

The Epistemic Circumstances of Democracy

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Abstract

Does political decision-making require experts or can a democracy be trusted to make correct decisions? Critics of democracy tend to argue that democracy cannot be trusted in this way while advocates tend to argue that it can. Both camps agree that it is the epistemic quality of the outcomes of political decision-making processes that underpins the legitimacy of political institutions. In recent political philosophy, epistemic democrats have embraced this instrumentalist way of thinking about democracy. In this chapter, I argue that the attempt to defend democracy on epistemic instrumentalist grounds is self-undermining. I also develop an alternative – procedural – epistemic defence of democracy. Drawing on the epistemology of disagreement, I show that there is a *prima facie* epistemic case for democracy when there is no procedure-independent epistemic authority on the issue to be decided.

I. Introduction

Does political decision-making require experts or can a democracy be trusted to make correct decisions? This question has a long-standing tradition in political philosophy, going back at least to Plato's *Republic*. Critics of democracy tend to argue that democracy cannot be trusted in this way while its advocates tend to argue that it can. While they come to different conclusions about the epistemic value of democracy, both camps share an

epistemic instrumentalist conception of democratic legitimacy and of political legitimacy more generally. By epistemic instrumentalism I mean the view that epistemic value derives from epistemic outcomes. Applied to democratic legitimacy, the view is that the legitimacy of democracy depends on its instrumental epistemic value. On this view, if there is a correct decision – an outcome that is truly just or truly for the common good, or at least more just or closer to the common good than others – then the legitimacy of democracy depends on how well-suited it is to track this decision.

In contemporary political philosophy, many epistemic democrats have embraced this epistemic instrumentalist defence of democracy and argued that democracy is a good means – or at least a good enough means – to reach correct decisions. But here is a challenge for this view, well articulated, I find, by Hans Kelsen (1955: 2):

“[T]he doctrine that democracy presupposes the belief that there exists an objectively ascertainable common good and that people are able to know it and therefore to make it the content of their will is erroneous. If it were correct, democracy would not be possible.”

The challenge, as I interpret it, is that an epistemic instrumentalist defence of democracy is self-undermining because the epistemic circumstances it presupposes are incompatible with democracy. Specifically, as I shall explain, the problem arises from what the epistemic instrumentalist conception of democratic legitimacy presupposes about epistemic authority.

To illustrate the challenge, consider a situation in which there seems to be no epistemic case for democracy. Suppose a town is considering the plan to build a new bridge across the river that runs through it. The decision on whether or not to build the bridge depends only

on one factor, namely on the stability of the planned bridge. And suppose the town engineer has the expertise to assess whether the planned bridge is stable and concludes that it is.

In cases such as the bridge case, the verdict of the town engineer appears to be sufficient to legitimize the decision that the bridge should be built. It would be redundant, or perhaps even crazy, to seek a democratic decision on whether or not the bridge is stable. The fact that the town engineer enjoys epistemic authority over the matter thus undermines the epistemic case for a democratic decision on this issue.

The challenge, as I interpret it, is this. If there is a correct decision to be made and if someone has legitimate epistemic authority to make claims about what the correct decision is, the epistemic case for democracy crumbles. A first aim of my chapter is to show how the epistemic instrumentalist attempt to make democratic legitimacy conditional on the epistemic quality of the outcomes of democratic decision-making runs into a version of this challenge and should be rejected for that reason.

What are the alternatives to an epistemic instrumentalist defence of democracy? The first is to abandon the epistemic strategy altogether and defend democracy on practical grounds. This way of responding to the challenge leads to “deep proceduralist” (Estlund 2008) conceptions of democratic legitimacy, according to which democracy is legitimate not because it tracks a procedure-independent truth, but because the decision-making-procedure embodies (moral) values such as equality, dignity, etc. which confer value to its outcome. This is not the strategy I shall pursue here.

The second alternative is an epistemic proceduralist approach. It preserves a central role for epistemic considerations in the justification of democracy. But it brings such considerations to bear on the evaluation of the democratic decision-making procedure directly, not indirectly via the outcomes it produces. This is the strategy I shall explore in this chapter.

I shall use epistemic considerations to say something about the appropriate scope for democratic decision-making. Questions about the appropriate scope for democratic decision-making are typically asked in socio-spatial terms: who should be included in the democratic collective?¹ But it seems to me that we should also ask which issues should be subjected to democratic decision-making. This question, I want to argue, is in the first place an epistemic question: under what specific epistemic circumstances is democratic decision-making – as opposed to, most importantly, decision-making by experts – appropriate and thus potentially legitimate?

In cases like the bridge case, these circumstances are not given; democratic decision-making will most likely be illegitimate in this case. Critics of democratic decision-making have a point when they identify cases like the bridge case to argue for the unattractiveness of democracy. But not all cases are like the bridge case and this leaves room for advocates of democracy to defend their cause. I will argue that when there is no procedure-independent epistemic authority about what the correct decision is, then there is a *prima facie* epistemic case for democratic decision-making.

