

EPISTEMOLOGY AND DEMOCRACY

Philosophy 577

Fall 2013

W 3:30-6:30pm

Cohen 493

Professor: Alexander Guerrero

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Office: Cohen 424

Office Hour: W 11am-12pm and by appointment

COURSE DESCRIPTION

This course will look at a number of issues relating to bringing epistemic considerations to bear on the understanding and evaluation of political and legal institutions: questions and problems that arise when one considers how political institutions attempt to incorporate information, expertise, individual preferences, and the value of truth into political decision-making, while at the same time satisfying norms of political legitimacy (autonomy, popular sovereignty, justice, equality, etc.).

In the first part of the course, we will discuss and assess several epistemic arguments for democracy, arguments that suggest that democratic systems of government are good political systems because of their epistemic credentials (perhaps in addition to other reasons). These arguments offer different and even competing views about what “democracy” is and requires, and they present different and even competing views about why democracy is epistemically good.

In the second part of the course, we will discuss and assess a number of concerns about the use of epistemic arguments in political philosophy, particularly as a way of justifying or legitimating democratically imposed law. These arguments note that reasonable disagreement about facts and values is a central feature of what makes political philosophy political, and worry about the use of epistemic norms on the grounds that those norms presuppose some common view about the truth in these domains.

In the third and final part of the course, we will move from abstract assessment of the epistemic virtues of “democracy” to more concrete issues regarding the structure and design of particular core democratic political and legal institutions, including elections, political representatives, criminal courts, constitutional courts, and administrative agencies. Our question throughout this section will be: if we are concerned about the epistemic merits of this institution or the system as a whole, what does that mean for how these institutions should be designed?

REQUIRED TEXT

Hélène Landemore, Democratic Reason: Politics, Collective Intelligence, and the Rule of the Many (Princeton Univ. Press, 2013) (it is available at Amazon, but there is no special stock at Penn)

All other readings will be posted on Blackboard under the relevant course meeting folder under the heading “Course Documents.”

In addition to Landemore, we will read significant portions of

David Estlund, Democratic Authority: A Philosophical Framework (2008)

Alvin Goldman, Knowledge in a Social World (1999)

so you might acquire those as well.

COURSE REQUIREMENTS

I. TALKING

(A) Come to class, be prepared, talk regularly. **(15% of grade)**

(B) In addition to that, each person taking the class for credit will be required to be a “commentator” on one of the readings for one of the meetings of the course. This role should be treated as if you were serving as a commentator for a conference (like one of the American Philosophical Association conferences) and you have been assigned a paper on which to comment. **(15% of grade)**

You will have no more than 7 minutes total for your comments and you will be expected to make a handout.

You need only offer as much description and summary as is necessary to understand your critical points (which might be focused entirely on one part of one argument), and you should see your role as offering critical commentary on an argument or claim made by the author of the relevant reading.

You will need to practice giving your comments so that they can fit in the allotted time, and you will need to meet with me and send me your handout at least one day in advance of the course meeting at which you will offer your comments.

II. WRITING

Undergraduates have two options:

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| Option One: | (a) 2000-2500 word paper, due 10/30 | (30% of grade) |
| | (b) 2500-3000 word paper, due 12/11 | (40% of grade) |
| Option Two: | 7000-7500 word paper, due 12/18 | (70% of grade) |

Graduate students have one option:

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| 7000-7500 word paper, due 12/18 | (70% of grade) |
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Details will be provided in class.

