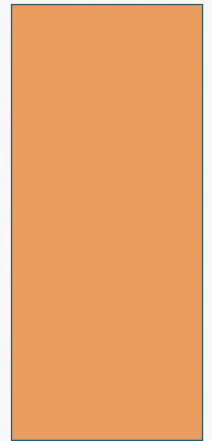


HOW DO WE JUSTIFY DEMOCRACY?

PROCEDURALISM, INSTRUMENTALISM AND
INDEPENDENT CRITERION



OUTLINE

- Starting point: the role of disagreement
- From disagreement over procedures to justifications of democracy
- The case of Fabienne Peter
- Incoming challenges
- Tentative proposal

STARTING POINT

- Jeremy Waldron's circumstances of politics:
 1. The fact of disagreement
 2. The need for cooperation
- Need for cooperation → we ought to know how to coordinate, that is, according to which rules we are going to act in society
- Fact of disagreement → we disagree over what these rules ought to be

	We agree on what the right decisions are	We disagree over what the right decisions are
We know that we agree/disagree	We coordinate on a decision-making procedure agreed on by all → would we still need democracy? Why don't go for 'each as she knows' rule?	We need a decision-making procedure to settle our disagreement → democracy has normative value
We do not know that we agree/disagree	We need a decision-making procedure in order to discover whether we agree or not → democracy has both normative and epistemic value	We need a decision-making procedure in order to discover whether we agree or not → democracy has both normative and epistemic value

HOW TO TAKE DISAGREEMENT INTO ACCOUNT

- J. Rawls: we disagree over comprehensive doctrines, but agree on the public conception of justice;
- J. Waldron: we disagree over the public conception of justice, but agree on procedures;
- DEMOCRATIC PROCEDURE → LEGITIMACY: outcomes are legitimate, though (sometimes) unjustified;
- D. Enoch: but we disagree over procedures as well!

LINE OF THE ARGUMENT...

Need for cooperation: we need collectively binding decisions, that all ought to comply with.

Fact of disagreement: we do not agree over which specific decisions are justified in themselves.

Choice of decision-making procedure: we need a decision-making procedure that confers legitimacy to outcomes over which we disagree.

... SO FAR

Pervasive disagreement:
either we disregard disagreement over procedures; or we need a justification to account for democracy against other decision-making procedures.

Justification and Legitimacy: a proper justification of democratic decision-making confers legitimacy on its outcomes, so that a certain outcome may be unjustified in itself, but still legitimate in virtue of the procedure that issued it.

JUSTIFICATIONS OF DEMOCRACY

- Since we disagree over outcomes we need procedures in order to issue legitimate outcomes;
- Since we disagree over procedures, we need a good justification of democracy in order to grant it the power to confer normativity on its outcomes;
- Two possible justifications of **procedures**:
 - Instrumentalism
 - Intrinsicism

INSTRUMENTALISM

- General definition: procedure is justified insofar as it produces the right outcomes;
- There is an independent value according to which we can evaluate democratic outcomes;
- If the procedure achieves on average the correct outcomes, it is overall justified;
- Not all outcomes are justified, but they are all legitimate and most of them are also justified.

INTRINSICALISM

- General definition: a procedure is justified insofar as it realizes a certain value in the way it is worked out;
- There is an independent value that applies to procedures, rather than to outcomes;
- If we do treat each other within the procedure according to such value or set of values, then the procedure realizes this value and is justified thereof;
- All outcomes are legitimate, but their justification is left to other criteria applying to outcomes (that are not publicly available).

QUICK COMPARISON

Instrumentalism

- Procedure justified in virtue of its outcomes;
- There is an independent value which applies to outcomes;

The relations between the procedure and such value is **contingent**.

Intrinsicism

- Procedure justified in virtue of how it treats participants to it;
- There is an independent value which applies to the procedure;

The relationship between the procedure and such value is **necessary**.

EPISTEMIC CONCEPTIONS OF DEMOCRACY

- Justification of democracy given in terms of its epistemic quality:
 1. Instrumentalism: there is an independent value applying on outcomes that justifies democracy as able to achieve the correct outcomes (on average) → David Estlund (?)
 2. Intrinsicism: there is an independent value applying to procedures that justifies democracy as necessary for the realization of such value → Fabienne Peter

FABIENNE PETER'S DISTINCTION

- Peter draws a line between Rational Proceduralism and Pure Proceduralism (Peter 2008):
- RP grounds democratic legitimacy on both fairness of procedures and substantive quality of outcomes;
- PP grounds democratic legitimacy on the sole fairness of procedures, both moral and epistemic.

'RATIONAL PROCEDURALISM'

- Blurring of the distinction between legitimacy and justification of outcomes → insofar as RP refers to:
- The justification of procedures based on fairness, it is a form of intrinsicism;
- The justification of procedures based on the quality of outcomes, it is a form of instrumentalism;
- The justification of outcomes, it is not even an account of democratic legitimacy.

INSTRUMENTALISM CHALLENGES

INTRINSICALISM CHALLENGES

INCOMING CHALLENGES #1

For instrumentalism

- Why do values applying to outcomes matter more than values applying to procedures?
- How do we take disagreement over outcomes into account?

For intrinsicism

- Why do values applying to procedures matter more than values applying to outcomes?
- How do we take disagreement over procedures into account?

INCOMING CHALLENGES #2

For instrumentalism

- To what extent are we allowed to restrain the democratic process in order to guarantee outcomes correctness?
- To what degree should a procedure guarantee outcomes correctness in order to be justified?

For intrinsicism

- What can we do with legitimate outcomes that are grossly unjust?
- How much 'heavy' should the concept of democracy be in order to account for fundamental rights safeguard?

TENTATIVE PROPOSAL

- Justification of democracy ought not be one: plural justification that appeals to different levels
 1. Normative/moral justification: democracy is the right way to treat people
 2. Epistemic justification: democracy is the most reliable decision-making procedure
 3. Prudential justification: democracy is in everyone's long-term interest

WHY A PLURAL JUSTIFICATION

- There are people that agree on normative values behind democracy, as equal respect, political equality or autonomy → moral justification of democracy confirm them in their judgments
- There are people that disagree over normative values → epistemic justification of democracy grants them the chance to find out what the real values are
- There are people that disagree over both → prudential justification of democracy allows them to pursue their own conceptions of justice and the good in the safest way

THANK YOU!