The title of my chapter “the epistemic circumstances of democracy” borrows from David Hume’s and John Rawls’ idea of the “circumstances of justice” and Jeremy Waldron’s idea of

¹ See the literature on what is called the “boundary problem” or the “constitution of the demos” (e.g. Goodin 2007; Miller 2009).

the “circumstances of politics”. Hume (1978 [1739]) and Rawls (1971) argue that justice has its natural place in circumstances of moderate scarcity and limited altruism. Waldron (1999) argues that politics has its natural place in circumstances in which there is a need for collective action but where people disagree about what to do. I accept this characterization of the circumstances of politics. But Waldron hasn’t explained why disagreements need to be taken seriously. I shall make use of the epistemology of disagreement to help identify the appropriate locus of democratic decision-making.

My main focus shall be on deliberative democracy. Let me explain briefly what I mean by this term. Deliberative democracy is usually understood in contrast to aggregative democracy. Aggregative theories of democracy take the key feature of democracy to be the aggregation of individual preferences or beliefs through voting, where each person’s vote is given equal weight. Theories of deliberative democracy, by contrast, view democratic decision-making as embedded in an exchange of reasons for preferring certain outcomes or for believing certain facts. They take the deliberation among the members of the democratic collective, again under some conditions of equality, to be an important justifying feature of democracy. Such public deliberation may take place formally, for example, in parliament, in the media, in meetings and events of political parties and other political organizations, and, informally, in people’s discussions with their friends, colleagues, and family members. Since such deliberation is unlikely to produce a consensus, however, even a deliberative theory will assign some role to aggregative decision-making. A stark contrast between the two theories of democracy thus overstates the case. As I see it, the main difference between the two theories is that deliberative democracy does whereas

aggregative democracy does not assign a legitimizing role to public deliberation. It is in this sense that I shall refer to deliberative democracy.²

II. Practical and Epistemic Authority

My argument against epistemic instrumentalism hinges on the relationship between epistemic authority and the legitimate practical authority of democracy. Before I can get into the argument, I need to say something about what I mean by these terms.

By legitimate practical authority I mean here the right to make claims which give others sufficient reason for action. When a legitimate practical authority says you ought to x, you have sufficient reason to x. Think, for example, of the legitimate authority of parents or teachers over children in their care. Merely *de facto* practical authority is the power to make claims which others take as sufficient reason for action. The difference between the two is that the claims in the first case are justified while in the second they are not. You may take the say-so of a *de facto* authority as sufficient reason for action, but it is not true that you have that reason.

Political legitimacy relates to the justification of the practical authority of political institutions and democratic legitimacy relates to the justification of democratic decision-making. So democratic legitimacy is an application of the concept of legitimate political authority to democracy. If political authority is legitimate, there is a right to rule. If democratic decision-making is legitimate, then the right to rule is jointly held by the members of the democratic collective. If democratic decision-making is legitimate, then the claims that can be associated with democratic decisions – the say-so of the democratic collective – give everyone sufficient reasons for action.

² I've discussed the two theories at length in Peter (2009).

By legitimate epistemic authority I mean the right to make claims which give others sufficient reasons for belief.³ If you legitimately hold epistemic authority over p, then your claim that p gives me sufficient reason to believe that p. Just like in the practical case, we can also distinguish between legitimate and *de facto* epistemic authority. Epistemic authority is merely *de facto* if someone successfully pretends to have expertise that they in fact lack.

With these terms in place, we can now address the question: what is the relationship between democratic legitimacy and epistemic considerations? We can distinguish between two main approaches. According to the first, democratic legitimacy is independent of epistemic considerations and is established on grounds of the moral values embodied by democracy. That's the deep proceduralist scenario I mentioned earlier. Alternatively, epistemic considerations are at least one factor in the determination of legitimate practical authority. This is the approach epistemic democrats take. The main focus of my paper is on the question how epistemic considerations should be brought to bear on the justification of practical political authority. In the next section, I will criticize the instrumentalist way of characterizing the relationship between epistemic considerations and the legitimate practical authority of democracy. In the rest of the paper, I will propose an alternative – proceduralist – way of characterizing this relationship.

III. Epistemic Instrumentalism

Variants of epistemic instrumentalism are popular among epistemic democrats today. According to them, the epistemic quality of the decisions made justifies the authority of

³ By belief I hear mean both full and partial belief; the reason for belief in question may thus either be a reason for a full belief or for adjusting your belief, e.g. for reducing your confidence in your original belief.

democracy or is at least one justificatory factor. Here is a typical characterization of the epistemic conception of democracy:

“For epistemic democrats, the aim of democracy is to ‘track the truth.’ For them, democracy is more desirable than alternative forms of decision-making because, and insofar as, it does that. One democratic decision rule is more desirable than another according to that same standard, so far as epistemic democrats are concerned” (List and Goodin 2001: 277).

