

Towards A Fully Democratized Conception of Political Ethics

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*Major Strasser has been shot ...
Round up the usual suspects!*
- Captain Louis Renault (Claude Rains), "Casablanca"

The Usual Suspects and Beyond

To the popular imagination, the idea of political ethics is probably somewhat oxymoronic, akin perhaps to military intelligence. Far from being paragons of virtue, politicians are widely viewed as displaying insensitivity to ethical norms and as having an unusual propensity for corrupt and ethically dubious behaviour. Public servants do not enjoy a much better reputation. Thus when the issue of unethical conduct in politics arises, those usually, and perhaps naturally, suspected of misconduct are public officials. Moreover, we suspect that unethical political conduct has certain characteristic features – it involves bribery, abuse of power, patronage or conflicts of interest. When we think there has been unethical conduct in politics, the suspects we usually round up are public officials and we usually suspect that their ethical lapses consist in the violation of some explicit law or rule that regulates the manner in which they are supposed to discharge their public responsibilities.¹ Our idea of the usual suspects, if you will, in political ethics reflects a certain conception of the scope and content of political ethics. This is roughly the view that political ethics is concerned with the conduct of public officials in relation

¹ In some public discourse, unethical political conduct can also include certain kinds of personal sexual conduct – e.g., extra-material affairs.

to readily identified, though perhaps complex, public rules and regulations. Moreover, something like this conception of political ethics is adopted implicitly in academic explorations of political ethics. A good deal of valuable scholarship in political ethics involves careful scrutiny of the legal structure, normative character and efficacy of existing schemes² for the regulation and guidance of the conduct elected officials and public servants. In this sort of work, scholars track, compare and contrast different features of various mechanisms (in different political communities) that have been put in place to encourage ethical conduct by public office holders. Thus there are studies that investigate similarities and differences between the conflict of interest regulations in different jurisdictions. Similarly, there are attempts to determine how the implementation of such regulations or changes to regulatory schemes affects the conduct of public officials. We ask what sorts of policies or institutional features, if any, foster ethical conduct. We also consider apparent enigmas such as why citizens increasingly view public officials – especially politicians – as highly prone to unethical behaviour in the face of empirical evidence that ethical lapses by public officials – i.e., violations of actual ethics rules etc. – have not appreciably increased and may indeed have declined over time (Saint-Martin).

The conception of political ethics at play here is in many respects an entirely reasonable one. After all, here and elsewhere, the usual suspects are usually the usual suspects for some good reason. Conflicts of interest and other familiar kinds of transgressions by public figures really do matter. But sometimes we miss something important if we focus only on the usual suspects. So here I shall try to go beyond the

² The schemes may range from criminal law, to conflict of interest regulations and guidelines to general declarations by public institutions of values that are supposed to guide officials in discharging the responsibilities of public office.

usual suspects by considering how our conception of political ethics might have a somewhat different complexion if we view political ethics as essentially and deeply animated by democratic ideals. I hasten to add that the reflections I offer here are provisional but what I shall try to sketch is the analytical structure of what I will call a ‘fully democratized’ conception of political ethics. Just what this means, I shall try to explain below but it may be helpful to make a few prefatory remarks about the elements that comprise a conception of political ethics.

Constructing a conception of political ethics can be viewed as a largely normative exercise³ aimed at addressing four related issues. First, there is an issue of scope: whose conduct is subject to scrutiny from the perspective of a conception political ethics? Second, there is the matter of substantive content: what norms should be employed to evaluate the conduct of those eligible for scrutiny. Third, there is a justificatory issue: why do certain norms have authority for the evaluation of conduct? Fourth, there is a matter of compliance: how can adherence, by the relevant agents, to the requisite ethical norms be effectively and appropriately secured?⁴ Each of these issues can be broached in a more or less abstract fashion. At the abstract level, we seek to plot the general contours and animating principles of a conception of political ethics. This is done with a view to addressing more specific and practical issues concerning the specific duties of different agents and the particular institutional arrangements and social practices most conducive

³ The task I am describing is different than the project of describing and interpreting the features and structure of a conception of political ethics at work in a particular jurisdiction or political community. For an example of this type of project see the ‘constructive interpretation’ of the evolving character in conflict of interest in American politics provided by Andrew Stark (Stark 2000).

