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Truth and Democracy: A Problematic Relation

Abstract: In this paper I will analyze some of the most significant theories regarding the essential role played by the truth in deliberative democracy. After a brief presentation of the epistemic conception in its substantialist form and of the main objections it has to face, I will examine some of the epistemic conceptions that try to avoid the difficulties of substantial assumptions by adopting different strategies like: combining the epistemic dimension with a procedural one, invoking a kind of pragmatism about truth or replacing truth with a weaker epistemic value like trustworthiness. In the final section, I address the specific problem of how much does the truth matter in democracy and I will try to offer an explanation of the complex relation between the political and epistemic dimensions of democracy.

Keywords: deliberative democracy, truth, legitimacy, epistemic proceduralism, pragmatism, trustworthiness

The subject of the relation between politics and truth is one of the long lasting problems of political philosophy. Although it is difficult to establish the origins of the controversies regarding this theme, the contributions of Plato are probable one of the important stages of its initial development. It had an intricate historical evolution marked by various theories regarding the role of traditional authorities (religious and aristocratic, in the early phases, and secular and democratic, in the later ones) in the process of linking the political activity and the decision-making procedure with a set of preexisting philosophical, religious, moral or political truths.

The contemporary expression of this theme is the debate concerning the role of truth and other epistemic values in justifying the authority of deliberative democracy and the legitimacy of the decisions established by the means of its procedures. The defenders of this conception regardless of their specific orientation hold that truth plays an essential role in justifying the superiority of deliberative democracy over other types of political regimes. They argue that the value of democracy resides in its tendency to promote the truth and other epistemic values associated with it. However, they disagree when it comes to the specific conception regarding this tendency of promoting the truth. Some authors argue that it should be understood in a comprehensive and substantialist manner: the political decisions are considered to be the right ones in relation with some

presumably independent standards. The representatives of another orientation affirm that the tendency to promote truth should be justified by the means of a combination of the epistemic commitment with a procedural one. Others explain this tendency by using a pragmatic theory of truth. And, the defenders of last doctrine I will analyze in this paper try to solve the problems of the aforementioned orientations by replacing truth with a weaker epistemic value like trustworthiness. I will present and analyze each one of these theories in a separate section and I will present my own conclusions on the subject in the last one.

1. Epistemic substantialism?

In the contemporary controversies regarding deliberative democracy we find a broad spectrum of theories with pure proceduralism at one end, pure substantialism at the other, and with various combinations of these conceptions in the middle.

The most important substantialist orientation is the epistemic one: a theory which holds that the value of deliberative democracy is based on the fact that it promotes those political decisions that are likely to be right in relation with some presumably independent epistemic standards. One important representative of this conception is Jose Luis Marti¹. In the paper *The Epistemic Conception of Deliberative Democracy Defended* he defines the epistemic conception as follows: “Deliberative democracy is justified and thus political decisions made through a deliberative procedure are legitimate because democratic deliberative procedures have more epistemic value than the other *democratic alternatives*. And this means that decisions made by such procedures are more likely to be right *in general* – whereas rightness must be some process-independent and intersubjectively valid standard – than decisions made by other democratic procedures” (Marti 2006, 33).

In his opinion, there are two basic theses of the Epistemic Conception:

Ontological thesis: One or several standards of rightness of political decisions exist as something at least partially independent both from the decision-making procedure and from the participants’ beliefs and desires. And this standard is knowable.

Epistemological thesis: Democratic deliberation is in general the most reliable democratic procedure in order to identify which are the right political decisions, and therefore it is the adequate method to make legitimate political decisions (Marti 2006, 34-35).