This characterization allows for different conceptions of democratic legitimacy, depending on how much weight is given to the outcome of decision-making relative to the decision-making procedure itself. One possible conception is what David Estlund has called the “correctness theory” of political legitimacy. On this conception, a political decision is legitimate if and only if it is the correct decision. With regard to the legitimacy of democracy, it says that democratic decision-making is conducive to political legitimacy to the extent that it successfully tracks a procedure-independent truth.

But making political legitimacy dependent on the correctness of the decisions presupposes a right to make claims about what the correct decision is, as without the possibility of judging what the correct decision is, it remains indeterminate whether a decision is or is not legitimate. So, on one way of making sense of the correctness theory of political legitimacy, someone, or a small group of people, must be holding the right to make claims about which democratic decision is correct and, as such, legitimate.⁴ And this right to make claims about what ought to be believed derives from procedure-independent facts or objects or truths.

Another way of saying the same thing is that the correctness theory of political legitimacy

⁴ I shall later discuss an alternative way of cashing out the correctness theory.

only works if there is third-personal epistemic authority about the matter to be decided – if someone, or a small group of experts, holds a right to make claims about what the correct decision is that derives from a procedure-independent truth. But this way of interpreting the correctness theory gives rise to a problem. For any area of decision-making where there is a procedure-independent right to make claims about what the correct outcome is, democratic decision-making is either redundant or it needs to be defended on other grounds.

The availability of third-personal epistemic authority presents the correctness theory of democratic legitimacy with the following *authority dilemma*: if practical authority is justified on epistemic grounds, then legitimate practical authority is non-democratic. If, on the other hand, the practical authority of democracy is to be legitimate, it must be justified on non-epistemic grounds. In other words, for those areas of decision-making where there is third-personal epistemic authority, we either follow those who know what the correct decision is, in which case our decision-making is not democratic, or we insist on democratic decision-making, in which case we can't defend the legitimacy of democracy on epistemic grounds but must defend it on purely practical grounds. What the authority dilemma shows is that this way of conceiving of the relationship between legitimate democratic authority and epistemic authority is self-undermining.

Can the epistemic instrumentalist defence succeed if we adopt Estlund's (2008) proceduralist alternative to the correctness theory of democratic legitimacy? The conception of legitimate democratic authority that he proposes retains the truth-tracking aim for democratic decision-making, while putting weight on democratic procedures as well as their outcomes. As he characterizes democratic legitimacy (2008: 98), it requires that the

democratic decision-making procedure “can be held, in terms acceptable to all qualified points of view, to be epistemically the best (or close to it) among those that are better than random.” The thought is that if the democratic decision-making procedure satisfies this criterion, its outcomes, whether correct or not, are legitimate. In other words, correctness does not directly determine the legitimacy of decisions made; it only influences the legitimacy-generating potential of democratic decision-making procedures.

This is a step in the right direction, but I don’t think this conception can avoid the authority dilemma, at least not if we follow Estlund’s interpretation of his requirement of democratic legitimacy. Much hinges on what the qualification that the procedure should be held to be epistemically the best, in terms acceptable to all qualified points of view, is supposed to entail. I see two possibilities.⁵ According to the first, what is acceptable to all qualified points of view (however they are understood) *constitutes* what is epistemically the best procedure. In other words, what is epistemically best is defined in terms of what is acceptable to all the participants. I don’t think that Estlund has this interpretation in mind as it would clash with the idea that democratic decision-making should track a procedure-independent truth. This leaves the second interpretation, which identifies the qualified points of view as those that acknowledge the independent – third-personal – epistemic merit of a decision-making procedure. On this interpretation, the procedure that is held to be epistemically the best is the one which best tracks a procedure-independent truth, as identified by those who either hold third-personal epistemic authority on the matter or who are prepared to defer to it.

⁵ Gaus (2011) makes similar points in his discussion of how to “test” whether democracy is the epistemically best procedure.

This second interpretation of the relationship between the legitimate practical authority of democracy and epistemic considerations again presupposes third-personal epistemic authority and, as such, leads straight back to the authority dilemma. For Estlund's conception of democratic legitimacy to have any judgmental bite, there must be a procedure-independent right to make claims about which decisions are correct and which decision-making procedure is most likely to produce correct decisions. Interpreted in this way, the conception presupposes third-personal epistemic authority about the correctness of outcomes and about which decision-making procedure can best approximate it. But if there is such a right, democratic decision-making once again appears either redundant or, if it is not redundant, then its value must be non-epistemic.

If my argument so far is correct, it shows that the attempt to defend democracy from a third-personal epistemic standpoint is self-undermining. Third-personal epistemic authority can ground non-democratic forms of decision-making, but it cannot establish the legitimacy of democracy.