⁴ I distinguish ‘effectively’ and ‘appropriately’ since there are ways of securing adherence to norms that might be effective but which would not be appropriate.

to realization of the conception. My analysis tends towards the more abstract end of the spectrum.

Fully Democratizing Political Ethics: Some Initial Features

A democratic conception of political ethics is one in which the answers to our four questions are developed by consulting and interpreting core democratic values. Ultimately, this yields a conception of ethical political conduct⁵ as conduct that displays fidelity to a democratic ethos. A democratic ethos can be understood as a set of values and commitments embraced by members of a community who are dedicated to a flourishing and not merely functioning democracy. Some of the basic contours of a defensible democratic ethos seem fairly straightforward. Democrats are committed, for instance, to non-violent means of resolving political disagreements that are open, transparent and procedurally fair. In representative forms of democracy, we expect contenders for public office to abide by the articulated rules of fair democratic procedure both in the pursuit of power and in the exercise of power that comes with elected office. We expect public officials to be responsive to the concerns of specific citizens and constituents but also to act in the public interest. Democracy also has deliberative and justificatory elements. Democrats value informed, reflective, open and honest discourse about political matters in which reasoned justifications for policies and positions are presented and considered by politicians and citizens alike. More fundamentally, the democratic ethos expresses a commitment to basic political equality. Citizens of a democratic community have equal moral standing – everyone matters and matters

⁵ In this paper, I focus only on ethical appraisals of conduct. However, I think the general analysis advanced here could be extended to ethical appraisals of character. Ethical judgements are also often made about institutional arrangements and such judgements will play an important role in democratic theory and discourse. But I do not directly broach that topic here.

equally. Citizens have, consequently, an equal voice in the project of collective decision making. This ideal of equal standing also implies requirements of mutual respect and toleration. So even though democratic politics is characterized by a plurality of interests and ideological perspectives that compete in the partisan political arena, democratic citizens acknowledge the basic rights of other citizens to express and pursue their political beliefs.

It would be misleading to suggest that common conceptions of political ethics are entirely detached from democratic values. After all, the objective of various existing ethics regimes is plausibly linked to enhancing public confidence in the various public institutions and processes through which public policy is crafted and implemented. An animating idea here is the notion of the public interest. Corrupt practices such as the acceptance of bribes by public officials jeopardize the legitimacy of democratic institutions by undermining the processes through which judgements about the public interest should be made. Similarly, conflict of interest regulations have a parallel democratic rationale. We worry that the judgement of public officials as to what constitutes the public interest (in some particular setting) will be inappropriately influenced or 'encumbered' by a private interest that they hold (Stark 2000). Thus in an effort to ensure that the judgements of public officials are animated by the public interest and not private pecuniary interests, we establish regulations aimed at blocking the influence of private interests on the judgement of public officials. All this is continuous and compatible with viewing political ethics as ultimately animated by democratic ideals. However, my sense is that the ties between democratic ideals and political ethics are sometimes more implicit than explicit and that some of the implications of grounding a

conception of political ethics in democratic ideals have not be sufficiently explored. So we might say that, many existing conceptions of political ethics are only ‘partially democratized’. A fully democratized conception offers a broader account of the scope and content of political ethics. Or so I shall argue.

At this stage, it may be useful to provide preliminary indication of how the idea of fidelity to the democratic ethos might lead to a reconceptualization of political ethics. Consider first, the issue of scope from the vantage of democratic ideals. Democracy involves collective self-government by all the people. A flourishing democracy thus depends on more than the conduct of public office holders, it also depends crucially on the meaningful participation in democratic institutions by ordinary citizens. What then are we to make of citizens who fail to participate in politics – e.g., those who do not bother to vote or who are abysmally ignorant about political matters? Should a conception of political ethics venture judgements about the conduct of citizens? A fully democratized conception of political ethics permits an affirmative answer to this latter question. If, as seems plausible, fidelity to the democratic ethos requires citizens to participate in politics then those who do not vote act unethically by flouting the requirements of a core democratic norm. Of course, what constitutes sufficient participation in democratic politics by ordinary citizens is a difficult and potentially controversial question. Nonetheless, it seems reasonable to suppose that there is some minimum threshold of political participation that is required by fidelity to democratic ideals. In the absence of special excusing conditions, extreme political apathy can be judged unethical. The main point here is that the conduct of citizens and not just public officials can be scrutinized from the point of view of political ethics. To some, this may

be a surprising and contentious expansion of the scope of political ethics. Note, however, that we already implicitly recognize that some judgements of political ethics extend beyond the conduct of public officials. For instance, presumably it is not just the acceptance of bribes by an official that warrants condemnation from the point of view of political ethics but also the act, by a private citizen, of offering a bribe.

