

Direct Democracy versus Representative Democracy:

Cost and Benefits for the Citizenry

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Abstract

Firstly, I will condemn Positivism as a dangerous political philosophy which must not be applied to Democracy, as it assumes that all legislative proposals are legitimate, even ones which infringe on the freedom of the individual or regulate society.

I will describe Representative Democracy is a system in which the people of the several constituencies that form a nation elect representatives, who vote on their behalf. I will also condemn this is as dangerous and insufficient for protecting liberty, as it places the power of voting on policy decisions to a small group of political elites, resulting in political affairs being kept away from the public. Such a system of Democracy, as I will claim, does not place the government under public scrutiny, and likewise normally has no constitutional restrictions.

I will talk about the United States of America, and how their combination of Direct Democracy, Decentralisation, and Constitutionalism is designed to protect liberty whilst allowing the people to participate in political decision making. Moving on, I will claim that Direct Democracy is a system in which the people decide directly on the outcomes of policy decisions. I will explain how this in turn results in them being more inclined to participate in politics, due to their voice actually having an effect on the outcome. Switzerland and Liechtenstein will be cited as examples of this, whilst I make reference to the fact they have constitutionally limited governments, as well as the cultural effects of their system of Direct Democracy.

Finally, I will outline a clear and detailed vision of a political system of Direct Democracy and Constitutionalism, designed to protect liberty, and governing territory no bigger than that of a Micro-Nation. I will talk about the power and autonomy of the municipalities, as well as the influence that the people will have over them and their National Government.

Introduction

In much of western society, especially in the United Kingdom, my country, many people are lead to praise democracy itself as the best form of government. It is assumed that because democracy gives us the ability to vote, to have a say, it is a just and secure political system. However main conceptions of democracy have stood in contrast to one another- Representative Democracy and Direct Democracy. But what does these terms mean? What are their implications regarding the freedom and welfare of the people? In this piece I intend to answer these questions, and provide my consideration of which is best and in what form.

Perhaps the chief difference between Direct and Representative Democracy can be boiled down to this. In a Representative Democracy, the people elect representatives, who in turn vote on legislation and participate in the policy-making process. In a Direct Democracy, the people may propose and implement legislation or political action by voting on it themselves.

The Dangers of Positivism and the need for Democracy in Pursuit of Liberty

In any Free Society, the rights of the individual would be recognised and protected constitutionally. Likewise, the influence and responsibilities of Government are constrained within such a constitutional framework. Throughout history, people such as the Levellers and the American Founders, sought to create a society in which individuals may exercise their freedom. They recognised the importance of bringing government within the correct political framework, so that it is serving the public interest, rather than infringing upon it- Liberty. A fitting example is the United States of America. Their combination of Decentralisation, Direct Democracy and Constitutional restrictions on the use of power, allows them to have a system which protects the rights and freedoms of the people, without excluding them from participation in political discussion and activity. Also, the Tenth Amendment to the US Constitution asserts that *“Those powers not delegated to the United States by this Constitution, nor prohibited to it by the States, are reserved to the States respectively, or to the people.”* From a decentralisation standpoint, this is essential as it brings power closer to the people, which in turn makes them more inclined to advocate a position in political matters; a point I shall discuss further down in this essay. From a Direct Democracy standpoint, admittedly some states have a very limited element of direct democracy through ballot initiative. However, I am currently perceiving the concept of Direct Democracy not just in terms of how directly the people are conveying the political outcome, but also in terms of how local or decentralised these decisions are. This is a point which I shall also develop in later parts of this essay.

The concept of democracy that I come to understand, is a system of majority rule. Under such a system, the creation of any law is viewed as legitimate, on the basis that it was created by the governing authority of the country. I shall call this concept “Positivist Democracy”; democracy with no restriction. This concept of majority rule in the positivist sense may sound appealing at first. However, when you look at the reality of it, you will find that it poses a direct threat to the individual rights and freedoms which we consider vital to our civilisation and way of life. Here is why.

As I stated above, a truly free society would protect the rights and the freedom of each individual, from the ever-encroaching desires of the State. In a Positivist Democracy this is not attainable, since the desires of the majority are always treated legitimately, without exception. Speaking before a *Reason Magazine* audience, Judge Andrew Napolitano this destructive philosophy:

“Positivism teaches that the law is whatever the lawgiver says it is, providing the rule is written down. Under positivism, so long as the legislature in a democracy was validly elected and followed its own rules in enacting a law, the law is valid and enforceable no matter what it says.”

