

**Which form of democracy best meets the challenge to claims of group rights?**

In its broadest context as a political philosophy, democracy can be defined as separate from other political ideologies based on two key elements shared across all of its forms: the idea that all citizens of the community being governed have theoretically equal access to power and influence; and that all citizens have access to the same minimum rights and liberties.

With that definition in mind, it would seem that *all* forms of democracy have, as a core concept, a focus on meeting the challenge to claims of group rights (as at the broadest level, the entire community being governed is one 'group'). However, each model of democracy varies in what it considers a 'group', which rights it feels a group should have, and how those rights are guaranteed and enforced and any measure of the efficacy with which a model meets that challenge depends upon which democratic model most closely fits your own goals and beliefs – civic republicans and liberal minimalists may each feel that their chosen model is the most effective!

Civic republicanism has quite possibly the broadest, most inclusive concept of the 'group' of modern models of democracy, contending – according to Stokes (2002) – that all citizens within a community governed by civic republicanism form part of one universal group. Stokes argues that under the civic republicanism model there is an expectation of political participation by all citizens (at varying levels, ranging from jury duty to the highest levels of elected government) and, more importantly to a discussion of group rights, the pursuit of a good that is universal to all citizens.

What that means is that civic republicanism considers the pursuit of what is best for all of its citizens, not just a majority, is absolutely central to the function of the political community. This would more than likely include developing and securing basic

rights for all citizens – which can vary from one civic republican community to another, but would certainly include the right to an equal share of political 'power' (ie, one vote per citizen). Civic republicanism, therefore, seems focussed on nothing more than meeting the challenge to claims of group rights and the positive outcomes which may result.

However, any model which is focussed on the pursuit of the rights of a particular political community – even an especially broad one, such as that promoted by civic republicanism – must also quash the rights of certain groups: this could mean challenging the rights of another political community group if their perceived rights and goals differ, or even to ignoring and removing the rights of individuals or smaller groups *within* the community of enforcing their rights cannot be reconciled with what is perceived as the larger group's rights.

This leaves civic republicanism's reputation in meeting the challenge of group rights somewhat paradoxical; while ostensibly being focussed on nothing else, it is also open to quite possibly subjecting members of its own core 'group' to what Stokes (2002, p.34) describes as 'ultimate discrimination'.

Liberal minimalism suffers from a similar issue. Liberal minimalism emerged as an alternative to the concept of an absolute monarchy – it sought to move from the sole source of political power being the monarch to minimising the state's right to interfere with the lives of its citizens. To maintain any sort of order, this requires laying down some fundamental 'ground rules' by which everyone is expected to abide, and leaving the citizens to behave within those boundaries, intervening only when they break the rules.

Like any other political model, the specific 'rules' vary from one community to

another based on what the members of the community see as their goals and basic rights, but one would expect any system in which power lies in the hands of citizens to enforce basic rights to maintain that status quo.

Held (1996) identifies several key elements of the liberal minimalist model which are dependent on the guarantee of basic rights to all members of the political group: the right to vote (as under the liberal minimalist model, sovereignty lies in the hands of the citizens but is formally enacted by *elected* representatives making decisions on behalf of those they represent); the right to have your own individual or group political beliefs (liberal minimalism generally enforces a 'secret ballot' approach for elections, ensuring citizens feel no fear of retribution or reprisal to those who vote against those with the power to act against them); and a right to change the status quo if it isn't working (by means of regular elections).

To that end, liberal minimalism meets the challenge of claims to group rights on two levels: as in civic republicanism, by guaranteeing certain rights to *all* citizens who form the broader political group; and on a smaller scale, by virtue of being a representative system – each representative would be expected to wield an equal amount of power to promote the rights of the smaller group they represent.

However, Locke (1943) felt that while the transference of power from an individual or elite class to that of broader groups within the community was a positive thing, he saw in the liberal minimalist model a similar element of exclusivity as within the civic republican model: the 'rights' of one group – even the broad group which includes *all* citizens – as basic, fundamental and therefore particularly resistant to change, can ignore or even violate the rights of those who disagree with the implications of the guarantee of those rights. Locke provided a particular example in the

form of feeling that a victim of crime should, as the injured party, be allowed to determine the punishment of their assailant; but an assurance of basic rights would require the same rules to be applied to everyone, which would more than likely include the same punishment for the same crime. Changing this – even via the official system, by way of a referendum or some other form of vote – would then destabilise the entire system; so by not being able to vote for a change to the basic, fundamental rights of the system, the individual's right to equal representation and political power (one of those basic rights) is violated.

Held's (1996, p.116) description of the key elements of the developmental democratic form of democracy raises a similar concern. He describes the model as similar to liberal minimalism, but with a focus on *popular* sovereignty (that is, governance by popular/majority vote) rather than *representative* sovereignty (with the assurance of equal power for each group). At first it would seem that this form of democracy would be the least effective in meeting the challenge of groups rights, especially to those groups which do not make up part of the majority. However, Held goes on to explain that developmental democratic models trend towards 'social justice', an assurance of basic rights (typically a right to work, education and healthcare) to all groups, even those left out of the popular majority.

While the system of popular sovereignty can overlook the 'right' of groups to be heard – an example of this being the 1951 referendum in Australia over the possibility of outlawing the Communist Party; if the vote had supported the action, one group would have been silenced by the larger groups – it does ensure that there are at least some rights universal to all members of all groups, regardless of their size, status and influence.

That said, Macpherson (1977) contends that the social outcomes described by Held are not guaranteed, leaving room open for exploitation (the guarantee of basic rights does not ensure equal power to pursue other rights or goals). A larger group can wield its potential ability to obtain a smaller group's desired outcome to subvert the smaller group's rights; or the popular majority could even vote to change which rights are assured to manipulate a group.

The associative democratical model – or associationalism – seems designed in part to combat that potential weakness of developmental democracy. Smith (2008) describes associative democracy as a model in which 'human welfare and liberty are both best served when as many of the affairs of a society as possible are managed by voluntary and democratically self-governing associations'.

As a practical example, associationalism would support a right of collective bargaining – the ability for employees within similar industries or with similar roles within an industry to pursue outcomes (including the securing of rights) as a group.

The purpose of associative democracy is for as much as possible to be done by groups of like-minded individuals, such as in the example above. However, this runs into the same difficulty as the other models discussed here, as it does not provide a system in which absolutely equal rights can be afforded to groups with irreconcilable pursuits – one group's rights which always overcome those of another. Some rights, such as a 'right to a fair hearing', may be able to be maintained, but at some point either one group must emerge over the other or neither group can obtain what they desire, which means either one or both groups' rights must not be equal or assured.

By virtue of being democratic forms of governance, every democratic model must have as a core directive the desire to meet as effectively as possible the challenge

of meeting claims to group rights. The mechanism by which this is done and its efficacy can vary from model to model and can be perceived as superior or inferior depending on which model the judge adheres to – an adherent of associative democracy, for example, might consider civic republicanism's representative system superior to the popular sovereignty of developmental democracy, but a liberal minimalist may consider developmental democracy the best of a bad bunch – but all do face an identical challenge in meeting their aim: that of reconciling irreconcilable differences.

Wherever an irreconcilable difference is found between groups, it is impossible to guarantee meaningful rights to both groups; at some point, one group must get what it wants or both groups must miss out. Only a system which guarantees nothing more than the right of every group to be equally ineffective in pursuing its goals – such as an absolute monarchy where the monarch does not agree with any group on any issue - can hope to meet that challenge; and even then, there would probably be a group which would feel its rights were being subverted!

### References

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