Second, consider the issue of the substantive content of norms of political ethics. Suppose we accept the claim that the democratic ideal has a deliberative component. The processes through democratic decisions are made should include informed, reasoned debate and discussion of the merits of different policies. Of course, the partisan political interests of some parties are not always served by participating in or facilitating reflective democratic deliberation. Political advantage can be gained by avoiding reasoned debate or by distorting the views and arguments of opponents. But the idea of fidelity to the democratic ethos suggests that participants in democratic politics have deliberative responsibilities – i.e., responsibilities to conduct themselves in ways that facilitate rather than frustrate open, honest, and reasoned deliberation about matters of political importance. Here too there may be some controversy about what must be done to successfully discharge one’s deliberative responsibilities.⁶ But once again it is reasonable to suppose that we can identify some threshold standard that provides a basis for evaluating the conduct of agents in the political arena. Agents who flout this standard can be identified as acting unethically. This sort of reconceptualization of political ethics has two noteworthy features. First, the range of potentially unethical conduct extends beyond more familiar forms of unethical conduct such as bribery or conflicts of interest. Second,

⁶ There may also be dispute about precisely who has deliberative responsibilities and to what degree different agents have different deliberative responsibilities.

the wrongness of the conduct need not consist in the violation of laws or formal rules expressly designed to regulate the conduct of public officials. Instead, unethical conduct can consist in conduct that though not expressly illegal or contrary to official regulations nonetheless fails to display fidelity to the democratic ethos.

The Challenge of Essentially Contested Democratic Concepts

The viability of a fully democratized conception of political ethics depends on the possibility of identifying core democratic ideals and determining what fidelity to them can reasonably require of different agents. Moreover, the conclusions we reach about these requirements are themselves constrained by an ideal of democratic legitimacy in the following way. Authoritative standards for the appraisal of the conduct of agents must be ones that are, in some relevant sense, sanctioned or endorsed by members of the democratic community. Here, however, we encounter an important challenge: democracy and its constitutive ideals are ‘essentially contested’ concepts (Gallie 1956, Connolly, 1989). There is vigorous, long-standing and reasonable disagreement - both theoretical and practical - about what fidelity to the democratic ideal consists in. These disagreements are the staple of contemporary democratic theory (Christiano 2003). Thus theorists advance rival conceptions of democratic ideals on subjects as diverse the design of voting systems, constitutional arrangements, the relation between individual rights and majoritarianism, the nature of public reason and deliberation and so on. The fact that the very nature of the democratic ideal is the subject of continued contestation arguably jeopardizes the possibility of identifying a reasonably authoritative interpretation of what fidelity to the democratic ideal might consist in. Which variant of democratic theory is

the source of the authoritative standards of ethical political conduct required by a democratized conception of political ethics?

The proponent of any given understanding of democratic ideals is apt to favour reliance on the democratic theory they take to be sound. And from the point of view of ideal theory, this preference makes a certain amount of sense. Our standards of ethical conduct should be informed by the best, truest, or soundest theory of democracy and that theory may not express norms that currently command the widest assent. But ideally legitimate norms are probably too controversial to guide the construction of a conception of political ethics that has any hope of practical applicability. The norms we try to identify must resonate, to a reasonable degree, with a community's own self-understanding of its democratic commitments. Otherwise the norms, even if they have impeccable philosophical justifications, will appear as alien and external impositions that lack relevance to the agents to whom they are supposed to apply. So in developing an account of political ethics as fidelity to the democratic ethos we cannot simply import standards from our favoured philosophical theory of democracy. Instead, we must try to construct our conception from the idea of a political community's accepted democratic consensus.

