

Keeping Truth Safe From Democracy

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Abstract. The ambition of ‘justifying democracy’ has more and less theoretical aspects, involving more or less emphasis on our pre-philosophical commitments. The prospects for justifying democracy without recourse to pre-philosophical commitments are not good, as we see if we are properly critical of David Estlund’s admirable recent contribution to the democracy literature. What does this mean for political philosophy? We must think hard about the role of justificatory projects with the ambition of doing without pre-philosophical commitments. Such projects are not without a role, but it is a constrained role.

Key words: justifying democracy, Estlund, pre-philosophical commitments, political theory.

There are deep issues about the extent to which our pre-philosophical intuitions and commitments ought to constrain our philosophical theorising about politics. Sometimes, as in the work of liberals such as Rawls, this manifests itself as a question about how members of a pluralistic society, in which individuals and groups have different attitudes and values, and adopt various ‘comprehensive doctrines’ governing their thinking about moral and political questions some of which will be pre-philosophical might settle questions about what the basic structure of society ought to be. Rawls’s own strategy amounts to focussing on ways in which agreement about the most important questions of justice might be reached from such disparate viewpoints. In the course of reaching agreement, intuitions are brought into ‘reflective equilibrium’ with more considered, theoretical principles, and therefore play a central role in determining the eventual shape of a liberal theory of justice.

Another way in which pre-philosophical ideas about politics can enter into political philosophy is less explicit. When political philosophers turn to questions of state legitimacy and democracy, they might conceive their task as one of establishing the *theoretical grounds* upon which to rest the sorts of political arrangements we pre-philosophically approve. For such a philosopher, the task is not to rethink *whether*, say, democracy is good, but to say *why* it is good. This way of approaching political philosophy serves an important purpose: one of the things we all ought to want our intellectuals to do is to make clearer to us the real contours of our existing commitments, the better to understand the values which in some sense make us what we are. (This might, in line with the political liberal’s conception, amount to understanding a range of values, or a disjunctive set of values.)

But there are other ambitions which the political philosopher might reasonably have. We might, for example, want to know not just what is good about democracy, but whether it is really as good as our pre-philosophical ideas would have it. (This might be out of purely philosophical interest, or it might be because, for example, we are sensitive to the historical delicacy of democratic ideals such as ours.) And we had better be careful not to allow these distinct – though both important – ambitions for political philosophy to

become confused, on pain of diluting the rigour proper to both ambitions. We had better not miss what is important *to us* about our pre-philosophical ideas when pursuing the first aim, by confusing what an idea *is* with what we find appealing *about* it. And we had better not let our pre-philosophical ideas play too great a role in our theorising when what we are putting on trial are those pre-philosophical ideas themselves. Our pre-philosophical ideas can, when we are pursuing the second aim, be called as witnesses but must not be admitted to the jury.

How, though, are we to say when our pre-philosophical ideas have ended up playing too much of a role? This is bound to be a delicate question. I propose a case study, in the form of a discussion of an excellent recent contribution to the philosophical debate about democracy. I shall conclude with some general suggestions about what this case study tells us about when our pre-theoretical ideas might, and when they might not, be important for political philosophy.

I. DEMOCRACY

Why might we think that democratic institutions and practices are the best ones to adopt or approve of? There are two sorts of answers one might give, and which have been offered in the literature on the foundations of democracy: it could be that democracy does uniquely well at respecting, exemplifying or promoting some particular values; or it could be that democracy promises to be an optimally efficient problem solving mechanism. There are, of course, many variants of each broad strategy and much to say about them. But I want to discuss a specific attempt, in David Estlund's (2008) book *Democratic Authority: A Philosophical Framework*, to describe what we might think of as a 'mixed' justification,¹ and proceed to say some things about the prospects for a theoretical defence of democracy more broadly, given the lessons of what I will suggest are Estlund's insights and his eventual failure.

Estlund's view is that democracy is the most efficient problem solving mechanism *which meets a criterion based on respecting a particular value*. Specifically, Estlund thinks that we should expect democracy to do well at coming up with political decisions which avoid what he calls "primary bads" (war, famine, economic or political collapse, epidemic and genocide), but that a condition on any justified political authority is that it is acceptable to those who are subject to that authority.² There might be even better ways to arrive at good political decisions, by "epistocracy" – rule by the wise – most obviously, but they fail the acceptability condition and are therefore ruled out.