Which way forward for defending democracy? The authority dilemma suggests two possible strategies. The first is to drop the epistemic strategy altogether and defend democracy on purely practical grounds. As mentioned above, this is not the strategy I shall pursue here. The other is to find an alternative epistemic defense of democracy, one that is not affected by the authority dilemma. This is the strategy I shall pursue here.

But before I can do that, I need to address a potential objection to my argument so far. I have said nothing about the popular epistemic defense of democracy based on the Condorcet Jury Theorem (CJT) and related results. The objection is this: a defense of democracy that rests on the CJT and related results is not vulnerable to the authority

dilemma as these results show that we can rely on democracy to discover the correct decision.

The CJT says, roughly, that if there are two alternatives – where one is the correct choice and the other the wrong choice – and if every member of a democratic collective is more likely to make the correct choice than the wrong choice and they vote independently of each other, then the majority is also more likely to make the correct choice and the probability that it makes the correct choices increases rapidly with the size of the collective. If the relevant conditions obtain, the CJT shows that larger groups are more likely to make correct decisions than smaller groups or individuals; a democratic collective may even outperform a group of experts. The CJT can thus be used to defend democratic decision-making on the basis of the claim that – under certain conditions – epistemic authority is appropriately held by a large collective. Note that the CJT is only relevant for the process of aggregation, not for deliberation. It highlights features of large-scale aggregation of votes, where votes are understood as expressing beliefs about the correct decision. It does not cover deliberation, i.e. the process of exchanging reasons for belief or action.

There has been much discussion of the likelihood that the conditions under which the CJT holds are ever met and, on that basis, whether it can be used as part of a defense of democracy.⁶ But I shall not go into that discussion, as my purpose here is neither to criticize nor defend the CJT and its applicability to democracy. I'm interested in the question what an argument from the CJT would imply for the relationship between epistemic considerations and the legitimate practical authority of democracy.

⁶ See List and Goodin (2001) and Dietrich and Spiekermann (2013) for recent discussions.

The answer to this question depends on how the CJT is invoked to explain why an appropriately made democratic decision gives individuals sufficient reasons to uphold it. The CJT may be invoked as part of a correctness theory of political legitimacy. In this case, it is, as before, the correctness of the decision, not the democratic decision-making process which generates legitimacy and the authority dilemma looms. Or it may be invoked as part of an argument which shows that democratic decision-making is the most likely decision-making procedure to lead to correct decisions. In this case, too, the authority dilemma will reappear if the argument presupposes knowledge of what the correct decisions are.

But if it can be avoided in this second case, it is because the CJT is invoked in an argument that starts from circumstances in which we don't know what the correct decision is, i.e. when the third-personal standpoint is unavailable. Understood in this sense, an argument from the CJT is compatible with the thesis that I want to defend here, namely that there is scope for democratic decision-making when there is no procedure-independent epistemic authority in the relevant area of decision-making. Unlike the arguments that end up in the authority dilemma, this kind of argument links the legitimate practical authority of democracy not to its instrumental role in reaching correct decisions, but to procedural epistemic considerations. It shows that under certain conditions, the claims made by individuals or small groups of experts lack the epistemic authority that the democratic decision-making process can claim. In this case, our reason to defer to a democratically made decision is not because it is correct or likely to be correct, but because there is no procedure-independent way for assessing claims about what the correct decision is. If the conditions apply, then the CJT shows that epistemic authority is appropriately held jointly and exercised through a democratic decision-making process.

The argument I want to develop in this chapter parallels this kind of argument from the CJT. I shall focus on the deliberative component of democratic decision-making, rather than the aggregative component to show that the deliberative procedure itself may have epistemic value.

IV. The Procedural Epistemic Value of Deliberation

The argument I develop in this section parallels the argument from the CJT just sketched in the sense that it also shows that there is a prima facie case for democracy when there is no procedure-independent way of assessing epistemic authority. I shall focus on the deliberative component of democratic decision-making, rather than the aggregative component. My aim is to show that the deliberative democratic procedure itself, i.e. the process of exchanging reasons with others and of adjusting one's beliefs in response to the claims made by others, may have epistemic value – above and beyond the value of making correct decisions.

I understand procedural value in contrast to instrumental value. Deliberative decision-making has instrumental epistemic value if it leads to more accurate beliefs among the participants – for example through comparing evidence and opinions and responding to the evidence and opinion that others present – and/or to correct or more accurate decisions. It has instrumental epistemic disvalue if it hinders the formation of accurate beliefs and/or the making of correct decisions. Epistemic instrumentalism reduces the epistemic value of democratic decision-making to its contribution to epistemic ends such as accuracy or truth.

