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THERE IS NO INSTITUTIONAL DUTY TO VOTE

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Most democratic citizens believe in a duty to vote.[1] Philosophers in turn have adduced dozens of arguments purporting to establish such a duty. However, many and perhaps most of the major arguments for such a duty fail to overcome what Brennan calls the *particularity problem*—a problem that seems fatal to such arguments:

> To show there is a duty to vote, it is not enough to state some general goal or reason to vote which voting satisfies. Instead, one must show why voting is the *only* way to meet that goal, or must show why it is special and obligatory if there are other ways to meet it. For instance, a duty to avoid complicity with injustice could be met by volunteering, fighting in a just war, political activism, among other ways. A duty to contribute to the common good could be met by charitable donations, scientific contributions, and so on.[2]

Kevin Elliott has recently published a novel argument defending a universal duty to vote that he claims overcomes the particularity problem.[3] This critical response shows that Elliott fails to do so. We also outline other serious problems with his argument.

1. SUMMARY OF ELLIOTT'S ARGUMENT

Elliott's argument, in brief, alleges that everyone ought to vote because "universal turnout patterns" are needed to create the incentives and communicate the information that democratic representatives need to govern effectively.[4] Elliott understands democratic citizenship as being a particular role that carries a particular role morality. In brief, representative democracies require fair representation to function well, and, he claims, all citizens must vote to enable

1 Mackie, "Why It's Rational to Vote."
2 Brennan, *The Ethics of Voting* and "The Ethics and Rationality of Voting."
3 Elliott, "An Institutional Duty to Vote."
4 Elliott, "An Institutional Duty to Vote," 918.

fair representation. Borrowing from Jane Mansbridge, Elliott first discusses *promissory representation*.[5] Representatives make promises to their constituents, and constituents must hold them to account in elections. Elliott argues that "the logic of promissory representation cannot function well if any group of citizens is systematically excluded from this process. Any group that does not participate in the making and evaluation of promises can expect to have their interests neglected or actively harmed, because their judgment about how well representatives kept their promises to their group will go unregistered and conduct unsanctioned (or unrewarded)."[6]

Next is *anticipatory representation*. Elliott writes, "In anticipatory representation, representatives seek to please future voters through anticipating voters' reactions at the next election to what they do in office."[7] However, representatives have little electoral incentive to advance the interests of a group that does not show up to the polls. As Elliott puts it, "When a group habitually neglects to vote in proportion to their numbers in society, anticipatory representatives come to understand that they can neglect the interests of this group—even sacrifice their interests or actively exploit them—without incurring electoral danger. This contradicts the institutional logic of anticipatory representation since some constituents' views are not being anticipated."[8]

Last up is *gyroscopic representation*. Gyroscopic representatives are those who act in the service of their constituents without caving to external influence or pressure. "Mansbridge posits that it has to be easy to remove gyroscopic representatives, presumably because they might otherwise abuse the wide discretion afforded them. This is what elections do at their best—provide an opportunity to confirm or reject gyroscopic representatives and replace them if necessary."[9] Elliott argues that universal turnout is required to enable gyroscopic representation—without it, representatives may not advance the genuine preferences of all of their constituents.

To summarize, "the excellent functioning of representative democracy normally requires universal turnout."[10] From here, Elliott argues that individuals in their role as democratic citizens have a duty to contribute to this universal turnout by voting.

5 Mansbridge, "Rethinking Representation."

6 Elliott, "An Institutional Duty to Vote," 907–8.

7 Elliott, "An Institutional Duty to Vote," 908.

8 Elliott, "An Institutional Duty to Vote," 908.

9 Elliott, "An Institutional Duty to Vote," 909.

10 Elliott, "An Institutional Duty to Vote," 910.

2. Elliott's Argument Fails to Solve the Particularity Problem

Elliott's main argument is that universal voting ensures that representative democracy functions properly. Yet this goal can be promoted or met through means other than voting. Rather than solving or overcoming the particularity problem, Elliott's argument is simply another instance of it.

Suppose Eleanor volunteers to register voters. Janice is an election integrity official. Michael drives voters to polls. Karl's activism ensures hourly workers have paid time off to vote. Sally, in a state without such legislation, gives her employees the day off. Tom tutors citizens to make them more informed and effective voters. Examples like this can be multiplied endlessly. But suppose none of these people vote. Nevertheless, each of them acts to increase turnout and thus contribute to the proper functioning of representative democracy, as Elliott describes it—despite not voting. Indeed, they have contributed *better* than they would have by voting. Suppose Hundley enables one hundred people to vote who otherwise would not by driving them to the polls in his limousine, but he does not vote himself. Wanda casts her one vote, but does not facilitate the votes of anyone else. By Elliott's own lights, Hundley outperforms Wanda in their roles as democratic citizens contributing to the proper functioning of representative democracy. Yet Hundley does not vote and Wanda does. Thus, Elliott fails to show that everyone must vote; the grounds for voting can be discharged through other means. This is the particularity problem, again.

