage of people (including perhaps oneself).³ Whether and when these *prima facie* reasons might be decisive is something I will explore in the rest of the paper.

For now, I will use the suggested criteria to offer a tentative defense of premise 6 as it applies to the U.S. case. To do this, I will identify unfair conditions that may be reasons to abstain. A helpful preliminary way of judging the fairness of democratic processes is to ask whether they realize the ideal of political equality. Electoral procedures and policies that give citizens significantly unequal representation or significantly unequal electoral input are *prima facie* unfair.⁴ Consider the following arguably seriously unfair characteristics of the U.S. electoral process.

- Citizens are often represented unevenly. For example, representation in the U.S. Senate is significantly uneven, and representation in the Electoral College is uneven to a lesser extent.
- Representation is typically distributed in a winner-takes-all (majoritarian) fashion rather than proportionally.
- Voting districts are not determined by standardized means but are often gerrymandered for the express purpose of manipulating citizens' relative degree of electoral influence.
- Access to the polls and the reliability of voting technology differ significantly.
- Certain citizens are barred from voting. For example, felons are barred from voting in several states.

This is just a sample of characteristics that could reasonably be considered seriously unfair. Other things could be added to the list. For the sake of argument, I will grant that there is room for reasonable disagreement about how unfair these characteristics are and precisely how their alleged unfairness impacts electoral legitimacy, if at all. This means there is room for reasonable disagreement about their bearing on our obligations and permissions regarding voting.

I will not argue that these characteristics are seriously unfair. But I do think it reasonable to hold that they are. This alone does not entail that it is reasonable to think that one has an obligation to abstain, however. Additional considerations are necessary: there is currently no reasonable prospect of correcting these unfair characteristics by voting, and voting arguably perpetuates them by helping to confer a false appearance of legitimacy on the electoral process. Rather than vote in a U.S. election, it may be the case that one should abstain because, given the nature of the electoral process and the prevailing electoral conditions, doing so would violate one's obligation not to vote badly. In the next section, I will consider several objections. Before addressing them, though, there is an important one to get out of the way.

One might object that this position is unreasonable because universal abstention would destroy American democracy, and American democracy is worth preserving, however flawed. I agree there is much in American democracy worth preserving. I have not argued for universal abstention nor have I argued that we are collectively obligated to abstain. I have argued that it is reasonable to think

one may have an obligation to abstain in light of certain arguably seriously unfair characteristics of the electoral process. As I have suggested, though, these characteristics alone do not entail an obligation to abstain. If a person could correct the unfairness simply by voting it away, it would be implausible to say she should not vote. The unfairness of an electoral process can only make abstention obligatory under certain conditions, say, if voting presents no reasonable prospect of correcting the unfairness and if voting helps perpetuate it.

These conditions arguably hold, but for reasons more complex than those involved in the case I used to defend premise 4. The prospects for correcting electoral unfairness in the United States are significantly limited largely because of the behavior of other prospective voters—behavior which may be motivated by certain unfair characteristics of the electoral process. The vast majority of voters vote for candidates who will maintain the unfair status quo. Many assume the electoral process is sufficiently fair and view voter participation in ways that reinforce this assumption. This significantly limits the prospects for correcting electoral unfairness by means of voting. Given this, one may reasonably conclude that one should abstain, if only to avoid helping to perpetuate the unfairness. Given that others are voting badly and violating their obligation not to engage in collectively harmful activities, one may have an obligation to abstain for the reasons I have outlined. This should not be at all surprising. Our obligations often turn on what others do. A prospective voter's obligations can turn in part on reasonable expectations about the behavior of other prospective voters.