1] All parenthetic page references in the main body of the text are to this work.

2] Estlund's discussion of 'authority' is extensive and interesting, but I shall not address it here and will assume that it will be clear from context what the notion of authority is as I am employing it.

II. SAVING POLITICAL TRUTH, BUT AVOIDING EPISTOCRACY

One of the most appealing aspects of Estlund's view is that he resists the idea that there are no political truths (or none in a 'robust sense') and that there is no such thing as political expertise. Several writers have proposed that since there are no robust facts that determine political truth or expertise we are forced to approve of democratic mechanisms on the grounds that they are uniquely well-suited to deciding questions by surveying myriad 'truths' or conceptions of the truth.³ By associating political truth with the prevention of primary bads, Estlund has pointed out a fairly straightforward way of seeing that scepticism about truth in politics cannot be right: political truths need not be an exotic variety of truth, nor even necessarily as problematic a variety of truth as moral truth; rather, political truths will just be the truths about what must be done, or how things need to be, if we are to achieve whichever political aims we have.⁴ Deciding about which aims we *should* have will involve difficult value judgements (and we might be sceptical about the conditions for problem solving adequacy being met by democracy here), but even if scepticism about value facts is reasonable, there is no reason to think that all political facts are value facts. The point is that, unless we are willing to accept some form of global scepticism about facts or truth, we have no reason to be worried about the existence of at least some *political* facts or truth, and therefore some political expertise.⁵

3] See e.g. Botwinick 1990 or Hatab 1995. Richard Rorty (e.g. 1991 [1988]) seems to come close to the view I have in mind here.

4] Estlund also, therefore, avoids the position on truth in politics associated with political applications of classical pragmatism as found in Misak 2000, Talisse 2005 and – in a slightly different way – Habermas (e.g. 1996 [1992]), which seek to rethink what the notion of political truth (indeed, truth itself) amounts to instead of seeking to do without any talk of it.

5] But note that the writers I referred to in n3 (and to a lesser or more problematic extent n4), above, are attracted to some form of global scepticism about 'robust' truth in the most everyday sense. This does not mean, however, that they all reject objectivity or embrace relativism (see, e.g., Misak's 2008 defence of objectivity with respect to moral deliberation and personal experience). At this point it is as well to be careful about what is at issue here. I do not mean to suggest that Estlund, in adopting talk of primary bads for what I am arguing are the purposes of saving the notion of political truth, is committed to any disagreement with Rawls (his avowed inspiration) and in particular the Rawlsian denial of the role of truth in favour of reasonableness. Rawls, as became clear for example in the course of his debate with Habermas (cf. Habermas 1999a and 1999b), thought of the 'political not metaphysical' conception of liberalism thus: "Political liberalism does not use the concept of moral truth applied to its own political (always moral) judgements. Here it says that political judgements are reasonable or unreasonable; and it lays out political ideals, principles, and standards as criteria of the reasonable." (2005 [1995]: 394). This explicit rejection of truth as the operative notion for liberalism throws welcome light on comments in *A Theory of Justice* such as "granting that God's will should be followed and the truth recognized does not as yet define a principle of adjudication" (Rawls 1999: 191). And I take it that Estlund would not disagree: we might paraphrase Rawls on his behalf and say that "granting that some measure will decrease the likelihood or severity of some primary bads does not as yet define a principle of adjudication". Rawls would not appear (from his 'granting' the premise) to want to deny that there might be a truth of the matter about the need to follow God's will (though even with the benefit of the later clarification it is still unclear what the force of this 'need' is supposed to be), just as Estlund does not want to deny that there are truths about primary bads. And just

Avoiding Estlund's primary bads is one way of being concerned with quite straightforward political truths, but there are others. Whether raising interest rates will effect inflation is, perhaps, a political fact (since it is a fact about politically relevant institutions and conditions), as is whether the offending rate for some particular crime(s) is falling or rising, and whether some particular measure is likely to effect this. And as Estlund accepts, if there are political truths it makes sense to think that there is – or at least *could be* – political expertise. Certainly the possibility of political expertise is not *entailed* by the existence of political truths or facts, for there could be epistemic obstacles to grasping the truths that there are. But in the absence of an argument or some evidence to motivate the idea that such epistemic obstacles stand in our way, or at least that what obstacles do stand in our way are *particularly* problematic, it is reasonable to expect that the non-exotic political truths at least will be susceptible to the same sorts of investigation as any other sorts of facts about which we readily accept that there might be experts. Estlund is right to say that these are relevant considerations when thinking about justifications for political decision making arrangements: if there is political expertise, it seems quite reasonable to include the means of exploiting that expertise amongst the desiderata for our political institutions and practices.

