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Introduction

Stephen Macedo

WHAT SHOULD democracy mean to us?

Given opinion polls showing plummeting confidence in democracy, particularly among the young, and fears of populism on the one side and elite domination on the other, amidst globalization and the internationalization of governance and the backlash against them, how can we revive faith in a democracy that is worthy of our faith?

These questions are as difficult as they are important. Democracy is what the political theorist W. B. Gallie called an “essentially contested concept”: theorists and advocates contest its meaning because they wish to proclaim the idea and march under its banner.

In these chapters, Richard Tuck—a famous and enormously influential scholar and teacher of political theory—offers an answer that is radical and intensely controversial, yet also familiar and, at face value, rather simple. We need to place our faith in what he calls “ultra-radical majoritarianism” (chap. 7 sec. I), which he locates in an interpretation of the political thought of Jean-Jacques Rousseau.

Tuck is a well-known proponent of the Cambridge school of political theory. This is the idea that while great texts in the history of political thought can be approached in various ways, primacy should be given to understanding their meaning in the context of the time in which they were written and received.

Far from turning his back on that historical approach, Tuck here argues that the best answer to the problem of democracy for our time is the answer that Rousseau gave in his time.

This volume is based on the Tanner Lectures on Human Values delivered by Richard Tuck at Princeton University in November 2019. Those lectures were organized under the auspices of Princeton's University Center for Human Values. On that occasion, each of Tuck's two lectures was followed by two commentators—each of them also a distinguished political theorist or philosopher. Both evenings featured much lively debate and discussion, as the present volume amply attests.

The text that follows consists of Tuck's two lectures (chapters 1 and 2) and the four commentaries, all of which were revised and, in most cases, expanded, plus Tuck's response to his critics, presented here for the first time.

In this introduction I provide a summary that highlights some main themes.

The contrast between “active and passive citizens,” which gives this book its title, is taken from Abbé Sieyès, whose great and enduring influence on the theory and practice of constitutional democracy Tuck regrets.

Both Sieyès and Rousseau endorsed the political equality of all citizens. But they differed sharply on how they conceived of people's role as active citizens.

On Sieyès's view, primary importance is assigned to securing people's fundamental rights to the “protection of their person, their property, their liberty, etc.” Rights should be entrenched in a constitution and protected by a constitutional court. People do also have the right to play a part in the “formation of public institutions”: by voting for representatives who deliberate about the public good and make the laws that the people live under, without the direct active involvement of citizens.

The result is that in liberal constitutional democracy, and thanks in part to the influence of Sieyès, the opportunity for active control of government by the citizens is attenuated and, Tuck argues, “all citizens” are “in effect passive” (chap. 1 sec. I).

Tuck offers a radical alternative: he defends majoritarian democracy in “rather old-fashioned terms.” His defense is advanced along two fronts. He argues first that majoritarian democracy is at the center of Rousseau’s political thought, properly interpreted. In addition, he argues for the attractiveness of majoritarian democracy on moral and practical grounds.

Rousseau’s “fundamental idea,” says Tuck, is “that no law carries obligation for us unless we have *actually* taken part in making it.” The people themselves are sovereign and must approve the laws under which they live, not through their representatives but directly, ideally by assembling and voting in person. As Rousseau remarked (*Social Contract* III.15), “Every law that the people has not ratified in person is null and void—is in fact not law.” And “Sovereignty . . . cannot be represented. . . . The deputies of the people, therefore, are not and cannot be its representatives: they are merely its stewards.” In sum, says Tuck for Rousseau, “the basis of all law must be the general will which is simply a majority vote by the entire population” (chap. 1 sec. III).

In order to be fully free, moreover, the people must possess legislative authority that is unbound by any higher law or authority. The only constraints, it appears, is that everyone’s right to vote is respected and the people have access to “adequate information” (*Social Contract* II.3).

The laws that the sovereign people must themselves consider are the fundamental laws of the political community—the constitutional and basic laws—not all the administrative details. These basic laws should be decided by a collective vote of the people, who ought then to acknowledge the decision of the majority as their own.