Consider an analogy. Suppose there is a duty to contribute to feeding and clothing victims of disasters. Lindsey does not directly feed or clothe anyone; she instead drives thousands of volunteers to the disaster site in her limousine. Indeed, suppose that more of the victims of the disaster will be fed and clothed if she spends her time driving other volunteers than if she serves as a volunteer herself. It would be implausible and unfair to insist that Lindsey fails to contribute to the disaster relief efforts. By driving other volunteers, she helps *more* than other individual volunteers.

Elliott cannot deny that registering or driving voters, or the other activities we described, promote the goal that grounds his theory of the duty to vote. So he must give us some account of why these alternatives cannot substitute for voting. Indeed, since many of them are on their face more effective than casting a vote, we might instead demand to know why voting substitutes for them. Elliott already recognizes that he cannot respond with "Why not drive voters to the polls *and* vote?" because the answer could be "Why not spend more time driving voters instead of voting?"

Strictly speaking, this paper could end here. Elliott's central goal was to overcome the particularity problem, but he does not. The underlying goal that

grounds a purported duty to vote can be discharged without voting, so his argument does not succeed.

3. ELLIOTT'S ARGUMENT PROVES TOO MUCH

Elliott might grant that we have shown that he has not overcome the particularity problem but insist that this leaves open the possibility that voting remains morally special, such that everyone has an obligation to promote fair and equitable turnout, either directly by voting or indirectly via the means we discussed above. (Presumably, Elliott does not want to say that *very* indirect means—such as paying taxes or fighting in the military—count as helping. This trivializes his argument.) This section explains why Elliott has failed to defend even this weaker claim.

Many arguments for a duty to vote prove too much. To illustrate, consider the classic argument that if no one voted, this would be disastrous. Therefore, the argument goes, there is a duty to vote. Geoff Brennan and Loren Lomasky parody this by noting that if no one farmed, that would also be disastrous. But there is no general duty to farm.[11]

Even a weakened version of Elliott's argument faces this problem. According to his argument, voting (or promoting voter turnout in general) is obligatory because "it is a particular, institutionally specific need of electoral representative democracy," and democracy is an important and valuable institution:

> Why should I fulfill the expectations representative democracy places on me? Here, I pass the buck to justifications of representative democracy. I assume that there are strong arguments for representative democracy and that these provide us with reason to want it to persist. This in turn means we have reason to want to do our part to support it. The task of the present discussion has been to clarify how individual inputs of votes are linked to institutional functioning and so, by extension, to the ultimate justifications for representative democracy itself.[12]

So, we can ask, if performing some action is a particular, institutionally specific need of some valuable and important institution, does it follow that performing that action is a universal duty? Parallel cases show otherwise.

Volunteering as a firefighter is a particular, institutionally specific need of volunteer fire departments, which are valuable and important institutions. Teaching is a particular, institutionally specific need of schools, which are

11 Brennan and Lomasky, "Is There a Duty to Vote?"

12 Elliott, "An Institutional Duty to Vote," 918, 910.

valuable and important institutions. Attending law school is a particular, institutionally specific need of the judicial system, which is a valuable and important institution. And so on. But it does not follow that everyone is obligated to volunteer to be a firefighter, to teach, and to attend law school. We need only *enough* people *of the right sort* to take those actions. So, that *X* is a particular, institutionally specific need of a valuable institution, even an institution essential for justice, does not imply a universal duty for everyone to provide for *X*, even indirectly.

4. PERFECT DEMOCRACY IS NOT A REAL GOAL

Perhaps having enough people vote is not adequate; Elliott could insist that the *perfect* functioning of democratic institutions requires universal participation. We are skeptical of this move. First, it is implausible that universal participation minus one (or even many thousands) is functionally different *at all* from universal participation. Indeed, Elliott agrees; he explicitly states that his argument does not depend on implausible claims about the impact and efficacy of individual votes.

Suppose instead there *is* something special that makes universal participation necessary for the perfect functioning of representative democracy. Still, one must show that there is a duty to contribute to the perfect functioning of representative democracy but not to the perfect functioning of other valuable institutions. Maybe the town fire department will function "perfectly" only if everyone volunteers (for instance, the department will save the cat stuck in a tree one-tenth of a second sooner with universal participation), but it will function equivalently in all important respects (for instance, the same amount of damage, lives lost, injuries, and so on) if *enough* people volunteer at it, and others volunteer at the town hospital instead. It seems clear that we have no duty to volunteer at the fire department, at least in those circumstances where it does in fact have enough volunteers already.

