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Book Review

The Duty to Vote?

Julia Maskivker

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ABSTRACT: As the first book-length treatment examining voting as a moral duty, Julia Maskivker's *The Duty to Vote* poses the following question: "Is it a duty to vote, or is voting only a right that citizens are free to ignore?" Setting herself up opposite libertarian theorists such as Bryan Caplan and Jason Brennan, Maskivker champions the former. Building her case on a "Samaritan Ethic," whereby an individual has an obligation to help someone in need provided that doing so would not be unduly costly to the individual in question, she argues that this basic principle extends to the act of voting. She comes up far short of proving this, however. Further, some of the outside research Maskivker rests her most critical claims upon, regarding the achievability of minimal epistemic competence by voters, proves, upon closer inspection, to show no such thing. In the end, the book's greatest contribution is that it highlights and further refines the disagreements among progressives and classical liberals over voting: Is it a right or a duty?

As the first book-length treatment examining voting as a moral duty, Julia Maskivker's 2019 *The Duty to Vote* poses the following question: "Is it a duty to vote, or is voting only a right that citizens are free to ignore?" (1). Setting herself up opposite libertarian theorists such as Bryan Caplan and Jason

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Brennan, Maskivker champions the former. Building her case on a "Samaritan Ethic," whereby an individual has an obligation to help someone in need, provided that doing so would not be unduly costly to the individual in question (4–7), she argues that this basic principle extends to the act of voting. She writes: "We are bound by a moral duty to vote so as to help society prevent injustice and ensure decently good governance" (1). As such, it is not enough for Maskivker that a citizen vote. Maskivker asserts that for a vote to be morally justified it must be cast competently. "The natural duty of justice requires citizens to acquire minimal epistemic competence," she writes (3). For all the differences between the Samaritan Maskivker and the libertarian theorists she opposes, represented in her work primarily by Brennan and Caplan, all agree that one should not contribute, however minimally, to the doing of injustice—in this case by electing bad governments by virtue of ignorant voting.

But unlike the libertarians, who view voting as a right that citizens are free to ignore, Maskivker, due to her belief that voting is a duty, has an additional ethical hurdle to clear. Although the libertarian position makes epistemically competent voting a choice, Maskivker makes it a duty and thereby must show, per her Samaritan ethic, that doing so "would not be unduly costly to the individual in question" (4). Baseline epistemic competence is not enough. The individual voter must further "vote with a sense of the common good" and with "impartiality as an ethical principle" (3). She writes:

> The impartiality logic for voting justly centers on the value of putting oneself in the shoes of others when finding answers to questions such as the following: What types of concerns should governmental policies address? Or, more generally, what type of society should we strive for? . . . Good voting, as defended in this book, requires an acceptably impartial perspective (which is not to say entirely others-oriented in detriment of personal needs) and a modicum of epistemic competence and information when casting one's ballot at elections. (9–10)

Maskivker's position can be succinctly summarized thusly: based on the "Samaritan Ethic," which compels helping others in need if no unduly high cost or risk faces the individual by so doing, one has a duty to vote, as voting maintains or implements just government. Voting is a duty because voting, she argues, does not burden the individual with an unduly high cost. Ethically carrying out this duty further requires that one acquire a baseline

epistemic competence and that one vote with the public good in mind while also considering the needs and preferences of others.

Maskivker's position raises several important questions: Can freedoms entail duties or is this an intractable contradiction? What is the nature of the difference between positive and negative obligations, and is such a distinction functionally meaningful? Do individual votes matter? And, if they don't, why should there be an obligation to vote, much less to vote well? There are also the questions already raised above regarding epistemic competence: What constitutes minimal epistemic competency? Who decides? And can an individual be expected to achieve and maintain it without enduring unduly high cost?

Before examining the questions outlined above, however, Maskivker's position should be clearly distinguished from the libertarian position, which she sets herself up in contrast to. Maskivker formulates the libertarian position she opposes as an amalgamation of the work of Brennan (2011, 2016) and Caplan (2007):

> As I see it, the Libertarian critics of the duty to vote rely on the following three claims to base their case against duty. First, they appear to think that citizens' political knowledge is almost impossible to improve. Second, they argue that voting is normatively uninteresting because it cannot make a difference by itself to the results of elections. Third, they propose that voting is not morally special as a way of furthering the public good because there are many other ways to do so that can be more effective. (13)

Having read Brennan's and Caplan's books, Maskivker's first criticism seems unwarranted, as none of their books are written from a normative theoretical standpoint. Rather, they write of the best-functioning societal institutions given the positive—that is, not normative—present circumstances and those reasonably imaginable. And although the structural factors Maskivker points out (125) are likely to have an effect on political knowledge, such as different socioeconomic groups potentially benefiting from more or less exposure to political culture and participation, it is unfair to criticize Brennan and Caplan for their pessimism about voter competency. Neither explicitly says that voter competence could not be better given major institutional reformations—such as voter information courses or more direct participation in local government—simply that voter competency is not high now, has not been in the past, and that, all things being equal, there is no

reason to expect voter competency to substantially rise in the future. And although Brennan and Caplan come armed with a plethora of data reaching back seventy years, Maskivker comes armed only with the dubious sword of political heuristics, or "epistemic shortcuts" (82).