The general idea here is that even though democracy and its constitutive ideals are contested concepts, there will be, at least in reasonably established democratic communities, an identifiable consensus concerning a set of general 'democratic commitments'. By democratic commitments I mean practical understandings of democratic values reflected in the institutional arrangements, social practices, traditions, and the democratic convictions of citizens. These commitments enjoy a kind of

legitimacy. They can serve as an authoritative source for the evaluation of political conduct in virtue of satisfying two conditions. First, the democratic commitments can be credibly represented as ways of giving effect to abstract core democratic ideals. This first condition assumes that a set of essential but abstract democratic values can be identified and what these values are is not, itself a deeply contested matter. Contestation occurs at a different level of political discourse when efforts are made to determine the finer grain implications of these ideals. Thus I assume that any democratic community displays a broad commitment to the ideal of political equality. However, what a suitable commitment actually consists in a given setting is subject to contestation. (E.g., is a system of proportional representation preferable from the point of view of political equality than a first past the post system?) This first condition is a kind of objective condition on authoritative democratic commitments. What matters is not whether the members of the community believe their community is democratic but whether the basic practices actually satisfy reasonable but general construals of core ideals. For example, a community that denies women the franchise is not democratic even if it represents itself as democratic.⁷

Second, democratic commitments must enjoy de facto general acceptance as the legitimate expression of the community's current understanding of democratic ideals. This condition does not mean that everyone, or indeed anyone, believes current practices are ideally legitimate. Thus citizens can, even though they accept as authoritative the current democratic consensus about the legitimacy of institutional arrangements etc., contest the adequacy of current democratic practices. For example, a citizen can believe

⁷ I assume that general denial of the franchise to adult citizens is straightforwardly inconsistent with democratic political equality.

that proportional representation is more democratic than a first-past-the-post system but still accept that the government that won power in the latter system has authority to make policy. This second criterion can be viewed as a subjective component of legitimacy since it identifies authoritative democratic commitments with a kind of de facto acceptance.

We can respond to the problem that democratic ideals on which a democratized conception of political ethics depends are 'essentially contested' and hence not suitable for a conception of political ethics by focusing our interpretative efforts on the values that satisfy these two criteria. In developing the democratic conception political ethics, we ask not what fidelity to democratic ideals requires per se but rather what fidelity to the understanding of democracy that satisfies the objective and subjective criteria require. This strategy will not guarantee that the resulting conception of political ethics has no contentious components. But it may permit us to steer clear of the problem having to resolve debates about essentially contested democratic concepts before we can determine what fidelity to the democratic ethos requires.

Law As A Source of Democratic Commitments

An illustrative example may help to clarify the foregoing proposal. Consider the role of the public interest in political ethics. An uncontroversial feature of democracy that public officials should strive to act in public interest. Such an requirement is a general and uncontested feature of the democratic ideal. At an abstract level, we can say that public officials display fidelity to the democratic ethos and thereby act ethically (from the point of view of political ethics) by acting in the public interest. Yet what constitutes the public interest or even what procedures are best relied upon to identify the public interest

are an essentially contested matters. Citizens and democratic theorists alike typically disagree about how the public interest is to be conceived and also on what steps should be taken by public officials (in a given context) to ensure that they successfully discharge their responsibilities in this regard. Faced with this situation, members of a democratic community can nonetheless devise norms and procedures that are credibly aimed guiding officials in serving the public interest. For instance, it has become increasingly common for the exercise of political judgement about the public interest to occur within the parameters of conflict of interest regulations. We cannot agree precisely about what constitutes the public interest and we cannot be sure whether the holding of a private interest by a public official will actually ‘encumber’ his or her judgement of where the public interest lies. However, since it is plausible to suppose that an official’s judgement about the public interest might be ‘encumbered’ by certain financial interests, we can put in place rules requiring public officials to decline gifts, place their holdings in a blind trust and so on. The wisdom or efficacy of any set of conflict of interest regulations can, of course, be challenged and critiqued. However, once regulations have been adopted through a suitably democratic process they provide an accepted standard for assessing the ethical conduct of public officials. The rules reflect a credible, though obviously incomplete, understanding of the core democratic duty of acting in the public interest. Against the background of general acceptance of the legitimacy of these rules, fidelity to the democratic ethos by public officials requires, among other things, abiding by these rules. So on the view sketched here, ethical political conduct will involve adherence to the rules governing conflict of interest even if, from an ideal perspective, a different conflict of interest regime would, in fact, better serve the public interest.⁸

⁸ I assume here that adherence to the rules does not result in obvious and egregious damage to the public

In light of this we can see how a democratized conception of political ethics helps to explain why breaches of conflict of rules are appropriately viewed as *unethical* political conduct. Acting in the public interest is required by fidelity to the democratic ethos but what this requires more concretely is supplied by the democratically authorized rules governing conflicts of interest that credibly give content to that ideal.⁹ So fidelity to the democratic ethos in this context requires respect for particular set of rules.

