



DISCUSSION NOTE

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Against Vote Markets: A Reply to Freiman

Alfred Archer and Alan T. Wilson

ACCORDING TO A RECENT PAPER by Christopher Freiman (forthcoming), the prohibition on the buying and selling of votes ought to be lifted. We will argue that Freiman’s defense of that position is unsuccessful.

Freiman presents defeasible reasons in favor of the legalization of vote markets (2-8). He then considers two arguments – the *Equality Argument* and the *Republican Argument* – which, if either were correct, would undermine those defeasible reasons. By rejecting these arguments, Freiman takes himself to have shown that the reasons in favor of vote markets remain undefeated, and so the case for vote markets is stronger than has been assumed. We will focus on Freiman’s response to the Equality Argument, showing that this response is flawed and that, therefore, Freiman’s defense of vote markets is not successful.

1. The Equality Argument

The Equality Argument is acknowledged by Freiman (9) as “probably the most common challenge to vote markets in the literature.” A successful response to this argument, then, would be a major blow for opponents of vote markets. The main worry behind the Equality Argument is expressed by Debra Satz (2010: 102):

A market in votes would have the predictable consequence of giving the rich disproportionate power over others since the poor would be far more likely than the rich to sell their political power.

If vote markets existed, the rich would be better able to buy votes, and the poor more inclined to sell. The legalization of vote markets, then, would likely make it the case that the rich are better able to wield political power than the poor. The Equality Argument against vote markets goes as follows: The legalization of vote markets will likely lead to wealth-based political inequalities; features of a political system that allow for or increase wealth-based political inequalities lessen the legitimacy of that political system; therefore the legalization of vote markets would lessen the legitimacy of the political system and ought to be avoided.

Freiman’s first response to this argument is to note that wealth-based political inequalities already exist in political systems in which vote markets are illegal (9). For example, those with greater financial resources can wield more political power through their greater ability to influence both politicians (through private donations) and the general public (through private ownership of media outlets). If the Equality Argument were accepted then we would be committed to the view that these practices lessen the legitimacy of current political systems and, therefore, ought to be legally prohibited. Of course, a defender of the Equality Argument may accept this implication. Satz acknowledges that existing

democratic systems lead to wealth-based inequalities and so are less legitimate than they could be. The correct response to this situation is to introduce regulations that limit the effects of these sources of inequality. For example, Satz favors regulation of the production and distribution of political information (103). Such measures would increase the legitimacy of current democratic systems.

However, Freiman claims that accepting the possible effectiveness of regulations in limiting inequality within existing political systems actually strengthens the case in favor of vote markets. In his words:

If the regulations are effective in satisfying egalitarian criteria in democracies without vote markets, there is little reason to expect them to be less effective in satisfying egalitarian criteria in democracies with vote markets (10).

In other words, if supporters of the Equality Argument accept that it would be possible to successfully regulate those sources of wealth-based inequality that exist in current political systems, then they ought to also accept the possibility of successful regulation in the case of vote markets. The Equality Argument, then, will only have shown that vote markets will need to be regulated in some way, not that they ought to be legally prohibited. If Freiman's response is accepted then the most common argument against vote markets will have been defused.

2. Problems for Freiman's Response

Freiman's response to the Equality Argument faces three problems: 1) There is a general worry with his overall strategy, 2) there is good reason to think that regulations will be less successful regarding vote markets than they would be regarding other sources of wealth-based inequality and 3) even if two systems do allow for the same levels of wealth-based inequality, one system may still be less legitimate than the other.

First, consider a general worry for Freiman's approach in responding to the Equality Argument. Freiman claims that accepting the possible success of regulations in systems without vote markets commits us to accepting the possible success of those regulations in a system that includes a vote market. However, this point ignores the fact that the prohibition on vote markets may itself be a component of the successful regulations in a system without vote markets. We cannot then assume that the same regulations will even be available in a system where we have stipulated that a vote market exists, let alone that these regulations will be equally effective. Perhaps an analogy will be useful in highlighting the problem with Freiman's strategy. Suppose two theorists, Michael and Charlton, are arguing about whether gun controls ought to be lifted. Michael argues against this move by claiming that lifting gun controls would lead to an increase in violent crime. Charlton responds by pointing out that we already have regulations in place to reduce violent crime and there is no reason to believe that these would be less successful in a system where gun controls were lifted. Clearly Charlton is not entitled to

make this claim, as gun controls are a central feature of the current regulations. Lifting those controls would necessarily involve moving to a different regulatory system, and we have no reason to assume that this system would be as effective as the previous one. Similarly, we have no reason to accept Freiman's claim that the regulations within a system permitting a vote market will be as effective as the regulations in a system that prohibits it.