Is it really possible in our world, as opposed to Rousseau’s Geneva, for the people themselves to assemble together and vote? Rousseau “always expressed a strong preference for mass citizen assemblies if

they could be held,” says Tuck, but if the people could not “turn up in person . . . they had to *mandate* their delegates” (chap. 1 sec. III). Citizens must “bind the representatives to follow their instructions exactly, and . . . make them render their constituents a strict account of their conduct” in the legislature.¹ Frequent elections (short terms of office) would also help reduce representatives’ independence. This is “mandation”: if legislative power is delegated to representatives, the people should “mandate” or instruct their delegates how to vote. Tuck observes that plebiscites, a later innovation that Rousseau never considered, are also consistent with Rousseauian principles.

Tuck squarely rejects a wide range of familiar theories of democracy. He rejects what are called “epistemic” theories, which view elections as ways of arriving at “independently specifiable right answers” to political questions. And he rejects “sortition,” or the idea of filling seats in assemblies by drawing lots among ordinary citizens—as with juries—rather than election.

All of these alternatives lack an adequate appreciation of what Tuck calls the “agential view of citizenship.” Only where voting is central can citizens themselves “play a real and effective part” in important decisions and directly “bring about an outcome” (chap. 2 sec. III). Then democracy is “a kind of civilized and domesticated version of a mob” (chap. 2 sec V): mass action seeking to bring about change.

“Active democracy,” as Tuck defends it and finds it in the political writings of Rousseau, includes the idea that “everyone had to take part in the making of the laws which obliged them.” A natural question then is: what about resident aliens and women?

Tuck argues that not only citizens but all *habitants*, including resident aliens, “must be able to vote for the laws under which they” live (chap. 1 sec. IV). As for women, Tuck says that we should not assume, as most do, that Rousseau thought they should be excluded. He cites evidence that “very many women” voted in local meetings in France between 1789 and 1793; and some, including widows, were enfranchised as heads of households (chap. 1 sec. IV). Rousseau would also

have included resident aliens in the vote, lest they too be denied political freedom.

Tuck also departs from many others in interpreting Rousseau's most famous passages concerning the general will in the *Social Contract* (II.3):

It follows from what has gone before that the general will is always right and tends to the public advantage; but it does not follow that the deliberations of the people are always equally correct. . . . There is often a great deal of difference between the will of all and the general will; the latter considers only the common interest, while the former takes private interest into account, and is no more than a sum of particular wills.

Tuck argues that we should understand Rousseau as he was understood by his contemporaries, such as Jean-Baptiste Sallaville, who said, "the will of the majority is . . . the expression of the general will; it is Sovereign; it constitutes the Law. All the other wills should abase themselves before it; and its decrees must have the force of Destiny."

Suffice it to say that this interpretation is controversial and sharply contested by our commentators.

Let me conclude this cursory summary by noting some of the practical advantages Tuck claims for his "ultra-radical" majoritarian conception of democracy.

There is of course the familiar fact that the people's representatives and other political elites are liable to develop interests of their own, at odds with those of their constituents: the "Representatives of the people are . . . easy to corrupt." This is part of why people feel so alienated from government. The agential view of citizenship helps combat this by recentering power in the hands of the voting public.

As things stand, moreover, under representative government with judicial review and other "checks and balances," "people are encouraged to be 'active' citizens, and then at the crucial moment their

activity is blocked and the action is solely in the hands of their representatives.” In our system, voters “are *active* but not *decisive*,” capable more of “*agitation* than *action*” (chap. 2 sec. VII). The result is that people are encouraged to form and express their political opinions in an irresponsible manner, without regard to the consequences of their actual implementation, over which they have no control (chap. 2 sec. VII).

