CRITICAL DEBATE ARTICLE

In defense of citizenship testing: a reply to Daniel Sharp

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ABSTRACT
I have argued that citizenship tests are not, in principle, unjust, were they to accurately test the acquisition of those particular aspects of local history and vocabulary necessary for participation in the local political community. Daniel Sharp disagrees, and argues that such tests are always unjust; they impose unjustifiable burdens against all and only migrants seeking admission to political citizenship. In this paper, I defend the possibility of a just test. I argue, first, that the burden on prospective citizens is not an undue or unjust one, were we to have some reason available to us by which that burden might be justified; and, second, that some such reason is available, given the relevance of local knowledge to political discourse – a relevance acknowledged in both current law and in theories of public reason.

I have, in a previous paper, defended the proposition that citizenship testing usually involves violating the rights of migrants seeking citizenship (Blake 2019). There is nothing in principle wrong with requiring prospective citizens to demonstrate that they are aware of the specific histories and normative vocabularies of the political communities in which they seek full membership; in practice, however, such tests are likely to be written by those already powerful within those communities, and the risk of bias in the writing of such tests is likely to outweigh what value they provide. These conclusions are, for Daniel Sharp, unduly weak; citizenship tests are always unjust. They impose weightier burdens upon the migrant than my account acknowledges; and such imposition is more unfair than I admit. I believe Sharp is in error – but it is worth noting that we disagree about a comparatively small range of examples; I think a just citizenship test is vanishingly unlikely, whereas they believe such a test to be impossible. I will, accordingly, imagine throughout this defence that we are dealing with the most idealized – and, therefore, unlikely – example of a citizenship test that might be imagined. Would such a test necessarily involve injustice towards those against whom it is imposed?

We can deal, first, with the proposition that the test will necessarily impose serious and unjustifiable burdens against the migrant. Sharp argues that such test deny citizenship to some – and argues that citizenship, which provides a guarantee of ‘equal respect and consideration’ to the citizen – cannot be rightly withheld, except at
the cost of a denial of that to which the migrant is entitled. This, to my thinking, conflates moral and political equality. The two are, of course, distinct; I happened to be in the UK during the runup to the 2016 Brexit referendum, but could not vote in that referendum – a fact that did not seem to involve any denial of my equal moral worth as a person. I was not then (and am not now) British, and so my equal moral worth did not entail equality of political voice and status within the UK.

This obvious point might be thought unfair to Sharp, who notes explicitly that they are referring to equality of the migrant within that community ‘where they live.’ I did not live within the UK, no matter how long my travel was; but if I were living there for some extended period, perhaps my lack of political equality really would be violative of my equal moral status. Again, however, I think the conclusion is too quick. A great many people live for extended periods of time in countries that are not their own, and are denied political equality within those countries without violations of moral equality. Foreign students can spend up to a decade (or more) pursuing graduate education abroad; intro-company transfers can spend an indefinite time within the USA, on L-1A visas; American military personnel spend extended time stationed on military bases abroad; and so on. In all these cases, there is a distinction between the country of residence and the country of citizenship; in none of these cases, however, does it seem – to me, at least – plausible that the denial of citizenship rights in the country of residence is an attack on the moral worth of the person. There is, after all, a good reason why such rights are not provided; the residency in question is temporary, and a lack of political right during that temporary period is often part of the bargain made with the individual in question.

Perhaps, however, this pushes us towards what I take to be the strongest interpretation of Sharp’s claim – that one is wronged if one is barred from citizenship, in that state in which one intends to reside permanently. A permanent bar against full citizenship, after all, seems morally troubling, resembling too closely something like permanent second-class citizenship. Here, however, there might still be reason to dispute Sharp’s contention. We might distinguish between a permanent bar against a particular status or right – and an indefinite bar against the same. To see this distinction, we might note its parallel use in such unproblematic cases as testing for driving licences. The right to use an automobile is indefinitely forestalled, for one who cannot pass the driving test; but this is not – to me – morally troubling. There is no bar against trying again, redoubling one’s efforts to learn driving, and so on – and, more importantly, there is a good reason for us to test drivers, so much so that there is an adequate justification that might be offered to those who are denied the right to drive. Were that justification not available, then a permanent bar against the right to drive might indeed be unjust – as Joel Feinberg argues, with reference to the 1961 New York State law barring communists from driving (Feinberg 1965). The law, Feinberg notes, was clearly a pretextual effort to marginalize and stigmatize communists, by permanently depriving them those from rights otherwise available to those who could demonstrate skill at driving. Here, Feinberg and I are in agreement; there is nothing

