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Liberal Ends, Democratic Means? A Response to Josiah Ober's *Demopolis*

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Josiah Ober, (2017) *Demopolis: Democracy Before Liberalism in Theory and Practice*.

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It's a great honour and pleasure to be asked to comment on Josh Ober's latest book, especially since *Demopolis* is perhaps my favourite work of his to date. It's his most personal book, written seemingly to give hope to liberal friends by suggesting that even if some of the values they hold dear appear to be under attack, not everything that they value need be lost. It's his most synthetic, combining ancient history and political theory as well as numerous themes that he's explored elsewhere during his career. And it's his most sympathetic, in that he writes with appealing candor about the difficulties of 'selling' democracy on its own merits – without a familiar leavening admixture of liberalism – to those who may be unconvinced. Most admirable of all is the depth and sincerity of Ober's commitment to democracy, which animates every page.

The book thus represents a political intervention, and on that score, it succeeds. The importance of drawing attention to the idea and practice of 'basic democracy' as distinct from the later liberal tradition is entirely persuasive.¹ Ober's conclusion is also convincing: that basic democracy can provide both a durable foundation for many if not necessarily all liberal norms (perhaps even a more durable foundation than liberal democracy itself? Ober doesn't go that far, though I'll entertain the possibility shortly) and a usable and decent form of government for those who are not committed to liberal principles, such as (perhaps most importantly) state neutrality towards religion.

¹ On which see now H. Rosenblatt, *The Lost History of Liberalism* (Princeton: Princeton University Press, 2018).

Ober's emphasis on civic dignity is especially welcome. The manifestation of equal respect in the form of equal political rights and freedoms found in democracy is surely one of its most attractive features. The idea that citizenship implies worthiness to participate in politics – not only by voicing one's views, but by playing an equal role in decision-making processes, i.e. by voting – is a crucial part of the modern democratic imagination, just as it was in ancient Greece. As Ober observes, the key term here is *timê*, honour. What isn't stressed in this book is the direct connection between *timê* and political activity. The Greek word for civic disenfranchisement, *atimia*, was derived directly from *timê*. Those citizens who for one transgression or another were barred from participating in assemblies, councils or popular courts were quite literally dishonored.

The language of honor may sound slightly anachronistic today; 'respect' is probably more appropriate. To be excluded from political participation is to be disrespected, while equal decision-making power both presupposes and strengthens mutual respect, which as Ober argues is one of the most important bonds that hold communities together. I'd add that feeling adequately respected is plausibly a precondition of some valuable liberal attitudes: toleration, generosity, hospitality-to-strangers. There's an argument that education rather than law is the best way to cultivate liberal citizens. Not feeling systematically disrespected is surely a necessary psychological foundation, which as Ober suggests democratic institutions can go a long way toward supporting.

Yet arguably the most interesting feature of *Demopolis* is the way it combines historical and theoretical argument, and it's with respect to the historical material that some differences open up between Ober and me. It seems to me that – despite Ober's intention of separating out 'basic democracy' from the more familiar liberal-democratic version – the picture of Athenian democracy that he presents is more liberal in important ways than the original.

To some extent, this situation arises because Ober is so clear-eyed about what he's afraid of. He wants to do everything in his power to bury the allegation that Athenian democracy was majoritarian tyranny, that is, that it meant 'the unconstrained domination of the many poor over the wealthy few, i.e. the tyranny of a self-interested majority faction.'² Ober argues that, on the contrary, classical Athenian *dēmokratia* was legitimate, limited, collective self-governance by all citizens.³

2 J. Ober, *Demopolis: Democracy Before Liberalism in Theory and Practice* (Cambridge: Cambridge University Press, 2017), p. 22.