Where Estlund errs is in his rejection of what he acknowledges to be the natural conclusion from these considerations. His acceptance condition on political authority rules out a government of the wise on the grounds that (i) even genuine experts might not be *recognised as* experts by those who will be subject to their authority (so they will quite reasonably withhold their acceptance of the experts' authority believing the experts, mistakenly, to be unqualified), and that (ii) it would be reasonable for those whose acceptance is required to withhold it on the grounds that bias (even unforeseen bias) might creep into the decisions made by any select (and relatively homogenous) group of decision makers.⁶ I think both these arguments are specious, and that the acceptability requirement itself is under-motivated.

I will discuss the requirement itself below, but first I shall say something (briefly) about each of Estlund's two specific worries. Both seem to be just as worrying for the democrat as for the "epistocrat". As for the first, the likely failure of a significant proportion of the population to recognise expertise just looks like grist to the anti-democrat's mill: do we really want to endorse the practice of open elections to positions of power and influence if recognising expertise is going to be a problem? Perhaps the problem is still worse for the democrat: with respect to complicated issues (such as economic policy and analysis, or international relations) recognising competency might be just as tricky as recognising expertise. And perhaps for the most important positions of responsibility expertise is what is required for competency – to be a competent foreign affairs advisor,

as for Rawls this truth would apparently not suffice to "define a principle of adjudication", for Estlund the requirement to avoid primary bads is presumably a tenet of reasonableness, not a brute matter of fact.

6] These considerations are also discussed in Estlund 1993 and 2003 respectively.

you had better be an expert on some aspect of foreign affairs. The democrat's position would not be helped by arguing that the role of elected representatives is to represent the people's opinions or interests, not to uncover objective political truths, since knowing what the real opinions or interests of a constituency are and what implications they have for policy decisions is a form of political expertise (there is an objective fact of the matter about what the opinions or interests of a constituency are – this is, for example, why polling is a difficult science), so we have just as much reason to be sceptical that people will be good at recognising it as to be sceptical of their ability to reliably track any other skill. As for the second of Estlund's worries, the familiar tendency of democracy to favour populist measures and to foster climates of debate in which only a quite restricted range of opinions and argumentative strategies are admissible strongly suggests that if there is a worry about some particular decision making procedures fostering decisions biased towards some particular range of interests, then that should be a worry for the democrat just as much as for anyone else. Estlund might think it is especially problematic that the rule of the wise would risk legislating in favour of minority interests (those of the wise). But I do not see how this could be the right distinction: it cannot just be that minority interests are specially unfit for legislating in favour of because they are the in the minority – that is just to assert the democratic thought which these considerations are supposed to be grounding, so a circle beckons.

So much for the idea *that* epistocracy fares worse on acceptability grounds. Estlund's discussion of *why* his acceptability condition is supposed to make more trouble for epistocracy than for democracy is also rather unconvincing. His argument is that, whilst democratic arrangements are not the default preferable ones, any authority requires justification (hence the application of the acceptability condition), and the democratic ideal is one in which nobody has authority over any anybody else, thus placing it in at least *prima facie* pole position if all appeals to authority of some over others fail (36-38). I do not see the force of Estlund's claim that democracy does not involve authority of some over others: Mill's worries about the "tyranny of the majority" seem reasonable, and seem reasonable precisely because the majority have authority over minorities in a democracy.⁷ (Notice that however many minority rights are protected in the sense familiar in the context of, e.g., ethnic minority protection, the very fact that democracy hands decision making priority to majority opinions or preferences is sufficient to ensure that majorities have

7] See Mill 1859. Incidentally, Mill did not think (what is frequently attributed to him) that the educated should have plural votes so as to outvote the uneducated majority. Rather (see Mill 1861, §8), his explicit preference is for the educated to have just as many plural votes as is necessary to even up the voting profile in light of the fact that the uneducated might, by sheer weight of numbers, systematically outvote the better educated. Mill's concern is clearly with the problematic ignoring of specifically educated voters, but his concern for minority interests per se was sufficient to limit his plural voting principle so as not to create a new voting minority to be systematically outvoted, namely the uneducated. So it is clear, I think, that the real force of Mill's worry about the tyranny of the majority applies wherever majorities and minorities are at stake.

authority over minorities, where these groups are defined in terms of their opinions or preferences, regardless of the constraints there might be on the exercise of that authority.)