Maskivker's second criticism of the libertarian position—that libertarian theorists consider voting normatively uninteresting because no individual vote makes a difference to an election's results—may be true, but neither Brennan nor Caplan explicitly put this forth as a reason for their position. In fact, on this point Maskivker and Brennan seem to be in almost complete agreement. Both agree that if one votes one has a moral duty to vote well, and, further, that the weight of any individual vote in a large election is vanishingly small and by itself insignificant. It is only by choosing to conceptualize the individual vote as part of a collective that Maskivker magics it into a substantial difference maker (18).

To show why Brennan errs by leaving the individual vote as an individual vote, which by extension means any nonvoting is not immoral, since by itself that single vote likely would have made little difference in the outcome, Maskivker attempts to show that voting is like paying taxes or recycling and that individual effort in these areas is "insignificant" in the same way.

Paying taxes and recycling are both problematic examples, however. Taxes are not a moral obligation but a legal obligation, and Maskivker from very outset says that she has no interest in making the case that there is a legal obligation to vote (1). The recycling example is interesting but founded on a slippery slope. Being that recycling, as a small daily sacrifice, does not unduly burden the individual (akin to taking the time to read some current events each day to maintain minimal epistemic competence in order to vote morally), how, on the basis of Maskivker's qualified Rawlsian theory of "justice as fairness"—repackaged as "Samaritanism" (12)—is one not to begin to see such small, positive obligations everywhere? As the digitization of globalization intensifies, shrinking time and space, how are we not to see our decision to get a cup of coffee at Starbucks as a gross dereliction of moral duty? The cost of feeding an impoverished family in a developing country for weeks and a latte could be the same, and both are only a click away. How are we to avoid the inevitable slide to Peter

Singer's argument that any dollar spent on anything more than the necessities of life is immoral? Maskivker seems to recognize this problem herself, as toward the close of *The Duty to Vote* she admits: "This conceptualization of duties may mean that we ought to accept a more demanding picture of our duties of justice toward others, that is, a picture in which we are bound by more duties of help than we thought, or would like to admit" (170).

But returning to the question of whether individual votes really matter, given that political parties in the United States have significant control over the party platform and nominees, that they enjoy a de facto duopoly, and that very few of their members violate the very vague definition of acting in the name of justice and the public good as laid down by Maskivker, it is not clear why voting is a necessary obligation of choosing between "the lesser of the two evils." According to Maskivker:

> Just and fair governance, then, will be here taken to mean governance predicated on the aim of furthering the common good of society . . . requiring fair access to basic social goods such as individual liberty, a minimally good standard of living, peace, decent opportunities for achieving good health, income security, and other goods that it would be reasonable to think all rational agents will want regardless of anything else. (9)

Because she acknowledges there are many possible ways of achieving fair governance as she defines it (relying on the public or private sector, for instance), it does not seem unreasonable to ask who violates fair governance. Outside the embarrassing relic room of twentieth-century Strom Thurmonds, can one find even a handful of contemporary American politicians who do not support individual liberty, the right to an atmosphere conducive to obtaining good health, peace, a decent standard of living, et cetera in their own way—which Maskivker reasonably allows for? We will return to this question, as it hinges on a fundamental difference in how one conceptualizes justice, positively or negatively, and how one defines those positions.

Maskivker's last objection to the libertarian position is that voting isn't a morally special case because there are other ways of participating in politics which may be more effective. This author sees no normative objection to the principle that voting is a morally special case. It is, after all, the literal mechanism by which governmental actors are removed and installed. However,

as Maskivker herself complains, the government has long grown unresponsive to the needs and desires of society—thus not upholding justice (30). Siding with those who see American government as the secure captive of corporate interests, such as Sheldon Wolin, and noting the astounding reelection rate in Congress, Maskivker acknowledges that it is not clear what voting competently accomplishes. And although Caplan would argue that the government actually has been very responsive to the wishes of voters and that this is why such terrible policies have been enacted, if the government is not responsive and politicians are all but impossible to dislodge from office, all the well-intentioned and informed voting seems unlikely to matter.

As for Maskivker's normative theory of voting, it rests on two fundamental axioms, both of which are questionable: first, that freedom entails positive obligations—that is, one does not merely have an obligation not to harm someone, but has an obligation to help someone being harmed if it would not be too costly or dangerous; second, that epistemic competency is relatively low cost for voters to achieve and maintain. Both claims are problematic and fatally undermine Maskivker's further claim that what her theory calls for is not "beyond human ability." By her own conditions, a duty needs to be within human ability and not unduly costly. Ultimately, she fails to convincingly show that voting is a duty.