By contrast, deliberative democratic decision-making has procedural epistemic value if its epistemic value does not reduce to the epistemic value of the outcome. I shall focus here on the procedural epistemic value of the deliberative process, not of decision-making as such. If

public deliberation has procedural epistemic value, it has epistemic value even in cases where its effect turns out to be that it has diminished the accuracy of the beliefs of the participants. This may sound paradoxical, but I will show that it is possible and of significance for an epistemic defense of democracy.

Procedural value can take different forms. Rawls has identified the following three main forms: pure, perfect, and imperfect proceduralism.⁷ With pure proceduralism, the procedure is necessary and sufficient for the value of the outcome. There is thus no procedure-independent standard for what counts as a good outcome. With both perfect and imperfect proceduralism, there is a procedure-independent standard. With perfect proceduralism, the procedure is necessary to realize a good outcome. With imperfect proceduralism, the procedure is necessary to approximate a good outcome, but it may fail to realize the outcome that the procedure-independent standard envisages. For example, in a trial, there is a procedure-independent standard for a good outcome: convict the accused if guilty and don't if not guilty. The trial is necessary to approximate such good outcomes. But justice may be served even if an appropriately conducted trial ends up making a decision which, with hindsight or from some other vantage point of privileged information, turns out to be wrong.

As I will explain below, the procedural epistemic value of deliberation takes the form of imperfect proceduralism. On that interpretation of procedural epistemic value, accuracy of belief remains the intrinsic epistemic value and sets a procedure-independent standard for evaluating deliberation. But what distinguishes imperfect proceduralism from

⁷ Rawls (1971: 85); he introduced them with regard to the value of justice, but the distinctions apply more generally.

instrumentalism about epistemic value is that the former captures the situation in which the procedure has value because there is no procedure-independent access to the correct outcome. The deliberative procedure thus gains its value from being a proxy for good epistemic conduct in situations where it is not possible to appeal to the procedure-independent standard directly to assess this conduct. And this value of the deliberative procedure does not reduce to the epistemic value of its outcome as assessed by a procedure-independent standard.

The idea that deliberation has procedural value is familiar from the practical context. Rawls, for example, takes reciprocity to be a fundamental procedural value that shapes the content of the claims of justice we have on each other. In moral philosophy, Charles Larmore (2008) focuses on equal respect and Stephen Darwall (2006) on mutual accountability. But what I'm claiming here is that procedural values play a role in the purely epistemic dimension of deliberation as well.⁸

How should we make sense of the idea that deliberation has procedural epistemic value? It turns out that the epistemology of disagreement shows that under certain circumstances, epistemic agents have reason to engage in deliberation with each other and adjust their beliefs in direction of each other. This value of deliberation does not reduce to the value of the outcomes of deliberation, i.e. it is, to some extent at least, independent of its contribution to the accuracy of belief.

The relevant circumstances arise only with certain types of disagreement. Specifically, they arise with disagreements among epistemic peers that are persisting in the sense that deliberation fails to reveal evidence that one party left unexamined or a mistake one party

⁸ The following passages borrow from Peter (2013).

made in the interpretation of the available evidence. An epistemic peer is someone who you take to be equally likely to make a mistake. This is a weak definition of what it means to be a peer, since it only takes the form of an all things considered criterion and doesn't involve any input conditions such as equal formal qualifications or equal computational abilities. On this definition of peers, deliberation among parties who consider each other peers can occur not just in the context of academic or expert inquiry, but in any small or large social collective, for example on issues which are too wide-ranging and complex for anyone to count as an expert, or when relevant information is dispersed across all deliberative parties. It turns out that in those circumstances, each party to the deliberation has reason to adjust their beliefs in direction of each other.

But before I go into more detail on this, it need to address the objection that the epistemology of peer disagreements is not relevant for democratic theory since the participants in democratic deliberation neither do nor should consider each other as epistemic peers. There are massive epistemic inequalities among the members of a democratic collective and this renders the epistemology of peer disagreement unsuitable.

In reply to this objection, let me first concede that these epistemic inequalities are often both massive and justified. You might very well know a lot more about certain subjects than others and may validly claim epistemic authority on the matter. I'm not suggesting that the members of a democratic collective generally are epistemic peers, nor that they generally ought to regard each other as such. The question I'm interested in is when deliberative democracy – some form of rule by all – is appropriate. And the claim that I intend to defend is that when there is a disagreement among parties that do, in a non-crazy way, take each others as peers, then deliberative democratic decision-making may be appropriate. By

contrast, when some hold legitimate epistemic authority over an issue, the epistemic point of view supports a form of epistocracy – rule by experts.

Secondly, note that the notion of peerhood I'm using is compatible with all sorts of epistemic inequalities. You might consider someone a peer – with regard to a certain set of issues – even though your formal qualifications, your computational abilities, or your access to information differ. In addition, this notion of peerhood is domain-specific. It is possible to accept someone as an epistemic authority on some questions but consider this person a peer with regard to certain political matters at the same time.