III. THE QUALIFIED ACCEPTABILITY CONDITION

My brief discussion of Estlund's *application* of his condition was intended to show how, taking the idea of acceptability as an intuitive test for legitimacy (not, that is, as a test with strictly defined rules), Estlund has succeeded in identifying some of the more pressing issues to do with political authority, but has not drawn the most *prima facie* satisfying conclusions from them. This, I suggest, means that unless his *particular* brand of acceptability condition can be shown to have some independent grounding we have reason to accept his premises (to do with truth, expertise, the recognition of experts and decision making bias) but reject his conclusion (that epistocracy fails, in favour of democracy).

So I shall now turn to Estlund's acceptability condition itself. On Estlund's picture of his hybrid of procedural (value-exemplifying) and epistemic (problem solving) criteria, his procedural criterion (the qualified acceptability condition) acts as a sort of brake on his epistemic criterion (the avoidance of primary bads):

[T]he bindingness and legitimacy of the decisions are not owed to the correctness of the decisions, but to the kind of procedure that produced them. Still a central feature of the procedure in virtue of which it has this significance is its epistemic value ... Democratically produced laws are legitimate and authoritative because they are produced by a procedure with a tendency to make correct decisions ... [D]emocracy is better than random and is epistemically the best among those that are generally acceptable in the way that political legitimacy requires. (8)

What precisely is the "qualified acceptability condition"? Estlund's idea of the "necessary condition on the legitimate exercise of political power" is "that it be justifiable in terms acceptable to all qualified points of view (where 'qualified' will be filled in by 'reasonable' or some such thing)" (41). Such a condition speaks to the "Expert/Boss Fallacy":

[F]rom the fact, even granting this it is a fact, that you know better than the rest of us what should be done, it certainly does not follow in any obvious way that you may rule, or that anyone has a duty to obey you ... To the person who knows better, the other might hope to say, "you might be right, but who made you boss?" (40)

The Expert/Boss Fallacy seems to be problematic because of the "Rawlsian thought" that "it would be a kind of intolerance to think that any doctrines could form a part of political justification even if some citizens conscientiously held reasonable moral, religious, or philosophical views that conflicted with them" (43-44).

But it is not quite clear what would drive us, on theoretical grounds, to accept the acceptability condition. The Expert/Boss Fallacy is only a fallacy if it is *false* that knowing better *makes* you boss, and it is not obviously false. At least, there are contexts in which it seems clear that expertise implies authority: when caught up in a traffic accident in the street, for example, the mere fact that one person knows about first aid *is* usually suffi-

cient to just make them boss, at least with respect to what the rest of us should be doing to help.⁸ The falsity of the thesis that knowing makes you boss – the falsity of the “epistocracy thesis”, that is – is just what the acceptability condition is supposed to entail, so its falsity should *not* be what’s motivating the acceptability condition itself.

Connectedly, it is not at all obvious why the ‘kind of intolerance’ involved in the Rawlsian thought is problematic. It would be problematic if that intolerance failed some condition, such as the acceptability condition. But without assuming the acceptability condition it is not clear which condition it is supposed to fail; and of course we cannot just assume the acceptability condition since, if the acceptability condition is supposed to be motivated by the need to avoid the intolerance, a circle beckons. Even if reasonable alternative conceptions could be specified and sorted from unreasonable ones, it remains to be seen what is supposed to ground the inference from a view’s being reasonable to it being a transgression of some condition not to tolerate it. There seems to be a *normative* gap in the argument thus far. Apart from anything else it seems rather implausible that, with decisions needing to be made and deliberation having to conclude some time, the fact that some others reasonably disagree with some decision is sufficient to render implementation of that decision problematically intolerant⁹ – and that is just the sort of situation at issue, plausibly, in the debate about the virtues of democracy. So it is unclear what is supposed to move us to agree that it is, in general, *problematic* that we are intolerant of differing reasonable opinions, so long as intolerance is distinguished from persecution. (It is obvious that whether or not we tolerate dissenting opinions by according them meaningful input into the decision making process, it is a further thing to punish or disadvantage someone *for holding* a dissenting opinion. I have no doubt that this *further* thing is wrong.)