Other Sources of Democratic Commitments

So far, I have suggested that a conception of political ethics can be viewed as an interpretation of what, in a particular jurisdiction, fidelity to the democratic ethos requires. Identifying the substantive content and scope of a defensible conception involves identifying the (reasonable) understandings of democratic ideals that are reflected in a community's democratic commitments. Of course, the democratically adopted laws and rules are perhaps the most obvious and readily identified aspects of a community's democratic commitments. It is easy to identify such standards and fairly easy to determine what fidelity to them (and hence fidelity to the democratic ethos) requires. Indeed, a partially democratized conception of political ethics might view the requirements of political ethics as supplied more or less exclusively by the legal rules which give expression to aspects of core democratic values. a partially democratized conception of political ethics might be indistinguishable from common construals of political ethics in which the ethical conduct is narrowly construed in terms of adherence to laws, rules and legislated codes of conduct. However, I suggested above that a fully

interest. I am not defending the view that ethical political conduct consists simply in following democratically adopted rules and laws. In some, hopefully extreme cases, following democratically adopted rules may actually result in a betrayal of the democratic ethos.

⁹ This view also explains why there can be legitimate variation in different jurisdictions concerning the precise content of conflict of interest regulations.

democratized account of political ethics offers an account of ethics that is broader in scope and content than this.

The plausibility of a broader conception of ethics depends on the possibility of identifying aspects community's democratic commitments that though not codified or enforced are nonetheless manifestations of a democratic ethos and from which we can extrapolate norms for the assessment of conduct. In short, we need non-legal sources of democratic commitments. The task of identifying and interpreting such commitments is less straightforward than cataloguing and analyzing rules and laws. However, it is plausible to suppose there must be such commitments. First, not all the dimensions of a successful democracy can be realized legislatively. For instance, it seems reasonable to suppose that at least some citizens should reflectively thoughtfully on major political choices they face. Yet it seems clear that we cannot create legislation mandating thoughtful political reflection. Second, ordinary public discourse suggests that some important democratic commitments lie beyond the ken of the law. Consider norms of civility that are plausibly understood as expressions of mutual respect. Although politicians often fail to satisfy such norms consistently there is, I think, broad acceptance of the idea that exchanges between political opponents should be courteous and respectful. The all too common phenomenon of political 'debates' that are characterized by cacophony of voices and constant interruptions of one speaker by another represents a departure from civil discourse that many citizens lament. But any attempt to legislate civility seems misguided. Nonetheless, it is appropriate to make evaluative judgements about the conduct of politicians in such settings that appeal to norms of civility. We think that politicians ought to conduct themselves with greater civility. On the view I am

sketching here, such ought claims can be represented as judgements of political ethics because their underlying rationale is, in good measure, located in democratic ideals.

Clues to a community's non-legal democratic commitments are likely to be found in a variety of sources: political and social history, general public discourse, culture and literature. However, identifying these commitments will be an interpretative rather than a mechanical exercise. In this process democratic theory can play a role in framing the search for commitments by providing us with core ideals that can serve as focal points. Consider, for instance, the abstract ideals of citizen participation, democratic deliberation, political equality, political justification, mutual respect, the public interest, and representation. For each of these values we can consider what our culture, history, literature, popular discourse etc. reveal about the shape our abstract commitment to these ideals takes or aspires to take. We first try to understand the character of the democratic commitments we accept and then determine what fidelity to these commitments might require of various agents.