Second, there may be good, independent reasons to think that the wealth-based inequalities stemming from current political systems could be more effectively prevented through regulation than could the inequalities stemming from vote markets. Consider an alternative possible source of wealth-based political inequality: the funding of political parties and campaigns by private donors. In a society where citizens may donate as much as they like, wealthier citizens will be able to wield greater political influence by funding parties and campaigns that further their own interests and agendas. This is, therefore, one example of a source of inequality that could be present even in a system without a vote market. However, there are regulations available to reduce inequalities stemming from party funding. As John Rawls notes (1999: 198), parties could be funded by tax revenues to be spent only on campaigning (perhaps distributed according to vote share in previous elections). In this way, regulations could be used to prevent wealth-based political inequality stemming from the system of party funding.

However, an equivalent move would be unsuccessful in the case of vote markets. Suppose we used tax revenues to provide every citizen with an equal sum that they could choose to spend on buying the votes of other citizens. This would be insufficient to prevent the wealth-based inequalities stemming from vote markets. If two people with significantly different economic resources are offered the same price for their vote then, all else being equal, the offer will have more appeal to the voter with fewer economic resources. While regulations equivalent to those available for regulating party funding might be successful in providing an equal opportunity to *buy* votes, they would be unsuccessful in ensuring that all citizens feel the same level of pressure to *sell* their vote. Wherever there are economic inequalities in a society, poorer citizens will face a greater pressure to sell their votes once a vote market becomes legal. Regulations that could be successful in preventing the wealth-based political inequalities stemming from other problematic practices would be unsuccessful in preventing this wealth-based inequality. Therefore, we have further reason to reject Freiman's claim that regulations would be just as effective regarding vote markets as they would be regarding other sources of wealth-based political inequality.

Finally, a political system featuring vote markets may be less legitimate than alternatives, even if those alternatives involve similar levels of wealth-based political inequality. This is because two systems with similar levels of inequality may differ in their legitimacy depending upon the justification given for allowing that inequality. This point may become more clear by considering an example of another possible source of inequality: the production and distribution of political information. In a system

without regulation, wealthier citizens will have a greater ability to produce and distribute information (say, through the owning of media outlets). As Rawls (1971-92) has pointed out, in a society with economic inequality, unregulated freedom in this area will not result in equal opportunities for everyone to influence the political debate. Allowing citizens to produce and distribute political information is therefore a likely source of wealth-based political inequality. Given the Equality Argument as presented by Freiman, we might therefore think that we have just as much reason to prohibit the distribution of political information by private citizens as we do to prohibit vote markets. If the Equality Argument requires us to accept this counterintuitive implication then this would provide some support for Freiman's position.

However, a defender of the Equality Argument need not accept the implication that we require an outright ban on the distribution of political information by private citizens. This is because such a ban would run contrary to a separate and important political value: the freedom of speech. The outright ban on distribution of information would negatively impact on freedom of speech, just as the failure of any regulation whatsoever would lead to problematic levels of wealth-based political inequality. What is required, therefore, is a compromise that is in keeping, as far as possible, with both the value of equality and the value of freedom of speech. Whatever the appropriate compromise happens to be, it is likely that the resulting system will allow for some level of wealth-based inequality. However, this need not impact on the legitimacy of the resulting political system, as permitting this inequality is the only way to promote the competing value of freedom of speech. Regulation that permits some level of inequality may be acceptable when allowing that inequality is the only way of respecting another fundamental value. Therefore, two political systems featuring the same levels of inequality will not be equally legitimate if one allows for inequality in order to further a competing fundamental value and the other allows for inequality that is not required in order to further a competing value. Even if Freiman could show that a system including a vote market would lead to an equal level of wealth-based inequality as do existing systems, this would not show that the vote-market system was equally legitimate. Instead, it would have to be shown that the inequality stemming from the vote market was necessary as a way of furthering some fundamental political value. In the absence of any reason to believe that permitting the buying and selling of votes is necessary for promoting some fundamental value, we have no reason to think that the inequality that would result is acceptable.

3. Conclusion

In order for Freiman's defeasible reasons in favor of vote markets to carry any weight, he needed to give us good reason not to worry about the concerns raised by the Equality Argument. We have identified three problems facing Freiman's response to this argument. As Freiman's response to this argument is unsuccessful, we have good reason to think

that the Equality Argument successfully supports the view that vote markets ought to be prohibited.¹

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