Universal or near universal abstention is a collectively harmful activity in a democracy worth preserving (cf. Brennan forthcoming; Brennan and Lomasky 2000, pp. 75–79; Estlund 2008, pp. 71–72). I am not committed to the claim that it is reasonable to think we should engage in such an activity. If many were threatening to abstain or had been abstaining because of perceived electoral unfairness, one's obligations would likely be different. For one thing, widespread abstention increases the influence of one's vote and the probability that one's vote will be decisive (Brennan and Lomasky 2000, p. 78; Edlin et al. 2007, pp. 298–301). Under such conditions, voting would offer better prospects of correcting electoral unfairness. Moreover, under such conditions, politicians would have strong incentives to promise relevant reforms and prospective voters would be under significant pressure to reassess their views about electoral fairness. Under such conditions, the claim that one should abstain would be less plausible. This is because voting would offer a much better prospect of correcting electoral unfairness and would be less likely to contribute to a false appearance of legitimacy. Under such conditions, it would be less plausible to claim that one voted badly simply by voting at all.

I will consider additional objections in the next section.

III. OBJECTIONS

I have argued that it is reasonable to hold that certain characteristics of the U.S. electoral process obligate one to abstain. I claimed that, among other reasons, this is because these characteristics are arguably seriously unfair, there is currently no reasonable prospect of correcting them by voting, and voting arguably helps to perpetuate the unfairness by helping to confer a false appearance of legitimacy on the electoral process.

One might object that these characteristics cannot reasonably be seen as seriously unfair, that there is a reasonable prospect of correcting all or most of them by means of voting, or that voting cannot reasonably be thought to confer a false appearance of legitimacy on the electoral process.

I will pass over the claim that one cannot reasonably see these characteristics as seriously unfair. There may be plausible arguments that these characteristics are only mildly unfair or even that they are not unfair at all (though I am skeptical about the latter). But this claim effectively holds that there are no plausible arguments for contrary conclusions, and that seems too extreme to be plausible here. No doubt some such view may be responsible for the disdainful attitude many have towards abstention. But this just emphasizes how many people adopt political opinions without adequate deliberation.

The claim that there is currently a reasonable prospect of correcting all or most of the unfair characteristics by voting is false. The 2008 platforms of the two major U.S. political parties help illustrate this. It is true that the Democratic Party supports restoration of voting rights to felons, while the Republican Party opposes it (DNCC 2008, pp. 55–56; RNC 2008, pp. 20–21). The Democratic Party also supports implementing national voting standards and facilitating widespread access to the polls, while the Republican Party platform focuses exclusively on making it easier for overseas military personnel to vote and preventing voter fraud (RNC 2008, pp. 20–21). But neither platform addresses the first three characteristics. Given reasonable expectations about voter behavior, these parties are currently the only ones with prospects for the sort of widespread electoral success that would enable the relevant reforms. Arguably, then, voting for either of them or for third parties currently holds no reasonable prospect of correcting all or most of these characteristics, let alone others.

The claim that it is unreasonable to think that voting can confer a false appearance of legitimacy on the electoral process is also false. There are two ways of defending this position. One could argue that it is unreasonable to think that the appearance would be *false* (because it is unreasonable to think the process illegitimate). Or one could argue that it is unreasonable to think that voting helps confer an appearance of legitimacy on the electoral process at all.

I have already effectively dismissed the first version of this objection. But the second has more promise. The reasoning might go as follows. Voting may be in

someone's interest even if the electoral process is illegitimate. If the electoral process is seriously unfair in a way that disadvantages you, say, it may nevertheless be in your interest to vote so that you can exert what little influence you can on the outcome. Voting in such a case, so the objection goes, does not legitimize the process or express satisfaction with it and should not be so interpreted. Someone who votes in such a case may just be trying to make the best of a bad situation. Such behavior should not be interpreted as expressing the view that the electoral process is legitimate.

This reasoning is correct so far as it goes. But it does not follow that voting does not help confer an appearance of legitimacy on the electoral process. How voting should be interpreted and how it is interpreted are two different things. People often misinterpret others' behavior. Widespread voter participation in purportedly democratic elections is often taken to indicate a significant degree of satisfaction with the electoral process. It is reasonable to worry that one's participation in a process one views as seriously unfair will be misinterpreted in ways that perpetuate the unfairness. Those who view the process as sufficiently fair or who wish to promote this view, for example, may be all too willing to interpret one's participation in ways that support this view (cf. Brennan forthcoming). The danger of this seems significant in the U.S. case, given how widely shared the view is that the electoral process is sufficiently fair.