Thirdly, note that while you judge your peers, by definition, to be equally likely to make a mistake in a particular situation, this doesn't mean that two peers always perform equally well. Sometimes, you have information about the circumstances of the disagreement that makes it appropriate for you to discount their judgment, at least to a certain extent. For example, of two scientific colleagues who compare their different conclusions about the validity of a hypothesis, one may have double-checked the data and the calculations and asked an assistant to do the same while the other was pressed for time and admits that he only ran what he was given through an off-the-peg computer program. In a context of social deliberation, imagine a case of committee work. Suppose that although all participants regard each other to be equally able to take up the available evidence, some may have carefully thought about the implications of the evidence presented, as manifest by the quality of the arguments they can offer in support of their beliefs, while others respond with

a gut reaction. If there is such information which suggests that a peer is not performing well, you are entitled to discount their view.⁹

So much for the negative defense of using the epistemology of peer disagreements as a starting-point for understanding democratic deliberation. It shows that my claim is not a very strong one.¹⁰ But I haven't said anything positive yet about how the epistemology of peer disagreements might help. I now want to get to that.

Consider the following case. An expert committee prepares a policy together with relevant politicians, for example a new minimum wage policy. Suppose there is a disagreement on the question whether all the evidence, appropriately interpreted, supports the policy or not.

⁹ You might even be entitled to discount their view completely, as the following case illustrates (adapted from Christensen 2007). Suppose you and I regularly have dinner together at a restaurant and we always split the bill. Neither of us has any problems with mental arithmetic, so the decision about how much we each owe is usually straightforward. One evening, however, I claim we each owe £26 and you claim that we each owe £28. In this case we each have reason to suspend our belief about how much we each owe. But now suppose that instead of claiming that we each owe £28, you claim we each owe £280, way more than the total bill. Even though I consider you a peer in this regard, something has clearly gone wrong and I'm entitled to stick to my guns without giving any weight to your belief.

¹⁰ In fact, it may be weakened further. The epistemological literature currently focuses on peer disagreement and my argument is based on initial findings of this research and thus somewhat hostage to that literature. As will become clear below, what is key to my argument is the possibility that you find yourself in a disagreement with someone to whom you're attributing some epistemic credibility and to whom you owe some sort of response. The peerhood assumption imposes symmetric credibility. But that assumption is not necessary, it seems to me. As long as all of the parties attribute some epistemic credibility to each other, then, everything else equal, some sort of response may still be required of each, and that would be sufficient for my argument to go through.

Will the policy significantly increase unemployment? This would speak against the policy. Or will it not and have other beneficial aspects? This would speak for the policy. Suppose the disagreement is not just between experts and politicians; the experts disagree among themselves. Also suppose the disagreement is not the result of one party not able or willing to consider the available evidence, draw appropriate conclusions from it, etc. What we have here is a persisting disagreement among parties that do take each other as peers. Now suppose that the disagreement isn't limited to this particular committee, but is mirrored in similar committees, in parliament, in academia, in the media, etc. And it is also mirrored in debates among friends and family members. Suppose you've looked at the available data and the available arguments by the experts and formed the belief that the proposed minimum wage policy will significantly increase unemployment. I've also looked at the data the arguments and formed the belief that the policy will not significantly increase unemployment (and also have very positive effects on working conditions). Through deliberation, we become aware of our disagreement and neither can demonstrate that the other obviously made a mistake.

I want to claim that in a case like the minimum wage case, what we have is a peer disagreement writ large, extending, potentially, to the entire democratic collective. What is characteristic of this situation, from an epistemic point of view, is that each side of the disagreement deserves some weight for the claim it makes and there is no vantage point from which the disagreement could be resolved.

What is the appropriate response to such a disagreement? I follow the majority view here which is that it is appropriate that both sides to a peer disagreement diminish confidence in

their original beliefs.¹¹ Different epistemological theories give different accounts of why this is so. According to the Total Evidence View (Kelly 2010), if a disagreement with a peer receives any weight, it is as a piece of evidence that a rational epistemic agent needs to consider together with the other available evidence. On the rivaling Conciliatory Views (Christensen 2011; Elga 2010), the disagreement with a peer gives you a reason to adjust your belief that is at least to some extent independent of the reasons that you have had to form your original belief. On this view, you've done the best you could given the evidence etc. But that was apparently not good enough, as your peer has formed a different belief. You now need to put the reasons you've had to form your original belief to the side and respond to the situation that the disagreement has revealed.

There are significant differences between these two main views, but for our purposes here, these differences do not matter, as both theories concur that, absent independent information about their respective ability or willingness to perform in the particular instance, peers need to adjust their beliefs in direction of the other party. Both accept that the fact that someone you *ex ante* regarded as a peer now disagrees with you is not sufficient for you to dismiss their opinion off-hand. Some sort of response is required.