Even more strikingly, Tuck urges that we consider the “possibility that an unconstrained electorate might, counterintuitively, be a more reliable basis for civil peace than a system of entrenched rights.” Tuck argues that when courts decide, for example, that a right of access to abortion should be guaranteed notwithstanding the existence of state laws to the contrary, opponents may feel intense hostility at being subject to “inaccessible sources of power.” When the majority rules, in contrast, and voting decides all basic questions then the “temporary nature of any defeat . . . damps down the violent passions of the losers, since they live to fight again another day” (chap. 2 sec. IV).

At a time when many Americans profess concern about the possibility of civil war, it is worth considering Tuck’s suggestion that the political system “least likely to engender the kinds of hostilities that might lead to a coup” is unrestrained majority rule, since it allows “maximum scope for a relatively rapid change of policy” (chap. 2 sec. IV).

While acknowledging that the “social base of a confident democracy has been eroded,” Tuck concludes nevertheless that we should seek ways to “increase rather than decrease the effectiveness of voting as distinct from other forms of political action or representation.” The force of an “unconstrained and democratic citizenry” is the only thing capable of “countering the enormous power” of “modern capitalist enterprises” that wield so much power over our lives.



Following Tuck’s opening chapters (based on his lectures) are the four commentaries.

Joshua Cohen begins by noting that, on Tuck’s interpretation, the basic requirements of political morality are substantive for Sieyès and procedural for Rousseau. For Sieyès, “the state is legitimate when it

both protects” the “fundamental natural and civil rights” of everyone residing in its territory and when it makes “laws that advance the general welfare.” For Tuck’s Rousseau, in contrast, “political legitimacy is fundamentally procedural: a matter of how decisions are made”—by majority decision—“not of what is decided.”

Cohen then sets out a “different reading” of Rousseau’s political theory “as a marriage of procedure and substance.” This draws on Cohen’s own influential book, *Rousseau: A Free Community of Equals*.²

Cohen argues that Rousseau’s account of the “principles of political right” in the *Social Contract* sets out two distinct basic requirements. First, citizens’ basic particular interests (their “person and goods”) must be adequately protected; and second, each associate should remain “morally free” or “subject only to laws that ‘one has prescribed to oneself.’” (chap. 3 sec. II) The solution to the problem is to be found in a social compact in which each associate “puts his person and his full power under the supreme direction of the general will” and agrees to be governed on the basis of “their common interests or ‘common good,’” using “that shared understanding as the basis for” their own “political judgments.” Each agrees “to treat other associates as equals and only to impose burdens on others that they are prepared to live under themselves.”

And how is political freedom preserved when one lives under laws made by the political community? As Cohen says, “by sharing a conception of the common good that the laws are required to advance, members are able to achieve the autonomy that comes from acting on principles they recognize as their own” (chap. 3 sec. II). The “general will” is a “general willing whose content is an orientation to the common good.” Cohen quotes and glosses Rousseau: “‘what generalizes the [general] will’ is ‘not so much the number of voices, as it is the common interest which unites them.’”

In Cohen’s “more substantive picture of the general will,” both substance and procedure are important. Both are rooted in the “fundamental problem” of political legitimacy, which seeks the protection of people’s basic particular interests and the moral freedom or autonomy that we can achieve by being governed by principles we can recognize as our own. In contrast, “a freestanding willingness to accept the decisions of the majority simply does not solve the fundamental

problem, which requires the protection of the person and the goods of each” (chap. 3 sec. 2).

Cohen concludes by arguing that his account makes better sense of Rousseau’s active citizenship, and links his plea for the wedding of procedure and substance to Lincoln’s description of democracy as by and for the people.

Melissa Schwartzberg agrees with much of Tuck’s argument, especially his “conception of political agency as realized primarily through the exercise of voting power,” and she affirms that this provides “a deeply compelling response to the ostensible paradox of voting.” She also endorses Tuck’s critique of what she calls “strenuous forms of constitutionalism.”