So, suppose the legislative body voted to ban the practise of Buddhism (which I in particular would be petrified to see!), or prohibit certain forms of speech. Such prohibitions would be direct violations on the liberty of the individual, but would still be perfectly legal, due to the positivist philosophy that such a system would adhere to.

Representative Democracy: A Beacon of Corruption, Misrepresentation and Government

Expansion

In his excellent book *Liberty Defined: 50 Essential Issues that affect our Freedom*, Ron Paul wrote that the trouble with Democracy *“is not so much its workings at any one time; the trouble is the dynamic it sets in place that gradually changes a small government into a big one.”* I concur with the former Congressman’s claim here. In this section I shall provide a critical analysis of the philosophy and

practicality of Representative Democracy, in order to make its invalidity evident to the reader. In pursuit of this outcome, I shall use my own country, the United Kingdom, as an example. I shall also refer to the existence of institutions such as Political Parties to show how Representative Democracy, unlike its Direct counterpart, is a beacon for corruption.

In the United Kingdom, our democratic processes operate as follows. Each constituency elects a local MP, who represents them in parliament. The people of that constituency go to their local polling station, and tick the name of the person whom they would like to represent them in our Parliament. The candidate with the highest percentage of the vote, becomes the Member of Parliament for that constituency.

Now, I shall comment on this system in two ways, firstly, I shall comment on why our system of democracy is bad in terms of the influence and lack of connection between the people and their government. Secondly, I shall discuss how I believe it is an unreliable and dangerous political system to live under, when it comes to protecting liberty.

When it comes to representing the views and opinions of the people, as well as protecting their liberty, I consider the system of representative democracy here in my country overall to be an insufficient means of pursuing our goal of a free society. Here are some contributing factors. The United Kingdom has a population of around 65 million people. We have 650 parliamentary constituencies. I consider it to be the height of absurdity that our system of democracy means that 650 Members of Parliament are expected to represent the views of a 65 million-man population. Secondly, in my country a large amount of the population are disenfranchised by political affairs generally. Here, one might think it more comforting to simply turn a blind eye to political affairs under our current system of democracy. Why is this? My answer is simple: People think their vote is worthless. They don't believe that their vote will actually count to something. As a result of power and REAL decision making being made and kept away from the populace at large, so many people believe that their voice alone cannot make a difference to political affairs or society. It is no wonder to me that so many people feel disenfranchised by the current system.

This system of Representative Democracy is also flawed, in my opinion, because the people are less inclined, as I have just discussed, to participate in political affairs, and hence are less inclined to keep an eye on the activities of their government. If there is, as George Washington warned, a "separation of the people from their government in view", then a large majority of the population will be unable, and therefore unwilling, to mobilise in order to thwart any attempts to infringe upon their liberty. As Patrick Henry warned in the Virginia Convention of 1788-

"The Liberties of a people never were, nor ever will be, secure, when the transactions of their rulers may be concealed from them. The most iniquitous plots may be carried on against their liberty and happiness."

From my own experience, as well as my own historical research, I have concluded that Representative Democracy is not only incompatible with protecting a Free Society, it actually encourages and leads towards the opposite of a Free Society. If Democracy is to be employed for the protection of liberty, it is not going to be in this form.

Direct Democracy and Switzerland as a Case Example: Allowing the People to exercise power over the State

As I stated in the first part of this essay, Representative Democracy is that form of democracy in which the people of the several constituencies, elect people to represent those constituencies and vote upon political matters on their behalf. In a Direct Democracy, on the other hand, the people vote on political matters themselves. To quote Prince Hans Adam II in his inspiring book *The State in the Third Millennium*:

“In a direct democracy the political right of the people is not reduced to the election of one representative, who then makes all the decisions for them; the people themselves have the right to make material decisions.”

In this present moment, I am optimistic that this section concerning Direct Democracy will shed some much needed light into the dark tunnel of representation which we have just been crawling through. Here I aim to show how Direct Democracy is different to that of its Representative alternative. I also intend to show the benefits and potential drawbacks of Direct Democracy in terms of its ability to restrain government power and protect liberty.