A Tripartite Analysis of Judgements of Political Ethics

A democratized conception of political ethics treats judgements of political ethics as continuous with judgements about what constitutes respect for democratic ideals. I have suggested that democratic commitments are expressed in both legal and non-legal norms. In light of this, I think there is reason to distinguish between different kinds of judgements of political ethics and I propose the following tripartite analysis. For each category of judgement, there is a norm that provides a threshold for the evaluation of conduct. Conduct that falls below the threshold can be considered politically unethical. First, consider what I shall call 'anti-democratic' conduct. Conduct that directly subverts

democratic processes that have been collectively and expressly authorized by a political community is anti-democratic. Typically, anti-democratic conduct involves violation of explicitly articulated laws or rules. So activities ranging from vote-rigging and bribery to abuse of office and self-dealing insofar as they involve violations of explicitly articulated and democratically legitimate rules governing democratic procedures all count as anti-democratic.¹⁰ Second, there is a category of what I shall label ‘undemocratic conduct’. This is conduct that, while it does not violate explicitly articulated rules, nonetheless violates authoritative but non-legal democratic commitments of a community. For example, if democratic discourse is regulated by a norm of civility then incivility in political debate can be considered undemocratic. Similarly, if there are democratic commitments to informed democratic deliberation then gross misrepresentation or distortion of an opponent’s views is undemocratic. My claim is that the first two kinds of judgements enjoy a kind of normative authority as judgements of political ethics since they derive from the understanding of democratic ideals about which there is broad consensus.¹¹ The third category of judgements of political ethics is quite different. In this category are judgements of unethical conduct that can be termed ‘democratically contestable’. In this category, I mean to place judgements citizens can advance about what fidelity to the democratic ethos requires but which are not licensed by authoritative democratic commitments. Some of these judgements will be about policy matters that are the subject of political debate. For example, a someone might claim that an ethical

¹⁰ There may be some forms of conduct that can be considered anti-democratic even if they do not violate the legal strictures that govern democratic processes. For example, conduct by an elected official aimed at subverting or preventing the emergence of democracy in another country may not be illegal but it is, nonetheless, anti-democratic and politically unethical.

¹¹ This is not to say that everyone agrees that the norms are ideal – i.e., the best interpretation of basic democratic values. Rather the idea is that there is broad consensus that the norms have authority in virtue of (a) their basic plausibility as interpretations of basic democratic ideals and (b) their de facto acceptance by the community.

politician should support the establishment of a system of proportional representation because democratic values are best served by such a system. Or they might claim that an ethical politician should oppose abortion because the unborn are part of the democratic community. Other contested ethical judgements may concern the personal conduct that putatively bear on democratic politics. For example, perhaps it is wrong for the minister of education to send her/his children to private school. Or perhaps it matters whether candidates for political office avoided military service. The point is not that these sorts of judgements are never plausible or defensible but rather that the grounds on which they are advanced lack the normative authority (in political ethics) of judgements that have the backing of democratic commitments. So from the vantage of a democratized conception of political ethics, democratically contested ethical judgements lack democratic legitimacy. Consequently, it would not be reasonable, from a democratic point of view, to insist that the conduct of agents be guided by such judgements.

On a fully democratized conception of political ethics we may reasonably assess the conduct of agents as politically unethical in two ways: conduct may be anti-democratic or it may be undemocratic. Both types of conduct count as ethical failings. However, not all ethical failings are equally serious. Some transgressions are grave, others are relatively minor. In general, I would say that the deeper the assault to democratic ideals, the graver ethical misconduct is. Vote rigging is worse than bribe taking by a minor official even though both are anti-democratic. Grossly distorting the views of a political opponent is arguably worse than swearing at him in the course of public debate even though both are undemocratic. Note, however, that we need not conclude that anti-democratic conduct is always more politically unethical than

undemocratic conduct. After all, there can be cases in which undemocratic conduct represents a greater assault to democratic commitments than anti-democratic conduct. For example, an official who accepts a small gift in violation of conflict of interest regulations probably displays less contempt for the democratic ethos than a politician who refuses to address pertinent questions about the policies he supports. In short, the normative significance of a norm is not necessarily a function of its source.