Estlund defends his acceptability condition against two sorts of objection, which he dubs the ‘over-exclusion’ and ‘over-inclusion’ objections. His responses to both are clever, but they betray the extent to which Estlund’s official theoretical defence of democracy in fact rests unduly upon his *pre-theoretical* concern to avoid epistocracy.

The over-exclusion objection, according to Estlund, charges that the qualified acceptability requirement rules out too much, specifically that it rules out certain (i) *possible*

8] This is, I think, a quite reasonable suggestion in its own right. But as it happens Estlund appears to agree that (in an example similar in all relevant respects) the authority of the expert is justified with or without the acceptance of that authority (or ‘consent’, as he calls it in his discussion): see Estlund 2005 §IV. In fact, I think Estlund’s views about the acceptability condition are in serious tension with his excellent discussion of “null” non-consent in the first half of that essay, though he appeals in the second half to a controversial idea of the non-transitivity of authority conditions which might rescue the acceptability condition (though he does not say this in the essay). But I will confine my discussion here to his Democratic Authority view.

9] Of course Estlund, presumably invoking Rawls, would almost certainly retort that what is at stake with the Rawlsian thought is not the problematic intolerance involved in doing something that other people reasonably object to, but with failing to take those objections seriously. But quite what taking them seriously amounts to is not clear, unless we assume the democratic conception of political participation, which conception we are, of course, trying to ground by means of this very thought. Again, the circle beckons.

objections that people subject to some decision *might* have, and/or certain (ii) *actual* objections that people subject to some decision *do* have. But, Estlund maintains, neither (i) nor (ii) are problematic for him: (i) ruling in all *possible* objections is absurd, not because of the sceptical result that there would be no authoritative political principles, but because such a sceptical result should not be entailed by the merely logical fact that any principle *can* be negated (that is, objected to); and (ii) ruling in (all) *actual* objections is entirely consistent with his qualified acceptability requirement – qualified acceptability is merely a *necessary* condition for authority, not sufficient, so it is left open whether there are further conditions, such as actual acceptance (44-49). I suspect that Estlund would eventually recoil from allowing actual acceptance as another necessary condition on legitimacy, but in any case I think his response to the over-exclusion objection is uncharitable. I suggested above that there are cases in which we do not object to epistocracy or intolerance. Why is that a worry? Because it is not clear what the salient differences between those cases and the political case are – is it that in the counterexample cases no “qualified” (reasonable?) person would object? Estlund explicitly avoids specifying what “qualification” amounts to, but we would know more if we knew which (sorts of) *possible* and which (sorts of) *actual* objections were qualified. That, I take it, is the force of the over-exclusion objection: it enquires as to which objections are qualified and which are not, by suggesting that all are qualified and challenging Estlund to say which are not. Estlund assumes that the objection is a positive thesis claiming that *all* possible and/or actual objections should be counted and that it is a problem that his requirement doesn’t count them; but, if it is such a positive thesis, then it is better seen as a provocation to Estlund to say more about exactly which cases the objection gets wrong – *that* will be its real force. Estlund’s points in response don’t say anything more (at least anything which addresses this issue), so we still don’t know what separates the counterexamples from the political case. The powerful over-exclusion objection, then, is that Estlund seems to exclude too many grounds for withholding consent since excluding *any* grounds for withholding consent without explaining why some are excluded and not others is illegitimate. (We should always worry when a distinction looks arbitrary.)