So let us consider the words of his Serene Highness right now. He says that in a system of Direct Democracy- *“the people themselves have the right to make material decisions”*. I would say this has a multitude of cultural and political benefits. Firstly, in the cultural sense, people under such a direct system will have a higher inclination to contribute in political discussion, as well as actually participate in political decision-making. For example, Switzerland, along with Liechtenstein, it is worth mentioning, is one of the the last Direct Democracies on Earth. The Swiss recently voted on whether or not to introduce a compulsory minimum wage. This decision was put to the people in the form of a referendum, and the people ultimately rejected it. When we delve deeper into the cultural traits behind this, we see that when the people are directly responsible for the outcomes of political decisions, they will almost instinctively consider the costs and consequences of both options, weighing up the pros and cons. This has virtually become a cultural norm in Switzerland. In an episode of the *Ron Paul Liberty Report*, Claudio Grass, the Managing Director of *Global Gold*, had this to say:

“Because the Swiss People are the Sovereign, and whatever the politicians bring up, we are used to debate...and so when the people are used to debate, they also have a kind of status, in terms of enlightenment; and so they don't fall into the trap of just taking other opinions which have been sold in the mass media. So, they really think, and I think that the problem these days is that people are not allowed to think independently any longer. But, this is part of the cultural genes of Switzerland.”

What historical examples such as Switzerland show, is when the decision-making process being made by the populace directly, it gives them a higher inclination to partake in political affairs and to thoroughly consider the consequences of the decision at hand. What also appears to stem from such a system is an independent cultural mind-set, in which the people admirably think and debate amongst themselves, before looking to political “experts” and economists. This is a huge benefit for the citizenry because, as I said before, it encourages them to think and debate amongst themselves, making them less reliant on government and the media.

My second endorsement of Direct Democracy, as opposed to Representative Democracy, comes from the fact that the former gives the people exceedingly greater influence and oversight over political affairs; unlike the latter, in which such influence is limited and realistically impossible, in the scope of things. At the Virginia Convention of 1788, James Madison spoke about the nature of previous attempts by governments to infringe upon the freedom of the people:

Since the general civilisation of mankind, I believe there are more instances of the abridgement of the freedom of the people, by gradual and silent encroachment of those in power, than by violent and sudden usurpations."

I hope that the reader, looking at the analysis of Direct Democracy which I have provided, will consider it to be self-evident, that Direct Democracy is a political system by which the people can retain their power and autonomy, and keep government in check at the same time. Put simply, it brings political activity further out into the open and into the ballot box, rather than being executed and kept behind closed doors.

So, if we intend to protect our freedom, one of the first things we should consider is, who or what provides the greatest threat to it? History, being our most reliable guide, tells us that it is and always has been government. Yet Minarchist Libertarians and Classical Liberals both concur, whilst acknowledging this, that if government is to exist, it should be limited to protecting our natural individual rights. The American Declaration of Independence states that in order to protect these rights "governments are instituted among men, deriving their just powers from the consent of the governed.". Consent of the Governed. Applying this term "consent of the governed" to our current topic, we can safely say that government in a free society, would be constitutionally limited to protecting our rights, while employing a system of Direct Democracy in order to subject the government's activities to public scrutiny and oversight. It should also ensure that the majority of, if not all, political action undertaken is consented to by the governed, within the legal limits of a written Constitution.

The United States of America

When the American Founders created and adopted the US Constitution in 1787, they desired to create a political system similar to that of the British Parliament, with its House of Commons and House of Lords, with slight moderations. As students of history, the Founders were aware of the limits of democracy in its traditional sense. In Timothy Sandefur's *Conscience of the Constitution*, Sandefur wrote of the Founders' attitude towards the unrestricted majority rule that traditional Democracy advocated:

"In the very first sentence of the Constitution, they {the Founders} pronounced unambiguously that liberty is a "blessing". They did not say the same about Democracy. The Constitution they wrote imposes manifold limits on the power of the majority... The Framers saw majority rule as a useful but dangerous device, to be employed sparingly in order to protect Freedom"

As we understand, the Founders believed that in order to protect liberty, the Legislative and the Executive should be elected through the democratic process, but should also have binding constitutional restrictions on their power. The purpose behind this, is that should those who would wish to reduce or infringe on the freedom of the people be elected to power, the Constitution would forbid them from legally doing so. To quote Timothy Sandefur once again- "Liberty is the goal at which democracy aims, not the other way around."