But suppose that you deny this and insist that everyone has a duty to volunteer at the fire department to ensure its perfect functioning. This reply gives rise to another problem. Time spent volunteering at the fire department is time not spent volunteering at a hospital, a library, a food bank, and so on. If you spend your time volunteering at the fire department rather than at the hospital in order to ensure the department's perfect functioning, then you have violated your duty to contribute to the perfect functioning of the *hospital*. It is simply not feasible for each individual to contribute to every valuable and important institution.

There is a simple resolution to this problem: allow that people have some moral discretion about which valuable institutions to contribute to. Plausibly

you are obligated to contribute to *some* valuable institutions, but not all. However, this resolution defeats the argument for a universal duty to vote or otherwise promote turnout—just as you have the moral freedom to volunteer at the fire department rather than at the hospital, you have the moral freedom to volunteer at the hospital but not promote voter turnout.

One reply is that democratic governments are different from fire departments and schools in virtue of being significantly more impactful. But this is just Julia Maskivker's argument, from which Elliott intends his argument to be distinct.[13] So an initial worry about this potential response is that it would not yield a *novel* defense of a duty to vote.

In any event, it is worth exploring Maskivker's argument. Her view, in brief, is that there is a special obligation to contribute to good governance because governance is the most impactful collective activity to which one can contribute. As Maskivker puts it, "Governments are massively powerful giants whose policies can influence the economy, the geopolitics, and the general welfare of society in a way few other entities can."[14] She states, "*Because* governments are so influential, their justice *should* be seen as a central justification for voting."[15] She grants that in many cases an individual vote will not make a difference to whether or not good governance is provided, but she defends a duty to vote well nevertheless: "We do not assess the moral permissibility of individual actions according to their *difference-making* impact on a collective result. Rather, we assess individual actions according to the nature of the collective activity to which they contribute."[16]

A key objection to this argument is that the impact of one's contribution to a collective activity—and not simply the impact of the collective activity itself—is morally relevant.[17] Imagine that Habitat for Humanity is undertaking two housing projects. The first one will shelter a family of eight, and the second one will shelter a family of four. Let us simply stipulate that the positive impact of building the first house is greater than the impact of building the second house. But settling the impact of each house does not settle the question of where a volunteer ought to make their contribution. Suppose that there are more than enough volunteers working on the first house. Adding yourself as one more volunteer will not make a difference as to whether or not the house gets built. Suppose, though, that there are too few volunteers working on the

13 Maskivker, *The Duty to Vote*.

14 Maskivker, *The Duty to Vote*, 133.

15 Maskivker, *The Duty to Vote*, 133.

16 Maskivker, *The Duty to Vote*, 51.

17 See Freiman, *Why It's OK to Ignore Politics*, 96; and Brennan and Freiman, "Must Good Samaritans Vote?" 294.

second house. Your contribution will make or break the attempt to build the second house. Intuitively, you should contribute to the second house rather than the first because your contribution is far more impactful. This point stands even though the impact of the first house itself is greater.

Similarly, a national presidential administration is surely more impactful than a local fire department. But in most cases, contributing a single vote will not make a difference as to whether or not a given administration comes to power because there are already plenty of voters. By contrast, contributing to the common good in other ways will often make a difference as to whether, for instance, someone is rescued from a burning building because the fire department might otherwise have a shortage of volunteers. As in the housing case, the mere fact that good governance is more impactful than good firefighting does not imply that one ought to contribute to the former rather than the latter.

5. Rules and Role Morality

We could interpret Elliott as offering a broadly rule consequentialist argument along the following lines: representative democracy functions best if all (or most) democratic citizens comply with a rule instructing them to vote, and this fact generates a duty to vote that applies to all citizens.[18] This argument would explain why everyone has a duty to vote even though an individual vote on the margin makes no difference. By analogy, it is plausible that judges ought to decide every case fairly even if an unfair decision in a particular case actually produces a better outcome.[19] Intuitively, it seems wrong for a judge to decide a case unfairly even if an unfair outcome would lead to more fair or beneficial outcomes over time. (Maybe the decision involves allowing a guilty but fair judge to go free so that she can continue to decide cases fairly.) Just as the legal system functions best if all judges play their role and decide each case fairly, the system of representative democracy functions best if all citizens play their role and cast a vote. We believe this argument for a duty to vote runs afoul of three objections.