However, in my opinion, epistemic substantialism faces some serious difficulties in justifying these theses, especially if we consider the features of the

¹ For a more extensive analysis of this theory see Viorel Țuțui. 2012. “The Limits of the Epistemic Conception of Deliberative Democracy”. In *Limits of knowledge society. Anthropology and Cultural Studies (2). Ethics, Social and Political Philosophy. Proceedings of the International Conference*. Iași, 6-9 October 2010. 221-229. Iași: Institutul European.

multicultural and pluralistic contemporary society. The main problem which affects the ontological thesis is the vague characterization of the standards. Marti does not offer any explanation regarding its nature or our cognitive access to it, except the fact that it is a standard that is “partially independent both from the decision-making procedure and from the participants’ beliefs and desires”. But what does it mean for a standard to be partially independent in this way? How much do the beliefs influence the standard? How do these beliefs change? Which is the other element on which the standard partially depends? How do we have cognitive access to it? Could it be accepted by the defenders of any comprehensive doctrine or it is controversial? Concerning the epistemological thesis, we have to ask how we know that the reliability of deliberative democracy is really superior to those of the other political regimes. Given the very important role that this standard has to play, the lack of an answer to these questions constitutes a very serious problem.

Another general objection that affects any substantive doctrine including the epistemic version is the problem of solving the conflict between the numerous and different comprehensive (philosophical, moral, religious or political) doctrines found in the multicultural and pluralistic contemporary society, doctrines that are considered to be equally reasonable. The attempt to solve these problems by adopting a pure proceduralist account of deliberative democracy raises another set of serious objections. As I argued in a previous paper, there is an inconsistency which affects this theory: the thesis that the standards and the rules of the deliberation procedure are totally dependent on the procedure conflicts with the need to avoid the relativity of standards and rules. There is also a strong suspicion of circularity or *regresus ad infinitum* in the attempt to justify them (Țuțui 2011, 170-171).

2. Epistemic proceduralism?

Acknowledging the problems of the pure proceduralist and substantialist conceptions of deliberative democracy, David Estlund in the article *Epistemic Proceduralism and Democratic Authority* develops a theory which tries to solve the difficulties that the two conceptions have to face. And he does that by attempting to combine the epistemic and the proceduralist dimensions into a unique doctrine called “epistemic proceduralism”.

He begins his argumentation by addressing some of the most important questions for any epistemic conception of democracy: are there any correct and incorrect answers to political questions? Why should we think that the masses would be any good at discovering them? If we are concerned with the epistemic dimension why not empower a wise elite, contrary to our deepest democratic convictions?

The first step in the attempt to answer these questions is made by Estlund’s defense of democracy against the objection according to which the epistemic justification of the political activity (it affirms that a political activity is justified

and legitimate if it has an epistemic value by promoting truth) should lead us to support a government of the experts (epistocracy) instead of democracy. The most important argument for democracy he uses is the distinction between authority and expertise:

“It is important to see that one doesn’t simply follow from the other – authority does not follow from expertise. Even if we grant that there are better and worse political decisions (which I think we must), and that some people know better what should be done than others (we all think that some are much worse than others), it simply doesn’t follow from their expertise that they have authority over us, or that they ought to” (Estlund 2009, 16).

Hence, I think that Estlund distinguishes between the political dimension of authority, based on consent, and the epistemic dimension of expertise, although he doesn’t does not explicitly use these terms. Another confirmation of the fact that he actually makes such a distinction is the following statement: “The mere fact that you know better what to do is incapable of justifying your coercing me to obey partly because I might not accept that you know better what to do” (Estlund 2009, 16). So, there is a difference between the epistemic fact that you know better than me what to do, and the acceptance of this fact, which is a manifestation of will and consequently a political fact.

Therefore, a political regime of epistocracy is not acceptable because it leaves no room for the political authority of ordinary citizens. And it seems that a democratic procedure is more appropriate for this purpose. But the obvious question will be: what kind of democratic procedure? A simple fair procedure will not do because in that case the flip of a coin will be the most fair and the cheapest procedure. However, such a procedure would be unacceptable. So, in his opinion, an epistemic or truth-seeking dimension of the democratic procedure is necessary.

Trying to demonstrate that “democracy yields moral reasons to obey the law and a moral permission to enforce it”, Estlund argues that the legitimacy and authority of the procedure is based on this epistemic dimension. Nevertheless, it does not mean that the procedure must be infallible or that it suffices for a democratic procedure to go wrong once to lose its authority. It should only have the “tendency” to produce the right outcome even if once in a while it fails to do so.

His favorite model for this epistemic procedure is the jury system. In his opinion, the jury produces a verdict that has both legal and moral force even if, in exceptional cases, this system produces unjust outcomes and condemns an innocent. This is the reason why he affirms that “at least within limits, these moral implications do not depend on the verdict being correct” (Estlund 2009, 19).