Liechtenstein

Liechtenstein, also known as the Principality of Liechtenstein, is a microstate situated between the eastern border of Switzerland and the Western border of Austria. Its territory largely covers around 60 square miles patch of mountainous land in central Europe, and has a population of around 35,000 people. The Principality is currently headed by Prince Hans-Adam the Second.

Although Liechtenstein is actually a Principality, it has a political system which, it is argued, takes Direct Democracy to its ends. With its population being only 35,000, it would take around 17,500 of the populace to actually implement or overturn political action being taken. Referring back to natural inclination, since it is so easy therefore to have legislation proposed, passed or repealed, the people are constantly keen to participate and be alert as to what is going on in the political sphere. In matters concerning altering the law, 1,000 signatures would be required, which amounts to only 5% of the population. Alternatively, if three municipalities approve of such a move, then this could also bring about a popular vote. Also, quite remarkably, if a motion for the removal or abolition of the Princely Monarchy was brought forward, it would only require 1,500 signatures in order to be moved towards a vote. If such a vote was approved, it would then require yet ANOTHER popular vote in order to draft a new republican constitution.

What is also remarkable about the State of Liechtenstein is the level of power, influence and autonomy which the local municipalities have. Liechtenstein is composed of up to eleven municipalities, each of which has their own style of Direct Democracy. Also, each municipality has the individual right of secession. Considering the small population of Liechtenstein as a whole, one can only marvel at how less complicated it is for the individual municipalities to secede. Let us delve further into this. In 2014, it was estimated that Schellenberg, a municipality in the north, has a population of around 1,053 people. Considering it would require, therefore, half of that for Schellenberg to secede, easy would not even begin to describe the simplicity of secession.

It is understandable, therefore, why the Principality and Parliament would wish to provide the best, or freest, form of government possible, so as to make the municipalities less inclined to secede. Government, when properly considered, is responsible generally for the provision of certain services; among which ought to be defence, foreign policy and keeping the peace internally. But like all commodity-based institutions, government should also face competition in the market. Government services *may* be beneficial, but it is pointless if those services are producing stagnant results. With the Free Market comes competition, and with competition comes a higher incentive to provide better services. The alternative is not serving the consumer, and going out of business. This same principle, as we have seen, applies to the Government of Liechtenstein. If the municipalities feel that the government of Liechtenstein is providing an insufficient service, then their next incentive will be secession. Such is the combination of Direct Democracy and the Free Market.

Direct Democracy in a Decentralised State

Throughout the entirety of this essay, I have attempted to describe the distinctions between Representative Democracy, and Direct Democracy. Alongside this I have also implied my belief in the importance of localism, decentralisation, as well the application of constitutionalism on government in a free Society. I hope that the reader may recognise, that my main purpose in this essay is and has

constantly been to clearly outline Representative and Direct Democracy, and to describe the impacts they have in relation to protecting liberty. I do, at the same time, wish to advocate some additional elements which I believe could and should be implemented in pursuit of the same goal. In this section I hope to outline a positive vision for a system of government, employing Direct Democracy, Radical Decentralisation, Localism, and Constitutionalism.

In my opinion, the economic and personal freedom and well-being of the people would be best secured against government if the ideal system I am suggesting were no bigger than that of a micro-nation, or to go even further, a micro-city. For now, however, we shall stick to the idea of a micro-nation. So this ideal micro-nation, I would say, should consist of no more than 2-15 provinces, each being no bigger than that of a village, a town, or a small city. We know that this can work because in the case of Liechtenstein, Liechtenstein consists of eleven municipalities, which are roughly about the size of your average village. Plus, when you look at the amount of land which Liechtenstein inhabits, it is about 160 km square, which amounts to 61 square miles. So, the land which this micro-nation would consist of could be roughly about the same as that of Liechtenstein.

Leading on from this, the national government of such a micro-nation should have very limited authority. Its responsibility should, in my opinion, be restricted to that of Foreign Policy and Defence, if it can provide for that. The individual cities or villages should retain their own sovereignty, and should be solely responsible for their own affairs. As James Madison wrote in *Federalist 45* when arguing for the ratification of the US Constitution:

“The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite.”

The ideal Micro-Nation should follow the same root at the local level. In short, the National Government should have “few and defined” powers. The municipalities, whether they be villages, towns or cities, or even the people themselves should retain the vast majority of powers. The National Government should also have a binding Tenth Amendment-Style policy, strictly commanding that all powers not delegated to the National Government should be retained by the municipalities or the people. It should also declare it illegal for the National Government to assume powers not already delegated to it in the Constitution.