This shows that there are circumstances in which there are good epistemic reasons for epistemic peers to be responsive towards each other's claims and to consider some revision of their original beliefs on the basis of these claims. I have called this the accountability

¹¹ Some (e.g. Kelly 2005) have argued that peer disagreements do not require a response at all by claiming that what justifies someone's belief is their response to the available evidence and by denying that information about the beliefs of peers carries independent epistemic weight. But many have rejected this "steadfast view" and I follow them here.

thesis about the epistemic value of deliberation (Peter 2013). Epistemic peers, in these circumstances, are mutually accountable to each other, in addition to being accountable to the truth they seek. In the relevant circumstances, your claim (that the minimum wage policy will increase unemployment) gives me a reason to revise my belief (that it will not) and vice-versa. What the accountability thesis captures is that there are situations in which we are doubly accountable. There is, on the one hand, the familiar accountability to truth. But there is, on the other, also an often overlooked accountability to epistemic peers. When we find ourselves in a persisting disagreement, where neither party can demonstrate that the other is simply wrong, what gives each of us reason to adjust our beliefs in direction of the other are the claims we both made, not just first-order evidence about the fact or truth in question.

What is more, in those circumstances, neither of us can validly claim third-personal epistemic authority. Insofar as there is any appeal to epistemic authority, it takes on a second-personal form. To see the point, contrast the deliberative situation here with a case of testimony. In testimony, we are also considering an epistemic relationship – the relationship between the testifier and the addressee. This relationship is hierarchical, however, not democratic. If the relevant conditions for successful testimony are met, your testimony gives me a sufficient reason for belief. My reason for belief is thus second-personal; it derives from your claim. But your authority to make claims that give me reasons for belief is not; it derives from your accountability to the truth and is third-personal. In the case of peer disagreement I'm considering here, each of us has a second-personal reason to adjust our beliefs. We're both accountable not just to the truth that we both seek, but to each other as well. Good epistemic agents enter this relationship of mutual accountability

and let it be a – second-personal – source of reasons for belief that is, at least to some extent, independent of truth as a source of reasons for belief. To this extent, epistemic authority, too, takes on a second-personal form. My right to make claims that give you reason for belief depends on your accountability to me as someone you regard as a peer and vice versa.

I'm not denying that accuracy or truths are the sole epistemic ends. But what my argument shows, I hope, is that it is possible to value the deliberative democratic procedure in non-instrumental fashion. This opens the door to an alternative to the epistemic instrumentalist defense of democracy. When peers cannot agree on what belief is warranted, and nothing suggests malperformance, then at least some reasons for belief stem from a relationship of mutual accountability between them. But mutual accountability is a procedural consideration. Its epistemic value cannot be captured by a purely instrumental approach because, if the relevant conditions apply, my reason to adjust my belief in your direction obtains independently of whether the adjustment makes my belief more accurate.

V. The Legitimate Authority of Democracy

The alternative to the epistemic instrumentalist defense of democracy that I'm proposing is this. There is an epistemic case for democracy when the epistemic circumstances are such that there is a peer disagreement writ large on a particular issue, one that cannot be resolved by appeal to third-personal epistemic authority and one that places the members of a democratic collective in a relationship of mutual epistemic accountability. In this final section, I want make a few brief comments on how this claim is to be understood.

The situation I have focused on is one in which deliberation has established that no participant can legitimately make decisive claims about what others ought to believe about

what the correct decision is. The necessary adjustment of belief may have lead them all to suspend belief. Or it may have lead to a reasonable disagreement, i.e. a situation in which parties to a disagreement hold incompatible beliefs, but each has some justification for holding the belief they do.

If a decision is needed, then some form of aggregation may be required in these circumstances to reach a decision. While a lot more would have to be said about when and how to aggregate, something I can't do here, what we're beginning to see is how democratic decision-making, understood as a combination of deliberation and aggregation, has its natural locus in a situation in which the reach of epistemic authority is insufficient to determine what the correct decision is.

Note that my aim in this talk is a modest one. I'm not trying to establish the set of requirements which is jointly sufficient for democratic legitimacy. Instead, I'm interested in how to identify the epistemic circumstances in which deliberative democratic decision-making is potentially legitimate. In other words, I'm concerned with circumscribing the logical space in which democracy belongs.

The view that I have outlined suggests that deliberative democratic decision-making has its appropriate space in situations where disagreements cannot be resolved by appeal to third-personal epistemic authority. When they can, then there is no epistemic basis for democracy. To the contrary. If legitimate practical authority is premised on epistemic considerations and if there is third-personal epistemic authority, the decision should be made by those who know what the correct decision is. If democracy has any value at all in those epistemic circumstances, it is for non-epistemic, practical reasons. But if these disagreements cannot be resolved, then the decision has to be made on other grounds

rather than by appeal to third-personal epistemic authority. Epistemic considerations, in this case, help identifying the scope for democratic decision-making and impose certain conditions on the deliberative democratic decision-making process.