3 Ober, *Demopolis*, pp. 14, 21, 29, 32.

The claim that *all* citizens were involved in government turns out to be particularly important. Ober doesn't draw attention to this, but the duty of political participation by citizens established by the Founders of Demopolis – the theoretical counterpart of democratic Athens – goes considerably beyond classical Athenian norms. The closest thing to it in our evidence is the story that Solon, the early 6th-century Athenian lawgiver, stipulated that in times of *stasis* – factional conflict or civil war – no one should remain neutral; rather, everyone should pick a side, on pain of disenfranchisement.⁴ But there is no evidence that any such regulation was observed even in Solon's day, let alone that it persisted into the democratic era. As Ober knows, it was perfectly possible to be 'quiet' or uninvolved in politics in Athens, even if – as Thucydides suggests – such people ran the risk of being called 'useless.'⁵ There was no legal requirement to take part in assemblies or courts or to put oneself forward for spots on the council of 500, though there were certainly important incentives to do so: pay, for one thing, since those who voted in the mass judging panels were paid from the mid-fifth century, as were assembly-goers from the beginning of the fourth century; and power, for another, in that the votes of mass gatherings of ordinary citizens were decisive.

Yet Ober doesn't build these incentives or the concomitant possibility of non-participation into his model. Rather, he simply states that those who do not wish to take part in politics in Demopolis will not be citizens.⁶ Accordingly, Demopolis enjoys true government by the people, for the people, where 'people' signifies the entire citizen population. And the only alternative to this system that Ober countenances is a vision of unbridled class conflict, that is the many poor ruling over the wealthy few, prevailing purely on account of their superior numbers – the interpretation of Athenian politics that he staunchly rejects.⁷

Since the interpretation of Athenian democratic politics as majoritarian tyranny has helped to fuel anti-democratic sentiments for the past twenty-five centuries, any refusal on the part of avowed democrats to deny that interpretation may seem the purest folly.⁸ If even democracy's friends would agree that 'basic democracy' was effectively mob rule, need its enemies say more? And yet Athenian democracy was, both in spirit and in practice, considerably closer to the rule of the many poor over the few rich than Ober, in this book, is willing

4 Ps. Aristotle, *Ath. Pol.* 8.5; Plutarch, *Solon*, 20.

5 Thuc. 2.40; cf. L.B. Carter, *The Quiet Athenian* (Oxford: Oxford University Press, 1987).

6 Ober, *Demopolis*, pp. 55, 170.

7 Ober, *Demopolis*, p. 18.

8 See e.g. J.T. Roberts, *Athens on Trial* (Princeton, 1994).

to admit – though something of that characterization was, perhaps, implied in earlier works.

As I read the evidence, ancient Greek *dēmokratia* was surprisingly seldom conceived by contemporaries as self-government by all citizens. We may start with the term *dēmos*.⁹ According to Ober, its primary meaning was ‘citizenry/people,’ and it had secondary meanings of ‘the citizen assembly’ and ‘the lower classes’ (p. 27). But the ancient evidence from Homer on – in fact, arguably as early as the Mycenaean tablets of the 13th century BC – suggests that the ordering of these meanings is misleading. The *primary* meaning of *dēmos* was ‘assembly,’ meaning a gathering of ordinary, non-elite people: an audience, a crowd, even a mob.¹⁰ *Dēmos* suggested a group of people conceived as a single entity or agent, and that singular conceptualization arose because the group had physically gathered together to perform some collective activity, such as to hear the views or decisions of their rulers (as is often the case in Homer) or to take part in decision-making themselves (as in later democracies). Most crucially, *dēmos* in our archaic and early classical texts – i.e. both prior to and in the early years of ancient Greek *dēmokratia* – consistently represented an entity distinct from its leaders, that is from the kings, counsellors, orators and others who had an impact on the community not through participation in a collective agent but through individual activities such as representing the community to outsiders, speech-making, or administrative functions.

The distinction between those who participated in politics through collective action and those who were individually politically significant is perhaps not perfectly captured by the idea of the ‘many poor versus the wealthy few,’ since it was entirely possible both for rich men not to take leading roles in politics and for at least some poor men to do so, whether from time to time or more habitually. But the basic polarity – between, on the one hand, a mass of relatively unimportant and typically poor men whose strength lay in their numbers, and on the other, a much smaller number of politically significant and often much wealthier men who enjoyed personal political agency – is a staple of our ancient evidence.