Estlund acknowledges the fact that, at this point, he must answer a more difficult question: “How does the epistemic value of democracy support its authority?”. Unfortunately, he offers only a brief sketch of an answer. He argues that authority is not based on the actual consent of the citizens because this

would lead him to the anarchist position that no state's decision is legitimate, since none of them got the consent of every citizen. Moreover, in his view, there are "morally wrong refusal to consent" to some of the government's decisions, refusals that would be unjustified. So, instead of actual consent, the authority of democratic decisions should be based on what he calls "normative consent". Estlund does not offer an explicit account of this normative consent, he only offers an illustration of it which is, again, the jury system in the Anglo-American criminal justice:

"If a group of people devised a jury trial system more or less similar to what we know in Anglo-American law, it would be wrong for people not to consent to its authority. The case for saying this depends crucially on the jury system's having decent epistemic value, and in a way that can be agreed by all qualified points of view. I would argue that the same holds for democratic political arrangements, and for similar reasons, including especially the publicly apparent epistemic value of the arrangements. If it would be wrong not to consent to their authority, then by normative consent, they do have authority even though consent was never solicited or granted" (Estlund 2009, 20-21).

In my opinion, this talk of the normative consent that constitutes the basis for the authority of the democratic procedure is very puzzling. And to better understand why, let us analyze this argument from the beginning. Estlund claims that the procedure of epistemic proceduralism must be seen as having epistemic value and consequently authority if it has the tendency to produce right outcomes even if once in a while it also produces some wrong results. This line of argument appears to be compelling and if we add the jury example it seems even more convincing. However, if we analyze it more carefully this impression fades. For I believe we must ask: what will be the basis of our verdict that a particular procedure has the necessary epistemic value in order to regard it as an appropriate democratic procedure?

One could say that the answer is very obvious: we just consider all the outcomes of that procedure and check if there is a strong tendency to produce the right results instead of the wrong ones. But, this move causes more problems that it solves for epistemic proceduralism.

The first problem is that the verdict saying whether the procedure is good or bad would come at the end of this verifying process. So we would apply a democratic procedure all this time without knowing whether it would yield the right results or not: we would only *hope* that it will produce the right outcomes. Using the jury example: instead of applying a jury system that we know is just we would apply a jury system that we hope is just, and in doing this, we could condemn a significant number of innocents, all in the name of establishing the right democratic procedure. But this is surely unacceptable.

A second problem with this scenario is that the evaluating process does not seem to have an *ending clause*. We will carry out some kind of inductive reasoning by counting the right and the wrong outcomes. But, without knowing

what the future result will be, we will never be in the position to judge if the procedure has a real tendency to produce correct outcomes. Of course, Estlund could answer that, if after we considered a significantly high number of cases (say 1000) from which only a few yield a wrong result (say 1), then the procedure is reliable. To this I will object that it still does not solve the problem of the real balance between the right and the wrong outcomes since we do not know the future. Maybe in the future, the balance will be overturned. Moreover, even if the procedure produces only a small number of wrong results it is very difficult to evaluate the significance of these cases and to decide that the moral wrong that resulted is at an acceptable level. Who and how will decide what is acceptable or not?

A third and more difficult problem for epistemic proceduralism will be that the process of evaluating the procedure does not consist in merely counting the right and the wrong results, but in applying some *standards* of right and wrong to some particular cases. The tendency of a procedure to produce the right results is not like the water's tendency to freeze when the temperature drops under zero degrees Celsius. So, in evaluating a procedure, we are not simply observing some independent natural process of the occurrence of right and wrong (like we do in natural sciences). Instead, we are applying some moral standards that we have to account for. We should explain: Which are these standards? Which is their foundation? Are they controversial? Unfortunately, Estlund does not say anything about these problems.