One might object, however, that one could still vote and counteract the possibility of misinterpretation, say by voicing disapproval and advocating reform. This might allow one to influence electoral outcomes while preventing the ill effects of misinterpretation, thereby eliminating the force of what I take to be an important reason that speaks in favor of abstention.

First, this objection's assumption about counteracting misinterpretation is not obviously plausible. One cannot simply prevent misinterpretation here by voicing dissatisfaction. It is not as if those looking at voter participation statistics subtract those who voice complaints and take others to be satisfied. Moreover, participation can belie or at least detract from claims about serious unfairness. Participation suggests that the choice before one is a choice worth making. Sometimes, there is a sense in which this can be the case, even in a seriously flawed electoral process. If there is a close election that poses the threat of a particularly horrible candidate being elected, say, the need to prevent her election can outweigh worries about perpetuating unfairness (cf. Brennan forthcoming; Parfit 1984, pp. 73–75).⁵

These considerations get at a particularly important problem with the objection, and perhaps with anti-abstention views generally. The objection seems motivated by the following popular idea: there is something problematic about wasting the important opportunity that voting affords us to influence electoral outcomes. How can we be permitted, let alone obligated, to not take this opportunity?

Within the context of a seriously unfair electoral process and political conditions

that limit the prospects of correcting the unfairness by means of voting, however, one need not see this opportunity as having much worth. The unfairness of the electoral process and of the conditions in which it is embedded arguably causes it to consistently present citizens with inadequate choices and to present them in ways that give some an unfair advantage in shaping government. A common criticism of majoritarian electoral processes in the U.S. context, for example, is that they make it excessively difficult for third parties to compete and to voice their ideas in the electoral arena. This forces many voters to either vote for viable candidates who would represent their views relatively poorly or for unviable candidates who would represent their views better.

Faced with such choices, abstention need not be seen as wasting a valuable opportunity. In the absence of countervailing conditions like a close race that threatens the election of a horrible candidate, abstaining need not be seen as incurring a significant personal cost in the context of such a process. But also—and this gets at another important error behind many anti-abstention views—abstention need not be a refusal to influence government. Rather, it can be an attempt (or part of one) to influence things in another way—a way outside the narrow confines the electoral process conventionally affords us. It can be a way of trying to influence the electoral process itself and others' attitudes toward it.

Abstaining can express dissatisfaction with the electoral process and can be a way of advocating reform (cf. Brennan and Lomasky 2000, pp. 83–84; Goldman 1999, p. 215). It can be an act of protest.⁶ Such acts are not causally impotent. They have an influence on policy all their own. They may not achieve the desired result, but in that respect they are similar to voting. And the desired result—a more legitimate and fairer electoral process—is extremely valuable. Part of the hope is that a better process would present citizens with more worthwhile choices. The fact that many do see voting as a valuable opportunity can make abstention an especially powerful form of protest. At the very least, abstaining can be a refusal to help perpetuate the serious problems that need reform.

A difficulty remains. There is a risk that those who view the electoral process as sufficiently fair or who wish to promote that view will interpret abstention in ways that allow them to maintain or promote this view without having to reassess or defend it. Abstention is often taken to stem from blameworthy forms of apathy, indifference, or irrationality, rather than from reasonable, let alone justified, dissatisfaction with the electoral process. Opposition parties who boycott elections, for example, are often accused of trying to undermine genuinely legitimate electoral processes in hopes of illicitly improving their future prospects (Beaulieu and Hyde 2009, p. 398).

On the basis of these observations, one might object that abstention may not be as attractive an option as I have suggested. If voting and abstention can both be misinterpreted, why not just vote and do what one can to combat misinterpretation? I have already expressed skepticism about the possibility of successfully

preventing misinterpretation of voting. Should I not be equally skeptical about combating misinterpretation of abstention?