Making her case for freedom as obligation, Maskivker writes: "It is possible for a freedom to entail a duty without risking a contradiction. For example, if expressing your views will not harm you or loved ones, don't you have an obligation to speak up against rampant injustice when you see it affect those around you?" (1). Setting aside the question of why the moral obligation vanishes at the onset of some certain amount of personal cost to the individual, for the sake of argument the above reasoning can be accepted as valid: it still is not at all clear voting meets that standard. Consider some of the examples Maskivker provides as corroborating evidence: that one has an obligation to call the fire department if a building is on fire; that one has an obligation to help a friend with a broken leg board the bus; and that one has an obligation to ruin one's shoes to save a drowning child. Each case is a simple 1 = 1. It can be reasonably foreseen that a call to the fire department will elicit the arrival of the fire department and the subsequent quenching of the blaze; likewise, no soothsayer is

necessary to forecast that wading out into the water will result in the rescue of the child, nor is one necessary to portend that helping a friend onto the bus will result in their being on the bus. Although this author is all for simplifying concepts in order to clarify them, acting as if these situations were the same as choosing between a candidate who supports a single payer healthcare system and a candidate who proposes a private, free market system—or choosing between a candidate who supported the Trans-Pacific Partnership versus one who opposed it—is misguided but no less dangerous for that. Stunningly, as shall be seen, Maskivker's explications on the subject of minimal epistemic competency make clear that such considerations as detailed knowledge about trade policy or healthcare are more than she would deem necessary for the informed or "moderately interested voter" to know (84).

Drawing on Tetlock's work on political heuristics, Maskivker proposes—invoking F. A. Hayek, no less—that because of the diffuse nature of knowledge, a person's knowledge about local circumstances and needs can be reasonably seen to translate directly into knowledge about who they should vote for (108). In the midst of a chapter in which she bounces back and forth between deriding and lauding expert opinion, Maskivker announces:

> Despite the fact of voter incompetence, one should not fall prey to the belief that voters are completely unable to make minimally informed electoral choices because they lack knowledge of causal effects in economics and institutional design. Thoughtful reflection on the general morality of some of the proposals at issue in the election may be all they need to make a sufficiently careful decision at the ballot box. The rest should be the job of the people they elect." (128)

So, as long as voters have a basic understanding of the platforms of the two major parties, they should simply pick the one that feels more in line with their general sense of morality. This is the gist of the argument, and seems more than a little dubious, but assuming that it is true, how is the voter to even begin making such a determination based on this gut feeling, even with the simple either-or heuristic of the choice between a Republican or Democratic candidate, without knowing the details of specific policy prescriptions or having some notion of their merit? Consider that in 2016 Hillary Clinton had to backpedal from, and eventually drop, her support of a perfectly reasonable trade agreement (the Trans-Pacific Partnership) that she had helped negotiate because

her opponent shallowly but relentlessly demonized it and gained popular traction. Surely, if her supporters had half the epistemic competency Maskivker claims it is so easy to obtain and maintain, it should have been a simple matter of Clinton explaining the reasons for her position and why it was in their interest. But not so.

Although people use heuristics every day and could not really function without these mental shortcuts, anyone who has read the Nobel Prize–winning work of behavioral psychologists and behavioral economists such as Daniel Kahneman and Richard H. Thaler knows first-hand the pitfalls that reliance on heuristics breeds when employed in navigating any tasks beyond the cognitively routine. Even with no malignant outside intentions, heuristics are sometimes misleading, and in politics, as in all forms of business advertising, the average voter is being targeted by intelligent specialists using the latest data science and technology to manipulate their opinions. As Sarah Rose Cavanagh (2019) has shown in her most recent book, *Hivemind: The New Science of Tribalism in Our Divided World*, people are reaping those results. Further, the track record of the Republican and Democratic duopoly strongly suggests that voting for either of the two parties is hardly a recipe for good, or better-than-expected, governance.

On the topic of Hayek and voting with the "common good" in mind, all the epistemic competence in the world will not be enough for a person to know what other people want, or should want, given their relative social and economic positions. For all their differences, Maskivker and Caplan both agree that the literature supports the contention that voters are already voting for what they believe to be the public good. And that, this author argues, is a dead end, however epistemically competent people are, and is likely one of the thousand reasons governance is so poor. As Hayek showed some eighty years ago, the best way to ensure an optimal outcome is to allow individuals to pursue their self-interest because they alone have maximal knowledge of their local circumstances. It seems more promising to encourage people to vote selfishly—based on what they think they need rather than what they think others may want or need. And this goes back to the bountiful and, it must be said, facile examples Maskivker repeatedly trots out to purportedly prove that voting well contributes to maintaining a just society. Given that she admits voters are incompetent and rely on experts to turn their

vaguely defined moral preferences into policy prescriptions, it is hard to foresee how various policies, even the best intentioned, might turn out. Is there a policy prescription in the last twenty years that better exemplifies this parlous line of thinking than the unmitigated disaster which was No Child Left Behind? Are those well-intentioned, minimally epistemically competent voters who, with the public good in mind, supported candidates who voted for and crafted that policy morally responsible for its ruinous results?