Yet Schwartzberg argues that Sieyès, not Rousseau, is the “more plausible source” for an inclusive agential conception of citizenship. Sieyès provided a more expansive basis for citizen enfranchisement, says Schwartzberg, based on stakeholding, as compared with Rousseau’s demanding and exclusionary insistence that citizenship requires the possession of “moral and political capacities.” In particular, she characterizes as “a remarkable act of interpretive charity,” Tuck’s claim that we should not presume that Rousseau sought to exclude women from citizenship.

“Rousseau clearly believed that women did not possess the [demanding] qualities necessary for citizenship,” argues Schwartzberg. Here she at least partly joins forces with Cohen: Rousseau’s citizens must “focus on what is advantageous to the community” and not simply advance “their private or particular interests.” Not every political community will achieve this: “Only in well-ordered communities will the vote of the majority reliably yield the general will,” she argues (chap. 4). Rousseau’s political ideal of moral freedom is “*morally* demanding—it requires us to orient ourselves through virtue . . . toward the well-being of the community as a whole.” The general will requires more than majority rule, and crucially for Schwartzberg, this “is a standard that women, on Rousseau’s account, cannot meet.”

It is Sieyès, on the other hand, who has “the less demanding version of the general will that Tuck ascribes to Rousseau.”

So in the end, Schwartzberg observes that while Sieyès “leaves the vast majority of citizens in a position of relative passivity, as mere electors” of representatives, this does at least provide the basis for a more inclusive (because less demanding) suffrage. Rousseau’s more active and demanding conception of citizenship, in contrast, “required the exclusion of whole categories of persons.”

So where does that leave us? Schwartzberg concludes that we might think of modern citizenship, with its limited opportunities for direct participation and subjection to many forms of subtle domination, as at least offering opportunities for “passive-aggressive” citizenship: veiled strategies of subversion deployed against the powerful.

John Ferejohn identifies three “institutional principles” in Tuck’s account of Rousseau, and one moral principle.

The first institutional principle is generality: that “each person should be treated equally by the law” and that the basic laws themselves (which ought to be approved by citizens) must be “general/abstract.” The second pertains to “democracy in one country” and the “equal role in lawmaking” of all adult residents, with border controls. And finally, radical democracy: there should be direct majority voting for basic laws or decisions by elected and instructed representatives.

Underlying these, Ferejohn identifies a moral principle of “active democracy”: “Each person regards him- or herself as obliged to exercise his or her right to vote actively by playing the part of an agent in making the laws together with others.”

Ferejohn then elaborates a series of important questions. In the first part, he “asks whether Rousseau’s institutional prescriptions provide much help for Tuck’s radical democratic project.” He argues that “it is very hard to see Rousseau as committed to either equality in voting or to democratic government.” Further, he asks whether Rousseau’s institutional principles “actually constrain the government from acting arbitrarily”: government officials must interpret the laws and apply them to specific circumstances. Do the sovereign people

have a legal way of responding to mistaken interpretations or applications of law, and insofar as they do, doesn't this require a judgment that is "particular rather than general" (chap. 5 sec. I)?

Ferejohn also argues that for Tuck's radical democracy to be "alluring," the people must "see themselves as having the obligation to take active responsibility for the laws" as per the moral principle mentioned above. This is easier said than done, especially in large and diverse modern democracies.

The final part of Ferejohn's comment interrogates the treatment of outsiders seeking residence in the country, and of minorities within, "seeking protection against repression." In line with Schwartzberg's observations on the morally demanding character of Rousseauian citizenship, Ferejohn suggests that Tuck's radical democratic communities must have the authority to "restrict entry to assure that those who enter are suitably committed to common purposes," yet this might be "very demanding and potentially quite illiberal." Indeed, he asks whether maintaining the requisite moral qualities in the community might "also justify expulsions of those already in the community?" Tuck says little, after all, and much less than Rousseau, about where civic virtues come from.