An initial worry here is similar to our initial worry about appealing to Maskivker's argument—resting Elliott's defense of a duty to vote on a rule consequentialist foundation would sap it of its originality. As we understand it, Elliott aims to produce an original defense of the duty, an aim he would not accomplish by an appeal to rule consequentialism (as opposed to role morality), given that rule consequentialist defenses of voting date back to at least the 1970s.[20]

18 We owe thanks to an anonymous editor for suggesting this possibility.

19 We owe thanks an anonymous editor for this case.

20 See, for example, Harsanyi, "Morality and the Theory of Rational Behavior," 649–50.

Let us now turn to the rule consequentialist argument itself. First, as critics of rule consequentialism have noted, if the justification for following a rule is to produce the best consequences, then it is hard to see why one would be justified in following the rule when breaking it has the best consequences.[21] For instance, if the point of following a rule against stealing is to maximize human welfare, then plausibly one should break that rule when doing so maximizes human welfare (for instance, by stealing a life preserver to save a drowning child). Those persuaded by this objection would simply bite the bullet and deny that one should follow a rule when breaking it produces the best consequences (or makes no difference, as in the case of an individual vote).

We note that the opportunity costs of voting are not always high.[22] However, in some cases the opportunity cost of voting will exceed the benefit, and these cases militate against Elliott's attempt to establish a *universal* duty to vote. Take a particularly dramatic example. The odds of a voter in Washington, DC, casting a decisive vote in the 2020 presidential election were one in two hundred forty trillion.[23] Suppose, then, that a high-wage worker in DC faces the choice between working an additional hour for one hundred dollars and donating that money to an effective charity or spending that hour registering to vote and casting a vote. Here the opportunity cost of voting exceeds the benefit, and so the worker plausibly should not vote. If this is correct, then the duty to vote is not universal. The cost of voting will exceed the benefits in less dramatic cases as well—namely, where voters reside outside of swing states and thus have extraordinarily small chances of changing the outcome of the election.

The second objection emphasizes that one's obligation to follow a rule is sensitive to whether others are following that rule. Consider a case from Richard Arneson.[24] The best consequences would result if all (or most) soldiers complied with a rule instructing them to stand by their post. But suppose most of your fellow soldiers do not in fact comply with this rule and retreat when attacked. Here it seems as though you should break the rule and retreat so that you can survive and continue fighting at a later date. Indeed, in line with the discussion above, breaking the rule does a better job of promoting the goal that justifies the rule (for instance, military victory) than following the rule.

Returning to the case of voting, we know that a large percentage of people will choose not to vote, even if it were their duty and they agreed it is. After all,

21 See, for instance, Smart, "Extreme and Restricted Utilitarianism."

22 We're grateful for an anonymous referee for emphasizing this point.

23 Gelman and Heidemanns, "Forecasting the US Elections."

24 Arneson, "Sophisticated Rule Consequentialism," 239.

many people who believe there is a duty to vote nevertheless do not vote.[25] Thus, if the goal is to work toward fair, equitable, and representative elections, then perversely, Elliott's argument implies that in the real world, with imperfect and uneven turnout, people from overrepresented groups have a duty not to vote. For instance, in the real world, high-income people vote at higher rates than low-income people, so a richer person would better satisfy Elliott's goal of promoting fair and equitable representation by abstaining than by voting.

Third, establishing that representative democracy functions best if everyone follows a rule instructing them to vote is not enough to overcome our objection from the previous section. Even if the town fire department functions best if everyone in town follows a rule instructing them to volunteer as a firefighter, it does not follow that everyone is obligated to volunteer as a firefighter rather than, say, as a hospital worker. As noted, it is infeasible for individuals to contribute to *every* valuable institution, so Elliott needs to argue that representative democracy is special such that there is a duty to contribute to it but not to other valuable institutions.

6. Conclusion

Elliott's paper is explicitly meant to solve the particularity problem. However, he does not show that democracy is special in a way that generates universal duties to contribute; moreover, the goals and reasons that underlie this purported duty to vote can be discharged through other means. Indeed, his argument implies many people would better support these goals by abstaining rather than by voting. So his argument is unsuccessful.[26]

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25 Elliott considers the objection "that universal turnout is unnecessary because turnout that is unbiased but not universal would work just as well. Yet this is an empty debater's point. The only practical way to approximate unbiased turnout is by making it universal" ("An Institutional Duty to Vote," 912). However, universal turnout is infeasible. For instance, Australia *mandates* voting and does not secure universal turnout. See Vinayaka, "Compulsion Emboldens Democracy." Thanks are due to an anonymous referee for making this point.

26 We owe thanks to an anonymous editor and two anonymous referees of this journal for their helpful feedback on earlier versions of the manuscript.

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