Any account of ancient Greek democratic politics that implies that all citizens, *qua* citizens, had a similar relationship to political power is to that extent obfuscatory and owes too much (even unconsciously) to the modern liberal conception of citizens as equal, individual rights-bearers. In Athens, citizens

9 For details, see D. Cammack, ‘The *Dēmos* in *Dēmokratia*,’ *Classical Quarterly*, 69 (2019).

10 ‘Mob’ was more often indicated by *ochlos*, but many observers argued that the difference between *demokratia* and *ochlokratia* was moot, and as I will suggest, they may not have been entirely wrong.

were indeed equal in the sense that all had an equal right to vote in the assembly and law-courts (if they could attend) and to speak publicly (if they dared), and that the laws applied equally to all. But citizens were unequal in the sense that some, inevitably, relied on collective agency in the political arena, while others did not, and that distinction was of critical importance to both the idea and practice of *dēmokratia*. The former group, the mass, was the *dēmos*, the latter the elite; and, in a twist arguably unfamiliar today, the mass was on top.

Together the *dēmos* and the elite made up the *polis*, the ‘citizen-body’ or ‘city-state.’ Not until *dēmokratia* was established as a mode of government did the name for the majority part of the citizen population, *dēmos*, become used – occasionally – as a synonym for *polis*, the entire citizen body. This made perfect sense, since in *dēmokratia* it was precisely the *dēmos* in the sense of the assembly of ordinary citizens that made decisions on behalf of the entire community (*polis*). But *dēmos* did not originally or primarily denote the entire citizenry. Rather – just as critics such as Plato emphasized – it signified the lower-class majority who took part in collective political action, in contradistinction from those who played individual political roles.

Now, obviously, Ober is keenly attuned to the tense relationship between the mass and the elite in ancient Greek democracy. This relationship is the subject of one of his earliest and still most important books, *Mass and Elite in Democratic Athens* (1990). And the two of us agree in supposing that the biggest threat to democracy, both in the ancient world and today, comes not from the supposed ignorance or incompetence of ordinary people, or from a lack of ideal speech situations, or from inadequate constitutional checks and balances, but from elite capture of the political system. Our disagreements are much less significant than that broad agreement. Nonetheless, our disagreements, beginning with our different interpretations of the term *dēmos*, have significant consequences for the characterization of basic democracy. Because on Ober’s interpretation, basic democracy means collective self-rule, that is, the rule of all citizens over themselves, while on mine, it means the rule of the part of the community that participated in collective political action over those who were politically significant as individuals.

This interpretation of *dēmokratia* is supported not only by the meaning of *dēmos* but also by the meaning of *kratos*.¹¹ Ober defines *kratos* as ‘the capacity to do things’,¹² but the texts point in another direction. ‘Capacity to make

11 For details, see Daniela Cammack, ‘The *Kratos* in *Dēmokratia*,’ paper presented at the Annual Meeting of the American Political Science Association, August 30, 2018; available on SSRN.

12 Ober, *Demopolis*, p.26.

things happen' is an excellent definition of another Greek term, *dynamis*, familiar from Aristotle and elsewhere. But *kratos* specifically denoted the superior power, typically physical, of one agent over another. That is, to use a term that Ober would prefer to avoid, *kratos* implied domination: the capacity to succeed in one's aim despite resistance from some other person or group.

Thucydides' usage is typical. Out of around 150 uses of *krat* – terminology in his work, all but five denote military superiority. One non-military example is also noteworthy: the use of the verb *krateô* to represent the victory of Diodotus over Kleon in the assembly debate on the Mytilenaeans.¹³ The motion of Diodotus *ekratêse*, 'won': his side was stronger, having amassed more votes; hence its will prevailed. In the same way, *dêmokratia* signalled that, across the community as a whole, the *dêmos* prevailed over the non-demotic few. The upper hand belonged to the assembly and the popular courts, as opposed to Athens' councillors, its generals, its administrative officials or – most importantly – its orators, the *dêmagogoi* or *dêmos*-leaders, who (as Finley persuasively argued) played a vital structural role in building popular support for and against particular proposals, but whose personal political significance always carried some risk for democrats.¹⁴

What can we conclude? 'Basic democracy,' at least in its historical form, was not just a system in which all citizens, including the most ordinary, were able to make things happen. More precisely, the empowerment of ordinary people involved – was even predicated on – their capacity to dominate, or prevail over, the influential few who would otherwise dominate them.