There is certainly room for skepticism (if not outright cynicism) here, but it is not obvious that the prospects for combating misinterpretation of abstention are as bad. Refining and popularizing the arguments for abstention can help counter charges of irrationality. Engaging oneself with politics in other ways and working to correct the misconception that abstention is not a way of being politically engaged can help counter charges of apathy and indifference. No doubt, the same thing I said above applies here too—it is not as if those looking at voting statistics will subtract away the engaged, concerned abstainers and regard the rest as being apathetic, indifferent, and irrational. But much, at least, can be done to counter abstention's negative image. Nor is it obvious that this negative image is significantly widespread or stable. Faced with those who urgently criticize abstention, one may reasonably wonder whether they are trying to convince themselves just as much as others in the face of serious doubts about voting's value and efficacy.

Finally, this objection again overlooks one of the abstainer's primary concerns: that the serious unfairness of the electoral process and the conditions in which it occurs present us with electoral choices that are worth relatively little. Participation does seem to suggest that one thinks the choice one worth making. Charges of apathy and indifference, however misdirected, may at least recognize that abstainers see these choices as having relatively little worth. This gives the abstainer something to work with. The task before her is to explain why she sees things this way.

CONCLUSION

I have argued that it is reasonable to think that one can have an obligation to abstain from voting under certain nontrivial conditions like those that hold in the United States. In the process, I hope to have corrected several misconceptions about abstention and about voting more generally. Moreover, I hope to have made clear the need for taking a broader view of voter responsibility and the considerations relevant to deciding how—and especially whether—to vote.

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NOTES

1. If the opposition boycotted the election, for example, abstention could be a particularly clear expression both of support for them and of dissatisfaction with the electoral process. Opposition parties have strong incentives to boycott such elections. My case is artificial, however. In many real-world cases, where the electoral manipulation does not

guarantee that opposition parties have no chance (because it is more limited and more covert), boycotts can incur significant costs. Opposition parties who boycott elections give up any chance they may have of achieving power; cf. Beaulieu and Hyde (2009).

2. Perhaps the reasoning goes something like this: Participation is evidence of perceived legitimacy, and widespread perceived legitimacy is evidence of actual legitimacy. No doubt, the degree to which participation is evidence of perceived legitimacy is often overestimated, but perhaps there is something to the first inference. If voters are minimally rational, and the rationality of voting turns, in large part, on whether the electoral process is legitimate, then widespread voting is evidence that the electoral process is perceived to be somewhat legitimate. It is harder to see how the reasoning goes from here to the conclusion that the electoral process actually is legitimate, though. Maybe assumptions about voter responsibility play a role here, or maybe it is simply assumed that widespread approval itself makes for legitimacy.

3. This is true irrespective of the candidate or policy one votes for. If one votes for unfair policies or candidates who will support them, one may incur even more responsibility for perpetuating unfairness.

4. Some theorists hold that unequal electoral input may be justified if it produces sufficient benefits like an increase in the quality of decisions (e.g., Estlund 2000; cf. Brennan forthcoming). I am sympathetic. None of the examples of inequality I will use seem to secure such benefits, however.

5. Even if everyone acknowledged that conditions hold that would otherwise make abstention obligatory, there could be reasonable disagreement about when that assessment can be overridden. For example, which candidates count as horrible is debatable. I will not discuss these complex issues here, except to note two points. First, in the political arena, claims about the comparative badness of candidates are particularly likely to be exaggerated and unjustified. Second, we can arguably be obliged to risk bad electoral outcomes. Democracy itself runs such risks. Given a seriously unfair electoral process, one may be obliged to run some risk of bad electoral outcomes in the short term if attempts at reform require it. As I will argue, abstention can be such an attempt at reform.

6. Where there are compulsory voting laws, abstention can be an act of civil disobedience. In such cases, though, establishing that abstention is obligatory may be much more difficult. If abstainers are punished, for example, abstention may incur a significant personal cost. At the same time, the expressive power of abstaining can be even more powerful in such cases.

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