Another line of argument that Estlund might embrace, which would have nothing to do with this inductive evaluating process, is suggested by his distinction between epistemic proceduralism and realism and by his support for the ideal deliberation situation. He distinguishes his epistemic proceduralism both from realism and from utopianism by differentiating between what is reasonable and realistic to think that people will do, what they should do even if it is impossible and what they should do even if it is improbable. The first corresponds to realism, the second to utopianism and the third to epistemic proceduralism. In his opinion, we operate with a false dilemma in philosophy when we say that we must choose only between the first two options mentioned above: what people are capable and are likely to do and what people must do even if it is impossible for them to do it. Epistemic proceduralism is founded on the third possibility of what people should do even if it is improbable that they will do it. It is improbable, but not impossible. It remains possible that in some special conditions they will do it: "Maybe epistemic proceduralism asks more of voters than they will ever deliver, maybe not. Either way, this is no deficiency in the theory whatsoever" (Estlund 2009, 22).

And, at this point, it comes into play his support for the ideal deliberative situation: an imaginary forum for collective deliberation about political issues that has a strong tendency to make just decisions. He distinguishes his view from that of contractarianism which is designed to establish the truth about justice. For him, the ideal deliberative situation does not constitute the truth, but it is only an

ideal deliberative situation that might yield wrong results. This makes the analogy with the actual deliberations possible. Nevertheless, Estlund does not insist that actual institutional arrangements should be designed to structurally resemble the ideal situation in every possible scenario. Structural resemblance is fine, but there are cases in which it simply is not possible. His example is that of a negotiation in which one part threatens with violence in order to coerce a settlement. In this case, maybe it will be wiser for the other part to threaten with some countervailing force instead of continuing to deliberate rationally as they get politically crushed.

Acknowledging the fact that this is a very elusive answer to the problem of how the ideal deliberative situation should be conceived, and how it is supposed to justify the epistemic value of the democratic procedure, Estlund mentions four theses about the implications his view might have in political practice. First, wealth or any other element of power should be somehow countervailed in practice. Second, legal and political protection is needed for those individuals who express points of view that dissent from orthodoxies and majority positions. Third, political equality in itself is not a natural right that must be respected. It depends on the arrangement that allows the promotion of justice and common good in a way that can be justified to the broad points of view that are owed acceptable justifications for the coercive political arrangements under which they live. So, even unequal arrangements could pass this test. Fourth, if the aspirations of epistemic proceduralism are met, there is an obligation to obey the law. And he correlates this idea with the thesis of the authority of political decisions established by the means of this kind of epistemic procedure: "Legitimate politics involves authority, and there is no getting around it. We cannot collectively live as we ought to live and still be under our own authority" (Estlund 2009, 26).

Considering the objection that any procedure of aggregating the individual judgment into a collective judgment does not meet rational standards such as logical consistency, Estlund argues that epistemic proceduralism does not need the idea that the results of majority rule represents some form of "group judgment". And, in order to explain why, he uses an example once again: the decision of a university committee (of three members) whether to give tenure to a junior academic. Suppose that the requirement of the tenure is excellence both in teaching and research. The first member believes that the candidate is excellent in teaching, but not in research, the second member that she is excellent in research, but not in teaching, and the third member that she is excellent in both. So, only a minority (one member out of three) thinks that she should be given tenure, consequently the decision of the committee will be not to grant it to her. Estlund uses this example to show that a majority could decide in a deliberative procedure without any collective judgment taking place. So, epistemic proceduralism does not need the idea of group judgment and is not affected by the inconsistency objection (Estlund 2009, 26-27).

In my opinion, this example together with the entire second line of argumentation we considered regarding the epistemic value of the deliberative procedure are even more puzzling than the first line of argument. The second line of argument supported the thesis that the epistemic value is based not on a real deliberation procedure, but on an ideal one. So, even if it is improbable that citizens will deliberate in such a way that is required in order to give epistemic value the procedure and authority to their decisions, they are nevertheless capable of doing it in the ideal deliberation situation. This ideal procedure is the one that has the tendency to produce the right outcomes, even if the some wrong outcomes are possible. So, it seems to be the foundation of the epistemic value and authority of the political decisions.

However, Estlund says that in political practice, in our actual deliberations, we should not be too preoccupied to mirror the ideal situation because there could be cases in which some distorting factors such as power or wealth will render the model ineffective or even dangerous. Thus, in these cases, we should be flexible enough to renounce the requirements of the ideal and to embrace those strategies that are more effective in practice: even countervailing violence.