The over-inclusion objection is supposed to go like this: since justifications based on true premises and sound reasoning are successful on just those logical grounds, they establish legitimacy regardless of who might object. Estlund asks us to consider such an argument (50):

- (P1) Christianity is a truth of the utmost importance;
- (P2) Truths of the utmost importance ought to be taught in state schools;
- (C) Therefore, Christianity ought to be taught in state schools,

Suppose that (P1) and (P2) are true. That, the over-inclusion objection says, is sufficient for the truth of (C), *regardless of who agrees or disagrees*. But that, Estlund argues, is not good enough to show that the acceptability requirement rules out too much:

I grant that [C] follows from [P1] and [P2], regardless of who might disagree. Does this establish the over-inclusion objection? ... The answer is plainly 'no.' ... The dispute [in question] is not about whether valid arguments from true premises establish their conclusions ... [but rather] the truth about legitimacy. Premise [P2] makes a claim about legitimacy that is not obvious, and is denied by the qualified acceptability requirement. (S1)

The issue is not, Estlund thinks, between those (his opponents) who value truth and those (Estlund) who supposedly cleave to some other criterion:

[I]f you love the truth, then you want to know what account of legitimate coercion is true. One possibility, the view taken by the qualified acceptability requirement, is that the true view says that political justifications are specious if they appeal to doctrines that are not acceptable to all qualified, even if mistaken, points of view. (S1-2)

But:

Nothing I have said shows that the qualified acceptability requirement, rather than the exclusive view, is true. My aim is only to point out that it, too, would be a truth. (S2)

None of these observations seem particularly dangerous to those sympathetic to the over-inclusion objection. It is clearly true that the point at issue between Estlund and his opponent here is to do with the truth of any premise which asserts the legitimacy of non-acceptable conditions or arrangements. But noting that that is what is at issue gives his opponent no reason at all to recoil from simply maintaining that such premises are *true*. Estlund has said that he considers them false, but as the debate stands it resides in stalemate. It is plausible that there might well be terms on which the issue could be decided. Indeed, Estlund probably thinks of his "Rawlsian thought" as precisely the sort of way in which to decide the issue, modulo my charge of under-motivation. So the over-inclusion objection is not properly countered until we have been given some (good) *reason* to agree with Estlund that the controversial premise is false.

IV. KEEPING POLITICAL PHILOSOPHY SAFE FROM INTUITIONS, AND INTUITIONS SAFE FOR POLITICAL PHILOSOPHY

So, what do I take my comments about Estlund's view to show? I think that the acceptability condition and its supposedly motivating Rawlsian thought about intolerance raise a question about why we should accept them, specifically that it is not at all clear where to draw the line between cases in which expertise does entail authority and those in which it does not. If there is no line to be drawn, then the Expert/Boss Fallacy is not a fallacy at all. But knowing where to draw the line would require committing to some robust theory about the relation between expertise and authority. Estlund offers no such account (his account is not robust, since it does not tell us how to decide where to draw

the line), and proceeds on the assumption that it will be obvious how to sort cases. His responses to the over-exclusion objection – which is most charitably interpreted as pressing on just this issue – and the over-inclusion objection betray the extent to which he seems content to rely on his democratic intuitions to ground his arguments. But of course it was the legitimacy of those democratic intuitions which was at stake in the first place, for the defender of epistocracy need not deny that we have democratic *intuitions* but might charge that they are misguided.

As Estlund argues (ch. 10), procedural approaches to justifying democracy tend to end up appealing to epistemic (problem solving) criteria in the end,¹⁰ so we should not think that our search for a philosophical grounding for our democratic intuitions should just turn to the procedural strand – there is every reason to think that similar problems (problems with scepticism about democracy on epistemic grounds) will recur. And it seems even more problematic to turn to a purer form of epistemic justification – it was the threat to democracy from purely epistemic criteria that forced Estlund to introduce his acceptability condition in the first place. So it seems that reflecting on the issues discussed above raises important questions and doubts about the project of justifying democracy at all (at least if the taxonomy I have assumed – epistemic justification, procedural justification, or Estlund-style mixed justification – is exhaustive).

The justificatory question, about *whether* and *why* we might think that democratic institutions and practices are the best ones to adopt or approve of, occupies an interesting place in the various debates about democracy that go on both within and outside the academy. It is not immediately obvious that those of us debating democracy in the comfortable surroundings of broadly democratic states have any reason to worry about whether and why democracy is a good thing, rather than just how best to make sense of it and make it optimally virtuous. But at the same time we frequently come face to face with issues which make the justificatory question – theoretical as it is – pressing and important.