Furthermore, returning to Maskivker's application of Tetlock's (2017) pioneering work on political expertise in making her case for mass voter competency and better government. First, Tetlock showed that extensively employed white-collar professionals with graduate school backgrounds and with weekly exposure to high-grade news publications such as the *Economist* and *Wall Street Journal*, could predict political outcomes about as well as purported experts in those fields—which is to say not well at all. Therefore, although Maskivker introduces Tetlock's work as though it justified declaring minimal epistemic political competence within everyone's reach, his work suggests otherwise: a relatively small fraction of the population satisfies those criteria and, further, it would not matter if the average citizen did obtain such competence because even the similar levels of political expertise demonstrated by the experts and nonexperts in Tetlock's research did not translate into impressive results.

Finally, a few comments on Maskivker's underlying theory of justice, particularly her claims that her Samaritan ethic is unobjectionable, her distinction between positive and negative responsibilities, and her conception of the immorality of nonparticipation. First, either her definition of what constitutes the fulfillment of the Samaritan ethic is so broad as to render it all but meaningless or it is so Rawlsian as to provoke objection by anyone in the classically liberal camp of someone such as Robert Nozick.

Second, Maskivker contorts the golden rule: it is not just to do unto others as one would have them do unto oneself in the name of preventing obvious harm, something which it is reasonable to imagine is both moral and feasible, but rather to do unto others as one thinks they would have one do unto them in the name of furthering an amorphous "collective good." This is not only not objectionable but completely unreasonable, particularly as it applies to voting. Although it can be sensibly argued that there

exists an obligation to help if it is easy to and if one knows that the action will directly secure the desired end, this is not how public policy works.

To elaborate this point, take Maskivker's chosen example of recycling: someone bought something—and for the sake of the example, it is granted that this person now has an obligation to dispose of it responsibly—knowing ahead of time that it would have to be recycled. This was a free and informed choice, so there is nothing objectionable about the obligation. What is objectionable is the pretense that one inherits a specific, positive obligation by virtue of being born, no matter what one does. This is a doctrine of original sin to go with Maskivker's Samaritan ethic. How can someone be expected to honor a positive obligation that they did not freely agree to? Of course, it is Maskivker's intrusive, progressive theory of justice which demands this. As already pointed out, her theory of justice is so evidently Rawlsian in origin makes that her repeated references to it as unobjectionable or minimally controversial are fairly head-scratching (12, 13, 98).

Third, as regards the morality, or immorality, of nonparticipation, it is difficult to countenance Maskivker's argument about voting for the lesser of two evils without a shudder; so truly unsettling is the logic she very calmly unfolds: those who do not participate in an activity are blamed for its ill consequences (148). The truth is that individual bad and good votes are equally irrelevant—the numbers are simply too big in the case of state and national elections, and it is irrational to say that a voter with limited means, limited influence, and limited knowledge is responsible for the unforeseeable outcomes of policies they did not personally choose—much less a person who did not participate at all.

Although there is debate over whether civic virtue or morality compels one to vote well, it is more helpful to consider the positive facts: the United States is highly undemocratic both by design and in actual practice. Voting for more Republicans and Democrats, based on lesser-of-two-evils thinking cloaked in a Samaritan ethic, is not the way forward. Arguably the most popular definition of insanity is doing the same thing over and over and expecting different results. Maskivker would seemingly like people to continue doing to do the same thing, and with a strong sense of moral self-satisfaction.

Although this author is sympathetic to Maskivker's underlying

desire to have a better electorate heading to the polls each December, the case for voting as a moral obligation falls flat. But in addition to making a case for voting as a moral duty, Maskivker includes a list of worthwhile reforms that would likely result in better political incentive structures and policy outcomes: reforming the primary system, proportional representation, ranked-choice voting, voluntary civic education, finding more ways for citizens to participate in local government, and incorporating the "blank vote" as a way to register protest against the subpar candidates on offer in a given election and eliminate guesswork about the meaning of voter nonparticipation.

A comprehensive review of such a studiously detailed book as Maskivker's would require a book-length reply; of such breadth, depth, and nuance are the arguments Maskivker makes. Bounded by considerations of space, this review has sought to show that although Maskivker's book is an important and necessary contribution to the current debate over whether voting is a right or a duty, it comes far short of being compelling.

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