There is much more to Ferejohn's valuable commentary, which concludes by noting that "most modern states are both much larger and much more diverse than Geneva was (even in its mythic past)." What protections are there for "unpopular or unsympathetic minorities"—Ferejohn mentions "religious minorities . . . liberal university professors . . . [and] other weird people"—besides the virtue and "moral self-restraint" of the majority? Is that sufficient for us to cast our lot in with unrestrained majority rule? (chap. 5 sec. III)



Our concluding comment by Simone Chambers has a distinct and constructive aim: to defend sortition—the random selection of some office holders from the body of the people themselves—as a promising option in the "toolbox of democratic institutions."

A more complex system of representative democracy that includes sortition, she contends, is a better than majority rule at accomplishing

some of Tuck's aims. It would curb the excessive power of the affluent better than majority rule: oligarchs can always make their influence felt in elections.

Radical advocates of sortition may embrace it as a substitute for elections, political parties, campaigning, campaign contributions, and other features of electoral politics. Chambers embraces sortition as a supplement rather than a substitute, yet she maintains that it "radically equalizes access to power." Those chosen by sortition are a "representative sample" of the population and are tasked with making "decisions on behalf of the public at large." A representative assembly chosen by lot—perhaps as a substitute for the United States Senate—would be a "mirror" of the polity in all its diversity, far more so than elected officials who must all compete for money and popularity.

In defending sortition, Chambers argues for equal access to office, not votes. She joins Tuck in criticizing modern constitutions, less because of "entrenched rights" than because elections were "intentionally designed to exclude ordinary citizens from office and power."

And finally, random selection provides "the platform for a certain type of impartial deliberation." Chambers insists that "Repeatedly, ordinary citizens show themselves to be competent deliberators able to employ nonpartisan evidence-based reasoning to solve problems."

Chambers concludes her commentary by challenging Tuck's contention that the agentive view of citizenship "is given full and adequate expression in majoritarian voting in which all citizens commit to throwing themselves behind the majoritarian outcome." Any such "democratic authorization" requires "a robust view of the conditions of opinion and will formation." If the majority opinion is formed under the heavy influence of "misinformation and propaganda," then, she argues, "basic conditions of democratic authorization" are lacking.

In other words, as Cohen argues, the conditions for realizing the general will in practice must be substantive and not merely procedural. The public must be adequately informed, as Tuck himself seems to allow, and the decision arrived at must fall within acceptable, reasonable bounds.

Chambers urges that if we want the whole people to stand behind majority decisions, then the minority must be enabled to feel that

“their case was addressed and honestly considered.” When that occurs, and only then, says Chambers, can we have a strong defense of majority voting.

Richard Tuck gets the final word, focusing on two main themes running through the commentaries. Jean-Jacques Rousseau could not have been an “ultra-radical majoritarian.” And, “ultra-radical majoritarianism is self-evidently a highly dangerous principle, and that is why we should not suppose Rousseau to have espoused it.”

I will let Tuck’s subtle concluding essay speak for itself. He stands his ground and in doing so provides, along with his opening chapters, the most powerful defense of majoritarian democracy that I have ever read.

With respect to the issue of how Rousseau should be interpreted, Tuck lays out the “‘modern’ natural law background” that Rousseau regarded with “contempt.” He explains Rousseau’s debts to Hobbes. For both, he argues, “majoritarianism . . . was important because it was a procedure that made as small a claim as possible to any authority beyond the purely political. It was not the substantive rectitude of the outcome, but solely the numbers of people supporting it, that made it authoritative.”

Take that, ye apostles of substance!

And as far as the prospects for democracy in our time are concerned, Tuck argues that as long as the right of everyone to vote is protected, we have less to fear from the power of majoritarian institutions than we do from the popular resentments encouraged by modern liberal constitutions, with their entrenched rights, politically independent constitutional courts, and increasing numbers of international agreements, all of which frustrate the people’s control of their collective lives.

Tuck ends with a stern warning: “Appeals to expand or protect democracy will fall on deaf ears unless the power of the vote is fully unleashed. . . . [A] mass electorate cannot be denied its power indefinitely without something like civil war being the result.”

Agree or disagree as you will, Tuck’s is an argument that no student of democracy can ignore.

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