Unusual Suspects and Unfamiliar Sins

I suggested above that a fully democratized conception of political ethics is likely to be broader in scope and content than more familiar understandings of political ethics. Now that I have provided an overview of the approach, let me return briefly to these themes. Once we claim that conduct can be assessed not simply in relation to the legal strictures of a democratic community but also in relation to authoritative but not codified norms of that community, many more kinds of conduct plausibly fall within the ambit of political ethics. Consider first, the range of agents whose conduct might legitimately be subject to scrutiny. In addition to the usual suspects of public office holders, it will be legitimate to assess the conduct of political consultants, public office seekers, citizens, members of the media and private business persons. The reason for this expanded scope should now be clear. A democracy is a complex cooperative venture. Its success depends not just on the structure of institutions but on the conduct of various agents within these structures. Against that background, it makes sense to ask how public officials should conduct themselves if they are to contribute to the flourishing of democracy. But the same kind of question is equally pertinent for other agents. After all, for each of the agents just identified we may coherently ask what fidelity to the democratic ethos

requires of them. Moreover, from a democratic perspective, we have no particular reason to think that the conduct of officials is always the most important factor in a successful democracy. So pursuing these inquiries is relevant to the health of democratic politics. And isn't it the health of democratic politics that initially inspires our attention to political conduct by public officials in the first place?

Now turn the issue of substantive content. Suppose, as I have suggested, inquiries under the rubric of political ethics should include consideration of what I have called 'undemocratic' conduct and suppose we reflect briefly upon some of what this might mean in relation to ideals of participation, deliberation, and public justification. Participation in democratic processes by members of a community is clearly important to the health of democracy and, even in communities without laws compelling voting, it seems plausible to suppose that there a democratic commitment to participation. Fidelity to a democratic commitment of political participation would seem imply a duty for citizens not only to vote but to thoughtfully engage themselves with democratic processes. Willful ignorance of politics becomes ethically problematic. Citizens, in normal circumstances, who flout this duty act 'undemocratically'. And in a sense this means their conduct is politically unethical.

Consider next the idea that democratic processes should facilitate informed deliberation on the political choices faced by the citizenry. Against the backdrop of this kind of democratic commitment we might reasonably scrutinize the conduct of political consultants who find ways to manipulate rather than inform and persuade voters. This

kind of conduct, though legal, is arguably inconsistent with democratic commitments and hence can be assessed as ‘undemocratic’ and hence politically unethical.¹²

These are, of course, only very sketchy illustrations and they are only intended to provide an indication of direction a fully democratized conception of political ethics might take if developed. But it is clearly a conception that takes well beyond the usual suspects and the familiar political sins.

Two Sources of Skepticism

Even if the general idea of viewing political ethics as fundamentally animated by democratic ideals seems plausible, I anticipate at least two skeptical responses to the way of developing that idea I have described above. Both expression reservations about the inflationary tendencies of the proposal. There is a concern that the terrain encompassed by political ethics will be pointlessly or fruitlessly over expanded.

First, it can be objected that the non-legal democratic commitments on which the possibility of identifying authoritative norms of ‘undemocratic’ conduct depends are insufficiently robust to guide judgements of political ethics. Even if we can provide a reasonably uncontentious identification of the norms, the norms will too vague in their practical import to guide ethical judgements reliably. For instance, while it may be true that there is a democratic commitment to civility and reasoned political discourse, what this actually requires of agents in the hustle and bustle of real world democracy is too difficult to discern precisely. (It might be added that an advantage of a conception of political ethics tied to legal strictures is precisely that codified norms generally provide clear and unambiguous (if perhaps rigid) guidance.)

¹² Similar remarks can be directed to members of the media.

Second, it can be objected that non-legal democratic commitments do not, in fact, enjoy the sort of political legitimacy I have accorded them. To the degree, that such commitments are more than rhetorical invocations of abstract ideals they are more properly understood falling into the category of democratically contested norms. For example, contrary my supposition perhaps the norm of civility does not enjoy special normative authority in regulating political discourse. While some endorse civility, others may reject it in favour of a strategic conception of democratic politics in which the only constraints on discourse are those prescribed by law and sound political strategy. In effect, this objection holds that the only source of democratically legitimate norms for the guidance of ethical political conduct are those rooted explicitly in democratic legislation. The first objection holds that legitimate non-legal democratic commitments are genuine but fuzzy. The second rejects the possibility of authoritative non-legal norms altogether.