The thought that those of us who enjoy the obvious (though not unqualified) benefits of living in broadly democratic states have little reason to worry about the theoretical question of justifying democracy follows from reflecting upon the role of theorizing about politics. On one quite plausible view, our theorizing should serve the purpose of explicating the assumptions and intuitions which – at some sort of deep or fundamental level – we share. On this view, there is both a contingency and necessity to our assumptions and intuitions: their contingency is recognised by prescinding from seeking to justify or ground them in such a way as to rule out all possible alternatives (which would be trying

10] Estlund argues that models of deliberative democracy such as those offered by Jurgen Habermas or Joshua Cohen rely on notions of an 'ideal' deliberative situation that determines an ideal solution against which actual deliberation is to be judged, which solution is as independent of actual deliberation as any objective problem solving notion offered by the epistemic conception. And I think that, on pain of implausibility, any conception of democracy (so any supposedly grounded in procedural justifications) must recognise the importance of epistemic criteria when deciding issues to do with who gets to participate, i.e. to be allowed membership of the demos (see Dahl 1979).

to dig below bedrock); and their necessity by taking them to be basic enough to build upon as axioms for our political thinking (taking them to *be* bedrock, for us). This view, then, suggests that the failure of the justificatory projects discussed above is of limited importance or interest for our serious thinking about real political issues and attitudes: Estlund's retreat to pre-theoretical presumption in favour of democracy is not a problem for the justificatory project, rather it is just what sensible justification should be built on.

This view is not straightforwardly wrong since even those of us who, donning our philosopher's hats, explicitly reject the justificatory arguments for democracy (even if we were to explicitly reject the priority of democracy itself) still *think like democrats*.¹¹ That is, our coming to be well-adjusted members of democratic communities just is, in an important sense, our coming to adopt or accept broadly pro-attitudes towards broadly democratic institutions and practices, and towards ideals (inclusion, respect, participation...) which, if not essentially democratic, are essential to democracy and, on the broadest construal of democracy, part of the democratic ideal. Even those of us who reject the ideal tend, if we are well-adjusted members of communities for whom democracy *is* an ideal, to manifest (probably unthinkingly in all but the rarest cases of explicit theorising) at least most of the basic moral attitudes typical of fully paid-up ideal democrats. So there must be more at stake for us, as members of democratic communities, when thinking about democracy than just the truth or falsity of some propositions or the success or failure of a justificatory project: at stake *for us* is whether we are really ready or able to follow the impeccable logic of our theorising so stringently as to change not just what we think, but also *what we are*.¹² Since it is unlikely that we really *are* ready to do the latter in all seriousness, there is *something* to the thought that the *useful* role of theorising about democracy is constrained by our basic attitudes and the principles and ideas we 'deeply accept'.

But that view is, I think, only partially right. The view of theorising I just described as not straightforwardly wrong is not straightforwardly right, either. Our theorising about our own democratic institutions and practises might well be constrained by the background noise of our deeply held assumptions and strongly felt attitudes, but there are cases where the very nature of a political problem or issue strongly recommends (perhaps even *demand*s) that we address it theoretically in just the way pursued above if we are to reach a settled view at all. So, for example, we might not seriously propose to overthrow our own basically democratic existing system of government on the basis of our discovery (if it is a discovery) that there is no philosophically coherent theoretical basis for any presumption in favour of democracy which doesn't appeal to our pre-theoretical commitments, but we might very well think that such a discovery would be a good reason for prescinding from

11] Note that I am not suggesting that we all think as democrats, even if we avow a rejection of the democratic ideal; rather, I am suggesting that were we to reject the democratic idea we would nonetheless literally think like democrats – we are not all democrats, but even those of us who are not (but who are 'well-adjusted' to our socio-political surroundings) systematically think in similar ways to those who are democrats.

12] To the extent that what we are is determined by the attitudes we adopt to ideals and principles.

demanding *more* democracy (even if it is not a good reason to demand *less*). This is not mysterious: whenever our deeply held beliefs or most strongly felt attitudes run short of offering a conclusion (short, that is, of offering up a settled view with the elements of contingency and necessity described above), some further investigation is appropriate and, as in the example just given, it is likely that questions going beyond the broadly democratic *status quo* will go some way beyond the constraints of our socialised background noise of pro-attitudes and beliefs.¹³ Similarly, if the question is whether some state which is not democratic would be better for being democratic, whether we should ‘export’ democracy or encourage it, it seems obvious that our democracy-friendly background pro-attitudes and beliefs will be, at least, subject to a more disinterested theoretical perspective – it is not our own situation at issue, after all, and so the issue of whether, at the terminus of enquiry, we are ready to change not only what we think but *what we are* does not arise, or at least does not arise in the same vivid way: what *we* are to be is not at issue, does not constrain our theorising in the same way. And since our own existing practices are not at issue, it is likely (again, as in the previous example) that our most basic pro-attitudes and beliefs will underdetermine strong settled views about the political plight of others (particularly of others whose non-democratic situation is not obviously worse than our own in humanitarian terms). It is these sorts of cases, then, that show the role that purely theoretical enquiry plays in our thinking.

