

Research and Analysis

Depoliticising the Polls: Voting Abstention and Moral Disagreement

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Do citizens have a duty to abstain from voting when they cannot vote well? Jason Brennan has recently argued that, since citizens have a duty not to engage in harmful activities and bad voting is a harmful activity, citizens have a duty to abstain from voting badly. In this reply, I argue that Brennan dismisses the moral disagreements that unavoidably pervade the very idea of bad voting in a democratic society and provides a de-politicised and incomplete account of what voting badly means. Without a sound definition of bad voting, Brennan's argument fails.

Introduction

Political rights, such as suffrage, are Hohfeldian power rights. They give us the power not only to shape the political, economic and social landscape but also to change the very structure of rights our fellow citizens have. Persistent worries about bad voting and the harm it can produce are thus unsurprising, as recent contributions against compulsory voting in this journal have shown (Lever, 2007; Saunders, 2009). Jason Brennan (2009) has recently taken the debate further by arguing that, even though all citizens should enjoy equal voting rights, they also have a moral duty to abstain from exercising such rights when they exercise them badly, in the sense of voting for harmful and unjust policies without a sufficient moral justification for their votes.¹

In this article I will argue that Brennan dismisses the moral disagreements that pervade willy-nilly what counts as a harmful, unjust or morally unjustified exercise of the right to vote in a democratic society and, accordingly, fails to provide a sound account of bad voting, without which his argument turns out to be incomplete. Further, I will argue that such moral disagreements cannot be left aside by appealing to non-relational moral criteria about good and bad voting because voting is a device that is only called for when moral disagreements exist. If no disagreement existed, voting would not be required in the first place.

Bad voting and moral disagreement

Consider first Brennan's argument, which can be divided into the following three steps:



1. Citizens have a duty not to engage in harmful activities when personal cost is low.
2. Voting badly is a harmful activity, while the cost of refraining from voting is low.
3. Citizens should refrain from voting badly.

Assume, for the sake of the argument, that Brennan's argument is sound and let us turn in this article to the very idea of bad voting.² Brennan initially characterises bad voting as occurring 'when citizens vote for harmful or unjust policies or for candidates likely to enact harmful or unjust policies' (Brennan, 2009, p. 536). The problem with this definition, as he points out, is that one might be justified in voting for a decision that only later turns out to be harmful or unjust, for example, due to the appearance of previously unknown facts. For that reason, Brennan turns to the more cautionary formulation of bad voting as occurring 'when a citizen votes *without sufficient reason* for harmful or unjust policies or for candidates that are likely to enact harmful or unjust policies' (Brennan, 2009, p. 537, emphasis in original). Hence, citizens vote badly when they vote without sufficient reasons, such reasons being dependent on the existing level of knowledge. In that case, or so argues Brennan, citizens have a moral duty to abstain from voting and stay at home.

To illustrate this point, Brennan repeatedly compares voting to surgery. Not everyone has to be a surgeon or a voter, but once a person decides to be one of these he or she has the duty to be a good surgeon or vote well. However, the analogy between voters and surgeons is not as straightforward as it might first appear to be. Surgery is mainly a technical matter of acquiring and applying a set of skills in order to achieve certain aims settled in advance. Quite differently, voting is not only about making technical decisions about which are the best means to achieve certain aims settled at the outset, but also about the very aims that are to be achieved. In a nutshell, being a good surgeon is mainly a technical task while voting well is both a technical and a moral task.³

Brennan is certainly aware of this, for he explicitly includes, among the most common forms of bad voting, not only voting from ignorance or from epistemic irrationality and bias, but also from immoral beliefs (e.g. racist beliefs).⁴ Here again, what counts as bad voting is what occurs when a citizen votes for a harmful or unjust policy without 'a sufficient moral ... justification for their votes' (Brennan, 2009, p. 538). Now, the obvious question here is about what counts as a sufficient moral justification, a question that Brennan eludes by saying that he 'won't try to settle the standards for justified belief here. Instead, I leave it to be determined by the best epistemological theories' (Brennan, 2009, p. 538). Likewise, regarding what counts as harmful or unjust policies, he argues that 'the argument of this paper is compatible with whatever position on that debate turns out to be correct' (Brennan, 2009, p. 536 n. 3).