To the first objection, I am inclined to concede that the guidance provided by non-legal democratic commitments is more elusive and perhaps more subject to dispute than that the guidance supplied via legal norms. Nonetheless, even if the norms suffer from ineliminable vagueness, this does not mean that their import is vague in every relevant respect. We cannot define precisely what political civility requires in any given circumstance but we are nonetheless able to identify clear and paradigmatic instances of objectionable incivility. This means that judgements of undemocratic conduct will likely lack the precision of judgements of anti-democratic conduct. But it does not mean we can never confidently judge conduct as, in the relevant sense, ‘undemocratic’.

In response to the second objection, I would reply that democratic legitimacy itself cannot fully be explained by reference to wholly legal norms. At some point, the de

facto attitudes, beliefs, and commitments of people underwrite the legitimacy of a political system. So in general, I do not think the existence of authoritative non-legal democratic commitments can be wholly rejected. However, I concede that the scope of democratic contestation may be wide enough that the set of authoritative non-legal democratic commitments will be quite small. And that might have the effect of diminishing the overall significance of the proposal. If most relevant norms for the guidance of conduct in politics turn out to be broadly legal ones, then a fully democratized conception does not, in fact, go much beyond the usual suspects and the usual sins. However, I do not think we can ascertain what the range and content of these commitments without further exploration. At this stage, the idea of a fully democratized conception of political ethics serves more as a way of thinking about the contours of political ethics than a conception with substantive conclusions about the content of political ethics. I have described a framework for a theory rather than a substantive theory itself and whether a subsequent substantive theory will bear fruit remains an open question.

A Concluding Note: The Challenge of Compliance

Investigations of political ethics are, I assume, partly motivated by the hope that our analyses might reveal ways in which compliance to ethical norms might be achieved or improved. We are interested, for example, in what kinds of conflict of interest regimes best achieve valued objectives. A standard question that arises here concerns what conduct should be subject to regulation and what kinds of enforcement mechanisms can be relied upon to foster ethical conduct. Often the principal concern is with preventing unethical conduct rather than encouraging conduct that is especially laudatory. We rely on law, for instance, to deter and punish what I have called ‘anti-democratic’ conduct.

That is a familiar and well-studied strategy. A puzzle arises with respect to fostering adherence non-legal democratic commitments. In particular, how can we deter ‘undemocratic’ conduct when legal regulation is not available or appropriate and there are strong incentives – e.g., the pursuit of partisan political advantage – to engage in ‘undemocratic’ conduct? Part of the answer lies in civic education. We hope that through such education, citizens can internalize a commitment to the democratic ethos that is motivationally efficacious. We can also adjust to the design of our formal democratic institutions to make them more receptive and responsive to non-legal democratic commitments. These are the approaches to improving the character of democracy that are familiar to students of political philosophy: improve the curriculum, expand civic education, and reform democratic institutions. But arguably this is not sufficient. If we are to move closer to the realization of a fully democratized conception of political ethics, we shall also have to find ways of enhancing our collective understanding of and dedication to our own democratic commitments. In particular, we need to find ways of providing more powerful expressions of non-legal democratic commitments without, on the one hand, succumbing to the temptation to codify them and on the other hand, permitting them to languish as merely aspirational ideals. In my view, part of what is required here is broader and more consistent public discourse about what fidelity to the democratic ethos requires of a range of agents. By talking seriously about the broader demands of political ethics, perhaps we can give explicit collective expression to non-legal democratic commitments in a way that makes them harder to ignore. Of course, talk can be cheap and talk of talk can be even cheaper. In democratic communities already plagued by political apathy it may prove difficult to initiate meaningful dialogues about

such matters. Still, I hope that the democratized conception of political ethics sketched here is sufficiently attractive to make the prospect of further dialogue about it and its implications appealing at least to scholars of political ethics.

REFERENCES

Gallie, W.B. 1956. "Essentially Contested Concepts." *Proceedings of the Aristotelian Society*.

Christiano, Thomas. 2003. *Philosophy and Democracy: An Anthology*. Oxford: Oxford University Press.

Connolly, William E. 1989. *The Terms of Political Discourse*.

Saint-Martin, Denis. 2004? 'Watergate Effect' {Find correct citation}.

Stark, Andrew. 2000. *Conflict of Interest in American Political Life*. Cambridge MA: Harvard University Press.

Thompson, Dennis. 1987. *Political Ethics and Public Office*. Cambridge MA: Harvard University Press.