So, to bring the strands together, it seems that the failure of Estlund’s justificatory project is instructive because it highlights a tension in democratic theory: there are political truths and political expertise, and these facts are not irrelevant to the theoretical justification of any political system. But democracy does not come off well with respect to those facts – it is likely that some sort of epistocracy would do better. So if there were to be a theoretical presumption in favour of democracy, it would (as Estlund sees) have to be that epistocracy fails some condition which democracy does not. Estlund, I argued, fails to motivate such a condition, so epistocracy remains a real theoretical alternative to democracy. My particular worries about Estlund’s strategy – which, I think, is the most thoughtful strategy currently on offer, so the best test-case for the hope of justifying democracy – converged on the worry that at crucial moments Estlund’s ‘justification’ rests on his pre-theoretical presumption in favour of democracy. The subsequent discussion of the relation of theorising to our pre-theoretical commitments was in order to place this worry about Estlund (and, since he is our ‘test case’, about the theoretical justification

13] Note that I am not suggesting that theoretical enquiry is only appropriate where no pre-theoretical attitudes or beliefs would suffice for reaching a settled view. What I am suggesting is that there are some attitudes and beliefs which, in virtue of their being the very attitudes and beliefs the acceptance of which constitutes our growing into well-adjusted members of democratic communities, are sufficiently ‘deep’ or important for us in terms of our being what we are that they trump – for better or worse – disinterested theoretical enquiry when it comes to thinking about certain things. As it goes, I do not think that the set of such deeply accepted attitudes and beliefs is very large, so I don’t think that what I am suggesting here represents any sort of general threat to the value of theory or of theoretical enquiry in general.

of democracy more broadly) in the context of our political thinking more generally. If what I said about that is right, then I think something like the following picture emerges. The bleak prospects for a theoretical justification of democracy which does not rest upon pre-theoretical democratic commitments will not be particularly significant for our most basic settled views about our own broadly democratic societies – at least, it is unlikely that anyone will be persuaded by my criticisms of the justificatory project that the basic structure of their own broadly democratic society needs to change. But the failure of the justificatory project *will* be significant with respect to other issues, namely (among others) whether our institutions or practices should change not in their basic structure but in their details so as to make them more democratic, and whether non-democratic others would be better off as democrats.¹⁴ The failure of the justificatory project will be significant here because theoretical reasoning is required to justify, to ourselves and each other, our conclusions in light of the fact that the questions at issue seem genuinely open, unconstrained by the worrying prospect of having to change what we are by acting on some particular conclusions. Keeping truth safe from democracy – respecting political truth to the detriment of giving priority to democracy – remains, if my comments on Estlund are right, theoretically desirable; *that* fact, if it is a fact, might not be expected to bear upon our attitudes towards our own broadly democratic basic structure, but should be significant for thinking about *how much* democracy we want, or whether it would be best for others.¹⁵

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14] I concentrate upon debates about whether we ought to have more democracy because it is rare these days to come across serious proposals for less democracy within the broadly democratic structure. That is, it tends to be that – given the assumption that the broadly democratic structure of political life is the right sort of structure – arguments are advanced to the effect that (or, often, from the assumption that) we ought to make particular institutions (the House of Lords in the UK or the European Union, for example) more democratic. It is a delicate question whether debates about whether particular institutions ought to be less democratic – whilst still granting the desirability of the broadly democratic structure – would, if they were to be found, be subject to the same degree of underdetermination by our ‘deep’ values as I have suggested debates about more institutional democracy are. It is also a delicate question precisely to what extent debates about whether democracy is best for others tend to be infused with considerations of whether the sorts of people we are – democrats, or those who think like democrats – need to approve of (and/or work to achieve) democracy for others, in order to be properly ‘authentic’ democrats ourselves. This will, of course, have implications for what I have been claiming; but deciding that issue involves interesting work for elsewhere.

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