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1It is worth noting, however, that the holder of an L-1A visa can eventually apply for permanent residency, and thereafter apply for citizenship. However, the process is lengthy, and the holder of the L-1A cannot immediately apply for (or assert) the rights of citizenship.
inherently unjust about forestalling the exercise of some particular right – but that delay becomes unjust, when there is no adequate reason available to justify that delay to those against whom it is applied.

This means, then, that Sharp’s claim about the weightiness of the burden ultimately depends upon the truth of their second proposition – namely, that no adequate justification is available for the use of citizenship testing against prospective citizens. I have argued that there is nothing in principle wrong with requiring a demonstration of familiarity with the local vocabulary and history in which political life is done, prior to the granting of full membership in the political community. Sharp argues, in response, that no such showing is required; there is no rightful requirement to know any particular vocabulary or history prior to engaging in politics within a given society – a truth demonstrated, they say, by the fact that many of those citizens born within a country would find it difficult to pass the citizenship tests applied to newcomers.

The latter fact, however, seems somewhat irrelevant to our discussion; if true, it might be as true because existing citizenship tests are biased and hostile to newcomers – a fact I have accepted, as described above. The dispute between Sharp and myself relates not to whether or not citizenship tests are being done well, but to whether or not they could ever be morally permissible. The more important philosophical disagreement here is the proposition that, to do politics well within a society, I need not have any particular knowledge that is local to that society – it is enough for me to know about ‘individual policies, their costs and consequences, and moral principles.’ This, I think, is where Sharp and I disagree most profoundly. I think this proposition is wrong, in at least three distinct ways.

It seems wrong, to begin with, as moral advice. I think it is right that moral principles, to take Sharp’s last point, are generally unavailable to us, except in the particularized and local forms appropriate to particular and local forms of political community (Stilz 2009). To take one example: I believe I have some handle on the moral principle of secularism. I could, if pressed, provide some philosophical discussion on what that principle means, where and when it is a value, and perhaps even how it ought to be weighed against other political values. But I also think, until I have done a bit more work, I am unlikely to be adequately versed in what that word means in France. My local knowledge of secularism is largely drawn from the First Amendment; France has an entirely different history, drawing on entirely different forms of conversation, different historical crises, different inflection points, and so on. Until I understood that history – the history drilled into French children throughout their schooling – I would very likely be a poor participant in French political life. The French concept of laïcité is generally translated as secularism, after all, but a knowledge of secularism emphatically does not provide an adequate grasp of laïcité (Colosimo 2017). Knowledge of moral principle, in short, does not suffice to demonstrate adequate knowledge of the moral specifics, and I cannot think requiring prospective citizens in France to demonstrate a knowledge laïcité (rather than secularism in the abstract) would be unjust.

Sharp’s argument, secondly, seems wrong also as an interpretation of public reason. Sharp argues that public reason, which seeks to avoid resting political authority upon controversial metaphysics or particular conceptions of the good, ought to avoid entanglement with any specific history or normative vocabulary particular to the local
political community. Sharp takes this to entail that ordinary politics ought to involve any particular engagement with the local and the particular. This, however, is not the view of John Rawls himself, in his explanation of public reason. Rawls's account of public reason involves a four-stage sequence, in which more information about the particular is allowed as we move from constitutional founding to what Rawls calls ‘normal politics’ (Rawls 1995). Rawls's analysis, most importantly, is clear in its thought that each political community will have its own history and particular moments of crisis, and that a great deal of politics involves not abstract theorizing, but the principled use of theory in response to these particularities. Rawls uses the founding, Reconstruction, and the New Deal as spaces in which to explain public reason and its use – not simply as examples of abstract theorizing, but as examples of how such theorizing must inevitably be applied within the situated and local history of a particular state (Rawls 1989). Those of us who are not founding new nations, Rawls argues, will come of age and grow within the particular trajectories of our countries of origin – and our moral duty is to apply public reason within and to those institutions, rather than to begin with abstract thought:

[When] citizens in political offices or civil society use this framework, the institutions they find themselves under are not the work of a political philosopher who has institutionalized them in theory beyond citizens’ control. Rather, those institutions are the work of past generations who pass them on to us as we grow up within them. We assess them when we come of age and act accordingly. All this seems obvious once the purpose and use of the four-stage sequence is made clear (Rawls 1995).

Rawls, famously, assumes that we enter a nation at birth and leave only at death; accordingly, the question of imposing tests on migrants prior to their being given full citizenship seems not to apply. Rawls is, however, fully aware that individuals – even those abiding by the strictures of public reason – live within particular societies, and inherit particular institutions from those who lived there earlier; his analysis of civic education seems to entail that states are right to insist upon the teaching of history and civics – rather than simply philosophy (Macedo 2003). If this is correct, then there does not seem – to me – to be any inherent hostility between public reason rightly understood and the recognition that a knowledge of local history and local civics might be a prerequisite for politics to be done well.

This leads to the final point at which Sharp's contention seems wrong to me. Sharp argues that any value ascribed to the importance of particular knowledge involves unfairness, since that particular knowledge is only taken as a value in the context of the migrant. This argument, as the example of civic education shows, is not adequately sensitive to the importance of local history and local norms. The needs of democratic legitimacy, moreover, place burdens upon the native-born, as well as upon those who move between states. Most states, after all, require compulsory education, including education in civics. This compulsory education is not, of course, made a prerequisite of the exercise of citizenship; but it is worth reflecting upon the word compulsory a bit. The state presumes the right to take hold of the body of the child, from (roughly) five until (roughly) eighteen, and make that child sit in a particular place, learning about particular facts. Different democratic communities differ in how onerous they make this requirement; but none imposes no such requirement – and the penalties for refusing to engage in education are, in principle and sometimes in fact, quite stern. (A single
Pennsylvania jurisdiction – Berks County – sentenced over 1600 parents to prison, over a thirteen-year span, for the truancies of their children (Popovich 2014). The recognition that there is a need for citizens to know a bit about the particularities of their country seems reflected in the possibility of such criminal punishment. These facts, though, speak to the thought that it is not enough to know about the abstract matters of moral philosophy, costs, and consequences; we take the importance of the particular to be sufficient to warrant fairly powerful political tools, including the use of the criminal law. If the value of the particular is sufficiently powerful in the case of the native-born, however, then it seems equally important when applied to those seeking admission to citizenship. Certainly, it seems hard to argue that we could maintain such punitive measures at home, and then think no coercive measures could, even in principle, be used against those who seeking to enter.

Sharp might want to reply, of course, that such coercive measures are inappropriate at the border, given the differences between compulsory education and testing for citizenship; and some such argument might be made. What cannot be asserted, though, is that states do not – consistently, and with the agreement of theorists of public reason – take the transmission of knowledge of particularity as an important social value. States do, and should, care about the transmission of the particular facts of a particular place’s history and vocabulary; and if we want to condemn citizenship tests, it cannot be because democratic participants require only abstract knowledge, rather than the particular facts of local community, to participate well.

I would end by noting, once again, that Sharp and I agree about a great many things – including, I suspect, the moral deficiencies of most citizenship tests in the world we share. We do, however, disagree about the moral relevance of local knowledge – and the moral possibility of justly testing for such knowledge. I grateful to Sharp, both for their careful criticisms and for the chance to clarify these disagreements for myself.

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