Now, the problem with eluding this question is that it is an unavoidable feature of democratic societies that citizens do disagree on what the best moral epistemological theories are – that is, they disagree on what counts as a sufficient moral justification. Likewise, regarding what counts as harmful and unjust, no clear-cut position on that debate is likely to reach a consensus as the correct one. Consider the case of immigration policies and of what counts as bad voting in this regard. The open borders policy put forward by many cosmopolitans might be seen as

extremely harmful for the community from a communitarian point of view, whereas the closed borders policy proposed by many communitarians might be seen as equally harmful for the desperate immigrant from a cosmopolitan standpoint. Likewise, what counts as a sufficient reason to support a closed borders policy to the former might count as a xenophobic and unjustified one to the latter and, thus, what counts as voting well to the former might count as obviously bad voting to the latter. It is thus not possible for Brennan to argue that his argument is consistent with 'whatever position turns out to be correct on the debate' over what counts as harmful and unjust policies or as a sufficient moral justification because no position is likely to reach a consensus as the correct one. Moral disagreements on these issues are the very bread and butter of democratic politics and the morally unrestricted exercise of the right to vote is the means we use to make decisions precisely because we acknowledge that such disagreements are unlikely to disappear. Further, as we shall see below in more detail, it is not possible to evade such disagreements by appealing to non-relational moral criteria about what counts as good and bad voting because voting implies the existence of moral disagreements as a necessary condition. If citizens agreed on what counts as harmful and unjust policies or as morally unjustified beliefs, voting would not be required in the first place (except perhaps merely for co-ordination matters).

Possible objections

Consider now four possible objections. First, it might be objected that moral disagreements on what counts as bad voting do affect bad voting from immoral beliefs but not (or to a significantly lesser extent) voting from ignorance or inconsistency, which are much less open to moral disagreements. Granted. To be sure, it is much easier to settle the issue of what counts as voting from political ignorance or inconsistency. And, for that very reason, it might well be the case for citizens who, say, are unaware of the most basic political facts to have a moral duty to abstain from voting. However, my quarrel in this article is only with bad voting *from immoral beliefs*, a concept that is much more elusive and subject to perfectly reasonable moral disagreement in a democratic society.

Second, it might further be objected that, as a matter of fact, citizens in democratic societies do agree on some minimal moral criteria which, in turn, can be used to settle the limits of which policies are to be considered harmful or unjust, of which reasons are to be taken as morally unjustified and, eventually, of which voting should be counted as bad voting. However, even if that seems often to be the case, normative criteria that often seem to be undisputed at first sight turn out to be fuzzy and incomplete when applied to particular circumstances, borderline cases and unforeseeable contingencies (see Bellamy, 2007; Waldron, 1999). For example, we all appear to agree that killing is wrong and we would count a vote aimed at promoting it as bad voting. However, moral disagreements arise willy-nilly regarding what killing means and whether it is always wrong in cases such as abortion, euthanasia, war, self-defence, capital punishment, the consumption of non-human animals, and so forth. That we have to vote on these issues shows that we disagree on them and that (apparently uncontroversial) minimal moral criteria are also

pervaded by moral disagreements when getting down to particular circumstances and contingencies, making them unsuitable for settling which voting should be taken as bad voting.

Third, it might further be objected that, regardless of whether an agreement exists or is likely to be reached on some minimal moral criteria and their application, the right to vote necessarily implies a number of core substantive values – such as mutual respect, equality or autonomy, as Corey Brettschneider (2007) has claimed – which provide the rationale for this right. It is those values that make the right to vote worth being enjoyed and exercised, rather than the other way around. Accordingly, it makes perfect sense to point out that any exercise of the right to vote that may jeopardise these values or be at odds with them could easily be counted as bad voting. For example, xenophobic beliefs can be said to be immoral because they are incompatible with mutual respect and equality and voting from them (say, to support a closed border policy) can be said to be bad voting.⁵ However, even though this is a very powerful argument, moral disagreements unavoidably pervade not only these values and their application to particular circumstances and unforeseen contingencies, as demonstrated above, but also their relationship with the right to vote. Even if universal suffrage appears to be beyond controversy and disagreement (at least, in well-established democracies), controversy and disagreement arise again when trying to settle the values behind it. Hence, while some would agree on the values pointed out by Brettschneider, others would embrace universal suffrage for completely different reasons, such as its ability to bring about economic growth or political stability or to reduce the likelihood of social revolutions breaking out. As Jacques Maritain (1949, p. 9) liked to tell,

‘at one of the meetings of a UNESCO National Commission where human rights were being discussed, someone expressed astonishment that certain champions of violently opposed ideologies had agreed on a list of rights. “Yes”, they said, “we agree about the rights but on condition that no one asks us why”. That “why” is where the argument begins’.