PLAGIARISM AND ACADEMIC INTEGRITY

You are expected to be familiar with and to abide by Penn’s policy on academic and intellectual integrity:
<http://www.upenn.edu/academicintegrity/index.html>

PLAN FOR COURSE AND READINGS

Day	Topic	Reading
INTRODUCTION		
8/28	Introduction: Evaluating Political Institutions	<ul style="list-style-type: none"> ▪ Gordon Graham, “What is Special About Democracy?” <u>Mind</u> (1983) ▪ Alvin Goldman, <u>Knowledge in a Social World</u>, preface, 3-7 ▪ Hélène Landemore, <u>Democratic Reason</u>, prologue, pp. 1-9
I. EPISTEMIC ARGUMENTS FOR DEMOCRACY		
9/4	An Overview of Epistemic Arguments for Democracy	<ul style="list-style-type: none"> ▪ Hélène Landemore, <u>Democratic Reason</u>, pp. 53-88 ▪ Aristotle, <u>Politics</u> book III, chapter 11 ▪ Machiavelli, <u>Discourses on Livy</u>, book I, Chapter 58
9/11	Talking, Deliberating, Arguing	<p>A ▪ Hélène Landemore, <u>Democratic Reason</u>, pp. 89-144</p> <p>B ▪ Scott Page, <u>The Difference: How the Power of Diversity Creates Better Groups, Schools, and Societies</u>, pp. 1-18</p>
9/18	Talking, Deliberating, Arguing (II)	<p>C ▪ Alvin Goldman, <u>Knowledge in a Social World</u>, pp. 131-160</p> <ul style="list-style-type: none"> ▪ (skim) Michael MacKuen, “Speaking of Politics: Individual Conversational Choice, Public Opinion, and the Prospects for Deliberative Democracy” in <u>Info. and Dem. Proc.</u> (1990)
9/25	Counting, Aggregation, Large Numbers	<p>D ▪ Hélène Landemore, <u>Democratic Reason</u>, pp. 145-207</p> <p>E ▪ Bernard Grofman and Scott Feld, “Rousseau’s General Will: A Condorcetian Perspective,” <u>APSR</u> (1988)</p> <p>F ▪ David Estlund, Jeremy Waldron, Bernard Grofman and Scott Feld, “Democratic Theory and the Public Interest: Condorcet and Rousseau Revisited,” <u>APSR</u> (1989)</p> <ul style="list-style-type: none"> ▪ (skim) Krishna K. Ladha, “The Condorcet Jury Theorem, Free Speech, and Correlated Votes,” <u>AJPS</u> (1992) ▪ (skim) David Austen-Smith and Jeffrey S. Banks, “Information Aggregation, Rationality, and the Condorcet Jury Theorem,” <u>APSR</u> (1996) ▪ (skim) David Estlund, “Opinion Leaders, Independence, and Condorcet’s Jury Theorem,” <u>Theory and Decision</u> (1994)

10/2	Counting, Aggregation, Large Numbers (II)	<p>▪Alvin Goldman, <u>Knowledge in a Social World</u>, pp. 315-348</p> <p>(Professor Goldman will attend the seminar on this day.)</p>
II. COMPLICATIONS REGARDING EPISTEMIC ARGUMENTS FOR DEMOCRACY		
10/9	Disagreement, Justification, and Legitimacy	<p>G ▪Jeremy Waldron, <u>Law and Disagreement</u>, pp. 1-17, 88-118</p> <p>H ▪Sean Ingham, “Disagreement and epistemic arguments for democracy,” <u>Politics, Philosophy, and Economics</u> (2013)</p> <p>I ▪David Estlund, <u>Democratic Authority: A Philosophical Framework</u>, pp. 169-171, 160-168</p>
10/16	Intentional Ignorance, Diversity, and Dissent	<p>J ▪Elizabeth Anderson, “The Epistemology of Democracy,” <u>Episteme</u> (2006)</p> <p>K ▪Lucius Outlaw, “Social Ordering and the Systematic Production of Ignorance” in <u>Race and Epistemologies of Ignorance</u> (2007)</p> <p>L ▪Paul Taylor, “Race Problems, Unknown Publics, Paralysis, and Faith” in <u>Race and Epistemologies of Ignorance</u> (2007)</p> <p>M ▪Sarah-Jane Leslie, “The Original Sin of Cognition: Fear, Prejudice, and Generalization,” <u>Journal of Philosophy</u> (2013)</p>
10/23	Public Reason and Reasonable Pluralism	<p>N ▪Excerpts from John Rawls, “The Idea of Public Reason” and “Postscript”</p> <p>O ▪Samuel Freeman, “Deliberative Democracy: A Sympathetic Comment,” <u>Philosophy and Public Affairs</u> (2000), pp. 383-418</p> <p>P ▪Michael Fuerstein, “Epistemic Trust and Liberal Justification,” <u>Journal of Political Philosophy</u> (2013)</p> <p>Q ▪Joseph Raz, “Facing Diversity: The Case of Epistemic Abstinence,” <u>Philosophy and Public Affairs</u> (1990)</p>
10/30	Consequences, Procedures, and Legitimacy: Epistemic Proceduralism	<p>R ▪David Estlund, <u>Democratic Authority: A Philosophical Framework</u>, pp. 1-39, 65-116</p>