Because the population of a micro-state would hence be smaller than that of a more expanded territory, such as the City of London, which is 1,572 km squared (607 square miles) and has a population of around 8.6 million, it would be easier for legislation to be proposed, repealed or implemented at that level. Also, because it would be much easier, those good citizens who stand in opposition to such proposals will be determined to keep informed of them when they arise. That way, the oppose will have time to consider, debate, and even rally against it. The same applies to those citizens who might be in favour of a particular bill. So generally, it will be easier to propose and then implement or repeal legislative proposals, which would encourage the populace to be alert and knowledgeable of affairs in politics and society. Such may well lead to a more educated, and intellectually-driven culture, similar to that of Switzerland which I mentioned before.

The National Government, as well as the governing bodies (if there are any) for the municipalities, should be constitutionally restricted in terms of what powers they may exercise, whilst the people can employ Direct Democracy for the clear purpose of deciding, collectively, the outcomes of political matters, in the form of referendum. Also, from a cultural perspective, people living in a certain municipal will know each other. When debating and considering how to vote in a referendum, they will be more likely to acknowledge that how they choose to vote will have a direct impact on them

and their neighbours. In other words, regardless of the outcome, they will be accountable to each other. Therefore, I suspect that the combination of communal integration and Direct Democracy, will result in voters' motivations being based on how the result will affect their community, not just them.

Conclusion

So to conclude this essay, I have rejected the notion of Positivist Democracy, due to the fact it places no constitutional restraints on the powers of the government. I have defined Representative Democracy as a system in which the people vote for people to represent their constituencies, and vote on their behalf. This system of Democracy, I believe, is incompatible with a Free Society, as well as the protection of it. I say this with the acknowledgment of the corruption that has often sprung from it, as well as the fact it deprives the people of much of the influence they may otherwise have. Direct Democracy, on the other hand, is a system in which the people are essentially sovereign, and are directly responsible for proposing, and implementing or rejecting political proposals. In other words, the outcome is on them.

Also, I have made reference to the United States of America as an example of Direct Democracy, Decentralisation and Limited Government. I have explained how the American Founders intended for liberty to be the goal that democracy aims for.

Whilst conducting my inquiry into the factors and cultural effects of Direct Democracy, I have cited Switzerland and Liechtenstein as fine examples. I have cited their Direct Democratic Systems, which also has a government restricted by a Constitution. I have also cited the cultural affects that these systems, such as making voter turnout higher due to their decisions actually having an impact. In the case of Liechtenstein in particular, I have talked about how a small population, combined with Direct Democracy and a binding constitution results in a government that is subject to public scrutiny, and is capable of dedicating itself solely to the protection of freedom.

Finally, I have outlined a proposal for Direct Democracy in Micro-Nations. Under such a system, Direct Democracy, Constitutionalism and a small population united through communal integration can lead to two things. Firstly, a more cohesive kind of Civil Society. Secondly, a constitutionally limited government along with a means for the people to directly influence political decisions, and keep their government in check. This would allow the individual, as well as the community, to be what they are born to be- Free and Independent.

References:

- ! "Patrick Henry's speech at the Virginia Convention, on the 9th of June, 1788"
http://www.constitution.org/rc/rat_va_07.htm

- ! Timothy Sandefur. *The Conscience of the Constitution*. Cato Institute. 2013

- ! "Claudio Grass on the *Ron Paul Liberty Report*": <https://www.youtube.com/watch?v=hF2VCig8CE0>

- ! Prince Hans Adam II. *The State in the Third Millennium*. Van Eck Publishers. 2009.

- ! “Judge Andrew Napolitano on George W Bush’s disregard for the US Constitution”
<http://reason.com/archives/2009/05/14/dred-scotts-revenge>

- ! Andreas Kohl Martinez. “Liberty and Austrian Economics in The Principality of Liechtenstein”.
2015. <http://capx.co/liberty-and-austrian-economics-in-the-principality-of-liechtenstein/>

- ! “James Madison’s speech at the Virginia Convention, on the 6th of June, 1788”
http://www.constitution.org/rc/rat_va_05.htm

- ! The Federalist Papers. Alexander Hamilton, John Jay, and James Madison. 1787-1788