What is the connection between the procedural epistemic value of deliberation and democratic legitimacy? The view I've outlined supports a combination of imperfect proceduralism about epistemic value with pure proceduralism about the legitimate practical authority of democracy. The epistemology of disagreement shows that in certain circumstances, the epistemic value of deliberation doesn't reduce to whether it produces more accurate beliefs, but depends on whether or not the process itself is conducted appropriately, i.e. on respect of the relationship of mutual accountability between the participants. Since an appropriately conducted process of deliberation is a proxy for aiming at forming accurate beliefs in circumstances where disagreement reveals a difficulty with determining directly what the correct belief is, epistemic value in this case conforms to the structure of imperfect proceduralism.

In circumstances where there is no recourse to a procedure-independent standard for correct decisions, the legitimate practical authority of democratic decision-making can't depend on this standard. This suggests pure proceduralism about the legitimate practical authority of democracy. On this conception of democratic legitimacy, a decision is legitimate if and only if it has been made through appropriate deliberative decision-making procedures.¹²

¹² As such, the view I endorse here contrasts with Estlund's imperfect proceduralism about democratic legitimacy as his, but not my view, makes democratic legitimacy dependent on the epistemic quality of the outcomes of the democratic decision-making process.

Can the view I've outlined here avoid the authority dilemma? I think it can. The authority dilemma arises for epistemic instrumentalism about democratic legitimacy because of the tension between the legitimate practical authority of democracy and procedure-independent, third-personal, epistemic authority. The view I propose distinguishes between the imperfect proceduralism that shapes legitimate relations of epistemic authority and the pure proceduralism of democratic legitimacy. Epistemic considerations, on this view, influence the deliberative decision-making procedure, but they do not set a procedure-independent standard for democratic decision-making. Unlike forms of epistemic instrumentalism, it can thus explain under what epistemic circumstances it is appropriate to put practical authority in the hands of a democratic collective.

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References

- Christensen, David. 2007. "Epistemology of Disagreement: The Good News." *Philosophical Review* 116: 187-217.
- Christensen, David. 2011. "Disagreement, Question-Begging, and Epistemic Self-Criticism," *Philosopher's Imprint* 11 (<http://hdl.handle.net/2027/spo.3521354.0011.006>).

- Darwall, Stephen. 2006. *The Second Person Standpoint*. Cambridge: Cambridge University Press.
- Dietrich, Franz and Kai Spiekermann. 2013. "Epistemic Democracy with Defensible Premises." *Economics and Philosophy* 29 (1): 87-120.
- Elga, Adam. 2010. "How to Disagree about how to Disagree," in Richard Feldman and Ted A. Warfield (eds.) *Disagreement*. Oxford: Oxford University Press: pp. 175 – 186.
- Estlund, David. 2008. *Democratic Authority*. Princeton: Princeton University Press.
- Gaus, Gerald. 2011. "On Seeking the Truth (Whatever That Is) through Democracy: Estlund's Case for the Qualified Epistemic Claim." *Ethics* 121:270–300.
- Goodin, Robert. 2007. "Enfranchising All Affected Interests, and Its Alternatives." *Philosophy and Public Affairs* 35(1): 40–68.
- Hume, David. 1978 [1739]. *A Treatise of Human Nature*. 2nd Edition; L. A. Selby-Bigge and P.H. Nidditch (eds.). Oxford: Clarendon Press.
- Kelly, Thomas. 2005. "The Epistemic Significance of Disagreement." In Gendler, Tamar Szabo and John Hawthorne (eds.) *Oxford Studies in Epistemology* volume 1, pp. 1167 – 196.
- Kelly, Thomas. 2010. "Peer Disagreement and Higher Order Evidence," in Richard Feldman and Ted A. Warfield (eds.) *Disagreement*. Oxford: Oxford University Press: pp. 111 – 174.
- Kelsen, Hans. 1955. "Foundations of Democracy." *Ethics* 66: 1 – 101.
- Larmore, Charles. 2008. *The Autonomy of Morality*. Cambridge: Cambridge University Press.
- List, Christian and Robert Goodin. 2001. "Epistemic Democracy: Generalizing the Condorcet Jury Theorem." *Journal of Political Philosophy* 9: 277 – 306.
- Miller, David. 2009. "Democracy's Domain." *Philosophy and Public Affairs* 37(3): 201–228.
- Peter, Fabienne. 2009. *Democratic Legitimacy*. New York: Routledge.
- Peter, Fabienne. 2013. "The Procedural Epistemic Value of Deliberation." *Synthese* 190(7): 1253-1266.
- Rawls, John. 1971. *A Theory of Justice*. Cambridge: Harvard University Press.

Waldron, Jeremy. 1999. *Law and Disagreement*. Oxford: Oxford University Press.