III. EPISTEMIC EVALUATION OF PARTICULAR POLITICAL AND LEGAL INSTITUTIONS		
11/6	Elections: Should we have elections? How should I vote (for my interests, or for the common good)?	<ul style="list-style-type: none"> ▪ Samuel Freeman, “Deliberative Democracy: A Sympathetic Comment,” <u>Philosophy and Public Affairs</u> (2000), pp. 371-382 S ▪ Jason Brennan, <u>The Ethics of Voting</u> (Chaps. 3, 4, 5, 7)
11/13	Political Representatives: Should we have them? How should they act (as delegates, or trustees)? How should they be selected (by lottery, for their expertise)?	<ul style="list-style-type: none"> T ▪ Alex Guerrero, “Against Elections: The Lottocratic Alternative” (manuscript) U ▪ John Stuart Mill, <u>Considerations on Representative Government</u>, Chapters 6-9 V ▪ David Estlund, <u>Democratic Authority: A Philosophical Framework</u>, pp. 206-222
11/20	Criminal Courts: Should we have them? What should they do? How should they operate?	<ul style="list-style-type: none"> W ▪ Larry Laudan, <u>Truth, Error, and Criminal Law: An Essay in Legal Epistemology</u>, Part I, excerpts from Part II ▪ David Luban, <u>Lawyers and Justice</u>, pp. 67-81, 92-103 ▪ Handout: “Adversarial and Inquisitorial Systems: A Brief Overview of Key Features” ▪ (skim) Alvin Goldman, <u>KSW</u>, pp. 272-314
12/4	Administrative Agencies: Should we have them? What should they do? How should they run?	<ul style="list-style-type: none"> ▪ Andrew Popper, Gwendolyn McKee, Anthony Varona, Philip Harter, “An Introduction to Administrative Law,” <u>Administrative Law: A Contemporary Approach</u>, (2013), skip the cases X ▪ Adrian Vermeule, “The Administrative State: Law, Democracy, and Knowledge,” in <u>Oxford Handbook of the United States Constitution</u> (2013), pp. 1, 5-18 only (skip Part I) Y ▪ Charles Sabel and William Simon, “Minimalism and Experimentalism in the Administrative State,” <u>Georgetown Law Journal</u> (2011) Z ▪ Paul Sabatier, “The Acquisition and Utilization of Technical Information by Administrative Agencies” <u>Administrative Science Quarterly</u> (1978) ▪ (skim) Harold Krent, “Delegation and Its Discontents,” <u>Columbia Law Review</u> (1994), pp. 710-730 only ▪ (skim) Richard Stewart, “The Reformation of American Administrative Law,” <u>Harvard Law Review</u> (1975), pp. 1669-1711 only

<p>12/11</p>	<p>OPTIONAL CLASS: Constitutional Courts: Should we have them? What should they do? How should they be populated?</p>	<ul style="list-style-type: none"> ▪Jeremy Waldron, “The Core of the Case Against Judicial Review,” <u>Yale Law Journal</u> (2006) ▪ John Hart Ely, ”Toward a Representation-reinforcing Mode of Judicial Review,” <u>Maryland Law Review</u> (1978) ▪(skim) Richard Fallon, “The Core of an Uneasy Case <i>For</i> Judicial Review,” <u>Harvard Law Review</u> (2008)
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