The *kratos* of the *dêmos* was in the first instance physical, based on its numerical superiority. That was, after all, what it had going for it. The strictly military aspect of the *dêmos*'s supremacy was revealed in the Cleisthenic revolution of 510, when in the absence of Cleisthenes himself (as Ober has rightly emphasized), the Athenian *dêmos* besieged and defeated Isagoras and his Spartan associates on the acropolis. According to Herodotus, this was the moment when *dêmokratia* was established in Athens. The *dêmos*'s physical supremacy was on view again in 404, when it fought and won a civil war against the recent usurpers, the Thirty Tyrants, and their forces and refounded *dêmokratia* for the next three generations. One of the few normative justifications for *dêmokratia* found in our texts appears in the section of the Aristotelian *Constitution of the Athenians* dealing with the aftermath of this civil war: 'And it seemed just for the *dêmos* to assume control of the *polis*, since it had won its return

13 Thuc. 3.49.

14 M.I. Finley, 'Athenian Demagogues,' *Past and Present*, 21 (1962), pp. 3-24. See also P.J. Rhodes, 'Demos and Demagogues,' *Polis*, 33 (2016), pp. 243-64.

by its own efforts.¹⁵ The *dêmos* had regained the upper hand over those who had sought to dominate it, and thanks in large part to its control of the courts, where mass gatherings of ordinary citizens regularly sat in judgment over their leaders – it maintained the upper hand over its leaders, from generals to short-term administrators, for the rest of the democratic period. That was what *dêmokratia* meant.

Considered in this light, and despite Ober's apparent protestations to the contrary,¹⁶ the historical form of 'basic democracy' arguably *did* mean majority rule, both within institutions (since decisions were made by majority vote) and in broader sociological sense (since those who acted collectively, i.e. the *dêmos*, were a majority in the community). Moreover, democratic Athenians, unlike their modern counterparts, seem to have been completely unembarrassed by this state of affairs, judging from their habitual use of the adjective *dêmotikos*, 'of or for the *dêmos*' (by implication, as distinct from other parts of the community) as a term of praise.

The question this raises is whether this was an unsound basis for liberal norms, and it is striking that in classical Athens it doesn't seem to have been. One need not follow Ober entirely on the extent to which the Athenian *dêmos* believed itself to be limited by law, but there is no doubt that the character of its regime was relatively liberal in at least some senses: generous-spirited, fair-minded, tolerant, accepting of outsiders. *Dêmokratia* was described as a 'relaxed' regime, in comparison to oligarchy, which was 'tauter' or 'stricter'.¹⁷ Aristotle took it for granted that a multitude could be more fair-minded than a single man.¹⁸ The Athenian *dêmos* voluntarily paid back the debts incurred by the Thirty Tyrants during their spell in power, and established an amnesty so magnificent that it has awed observers ever since.¹⁹ The 'Old Oligarch' and Plato emphasized the freedoms of slaves, women, and even animals in Athens.²⁰ And as we know, the city was home to scores of outsiders, from teachers, such as Aristotle, to speechwriters, foreign traders and others.

15 Ps. Aristot. 41.

16 I say 'apparent' because I believe that Ober would not really disagree with much of what I've said here. The 'mass versus elite' polarity has been too important to his work, and his political instincts are too firmly on the side of the mass. The issue is whether the sources' frequent identification of the *dêmos* with the mass was merely a sign of anti-democratic prejudice or whether it was basically accurate, with important implications for the interpretation of *dêmokratia*.

17 *Pol.* 4.1290a25-30.

18 *Pol.* 3.1286a.

19 Ps. Aristot. 39-40; Xen. *Hell.* 2.4.39-43; M. Ostwald, *From Popular Sovereignty to the Sovereignty of Law* (Berkeley: University of California Press, 1986), p. 497.

20 Ps. Xen. 1.10; Plato, *Rep.* 557b-58c, 563b-e.

It follows that the core claim of Ober's book – that democracy can be attractive and durable even outside its modern liberal environment – may be even stronger than he suggests. Even a more radical, less liberal form of democracy than that which Ober attributes to Athens may support some key liberal norms. Indeed, Athenian democracy as I have characterized it might even be advocated on a Rawlsian basis. In preserving decision-making power in the hands of those who were individually least powerful – that is, those whose political strength lies in collective rather than individual action—'basic democracy' may get considerably closer than liberal democracy to satisfying one of modern liberalism's most commanding aspirations: to arrange social and economic inequalities so that they are of greatest benefit to the least advantaged members of society.²¹

21 John Rawls, *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971), p. 266.