Fourth, it might be finally objected that whether or not a consensus on some moral criteria – either procedure-dependent or substantive – and their application exists is irrelevant for Brennan’s argument if there is a fact of the matter. If citizens vote for policies that are *in fact* harmful and unjust and do so on reasons that are *in fact* unjustified, the existence of an agreement on what counts as harmful and unjust policies and as morally justified reasons – or the lack thereof – does not really matter. Going back to the example above, if voting for closed borders policies on the belief that locals should come before aliens is morally wrong as a matter of moral metaphysics, then it is irrelevant whether actual citizens recognise it or not. Voting for such policies would be bad voting regardless of whether they agree on it or not. Put differently, it could be objected that the existence of moral disagreements is relevant from the point of view of realist politics, but not from a de-politicised moral standpoint, such as the one adopted by Brennan.⁶

To be sure, this is a sensible concern. Consider two possible replies. First, Brennan’s argument is not only about moral metaphysics, for he explicitly refers to whatever

position turns out to be correct *on the debate over what counts as harmful and unjust policies* (Brennan, 2009, p. 536 n. 3). Now, these are the sorts of debates that are unavoidably pervaded by moral disagreements. Second, and more importantly, moral disagreements on what counts as bad voting are not a mere psychological and contingent political feature that can be left aside by appealing to non-relational moral criteria about good and bad voting because voting is a device that is only called for when moral disagreements do exist. If there were no disagreements (including moral disagreements on what counts as harmful and unjust policies or as a sufficient moral justification), voting would not be required in the first place. Accordingly, moral disagreements are not only relevant from the point of view of realist politics but also for moral theorising, which cannot go on without the existence of moral disagreements for, unlike other political issues susceptible to moral scrutiny, voting is a device that is required only if such disagreements exist.

Conclusion

Brennan has forcefully argued that citizens have a moral duty to abstain from voting badly, in the sense of voting for harmful and unjust policies without a sufficient moral justification for their votes. However, in a democratic society no process-independent moral criteria can be referred to in order to settle what counts as a harmful, unjust or morally unjustified exercise of the right to vote, for voting is a device that is only called for precisely when citizens disagree on what counts as harmful, unjust and morally unjustified. When Brennan refers to whatever position turns out to be correct on the debate on what counts as harmful and unjust and as morally unjustified, he is de-politicising the very nature of voting as the device we use to make decisions in the light of unavoidable moral disagreements and, what is more important, he is failing to provide a sound account of what bad voting means, without which his argument turns out to be incomplete.

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Notes

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- 1 In a more recent paper, Brennan (2011) has further claimed that voting restrictions should be enforced against those who are not in a position to vote well. However, in this article I only consider the weaker argument of the first paper.
- 2 As a referee has suggested, it might be objected that a single vote has almost no impact on the electoral outcome and thus that voting badly can be said not to be harmful. However, according to Brennan (2009, p. 540), when there is a collective action problem, as is the case with collectively harmful activities (such as voting badly), individuals may not have the duty to solve the problem individually (which can be very costly and often out of their control), but they have the duty not to be part of the problem nevertheless.
- 3 To be sure, surgery also has a moral dimension acknowledged in the medical practice in the forms of the Hippocratic oath or the patient's ever-present right to opt out. But this dimension is secondary while in the case of political voting it is essential.

- 4 In a similar case for voting abstention, Hanna (2009) includes additional reasons such as the quality and reliability of the electoral process. I do not consider his argument here though.
- 5 I am grateful to a referee for raising this point. However, it has to be noted that this is *not* Brennan's argument; he does not elaborate on the possible source of the moral criteria that may be used to settle what counts as harmful and unjust policies, as unjustified moral beliefs and, thus, as bad voting.
- 6 I am grateful to a referee for raising this point.

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