But, I think this is a very confusing argumentative strategy: If moral and epistemic authority of political decisions is based only on the ideal situation what other standard could possibly justify our strategy to abandon and even to contradict the requirements of the ideal? Is there any other standard according to which we decide to do so? And even if there is, then this standard will be the real foundation of epistemic and moral authority, and we will need a satisfactory explanation of it. Estlund does not even mention anything that could resemble such a standard.

Moreover, even if we ignore this problem, there are other serious objections that affect his view regarding the epistemic value and the authority of the deliberation procedure. First, as we mentioned above, in his opinion the epistemic value and authority of the ideal deliberation does not consist in its capacity to deliver the truth, but in its tendency to produce the right results. But how do we know that it has this tendency or not? If in the case of actual deliberation it made sense to talk about counting the right and wrong outcomes (although there were serious problems regarding the future), in the case of the ideal deliberation any talk about a counting process seems absurd. And if we are not counting the occurrences of the correct and incorrect outcomes, what do we do? One suggestion could be that the ideal deliberative procedure is established on the base of the past experience. But, in this case, the epistemic value and authority would not be based on the ideal deliberation, but on the past experience regarding real deliberations. Not to mention the fact that we would face all the problems we mentioned concerning the first line of argument.

The second objection affects his view regarding the way in which a decision is established by deliberation. In Estlund's view, the collective decision is better than the individual decision especially because of its epistemic superiority: presumably a more pronounced tendency to produce the correct

outcomes. Leaving the problem of justifying the existence of such a tendency behind (we argued above that there are serious difficulties that affect this thesis), let us concentrate on the idea that the tendency is greater than in the individual case. If it were not so, then the case for epistemic proceduralism would be lost: then the authority of the individual decision will be as good as the authority of the deliberative procedure or even better. But, as Estlund himself put it, according to epistemic proceduralism, we cannot live under our own authority: “We cannot collectively live as we ought to live and still be under only our own authority” (Estlund 2009, 26).

Nevertheless we could ask: why should we think that the collective deliberative procedure has a greater tendency to produce the right result? The answer is: presumably, because the deliberative procedure provides *supplementary epistemic value* to individual decisions. But where did the supplementary epistemic value come from? If we return to the university committee example, we observe that the collective decision is not based on a collective judgment that would be better than the individual judgment from an epistemic point of view. Every member decides individually and the collective decision is nothing more than the simple aggregation of the individual decisions. So, the deliberative situation does not seem to bring any supplementary epistemic value whatsoever. In this case, the deliberation procedure would not have a greater authority than the one of his members, which will be justified to live under their own authority after all.

An obvious answer could be that the deliberative situation is better from an epistemic point of view not because of a collective judgment, but because of the better epistemic environment it produces: people are more open to the views of others, more tolerant, more attentive; they will receive more relevant information and so on. I agree that the deliberative situation could contribute in this way to the epistemic environment. However, I believe that this is not the supplementary epistemic value Estlund needs. For epistemic proceduralism to function he does not need only an epistemic improvement of the political climate, but a supplementary epistemic value that could justify the thesis that the moral and political authority of the deliberative procedure is greater than the authority of the individual. But, even if deliberation conceived in this manner might help the individual to decide, the individual would be the deciding authority nevertheless. So the relevant epistemic value would come from the individual and not from the group.

Now returning to the problems of what is the epistemic value of a democratic procedure and how it justifies its authority, I believe we must say that epistemic proceduralism does not offer any compelling answer. Estlund affirms only that the authority is justified by the tendency of the procedure to yield the correct outcome without saying anything convincing about the process of establishing the fact that this tendency really exists and about what would be its basis.

In my opinion, Estlund attempted to solve the problems of proceduralism and of the epistemic conception by combining them into a unitary theory that will avoid the limitation and will have the virtues of both: epistemic proceduralism. Unfortunately, the resulting doctrine inherits only the limitations of proceduralism and of the epistemic conception, but not their virtues. Pure proceduralism tries to justify the authority and legitimacy of its results only by procedural elements. So it is not confronted with any of the problems of a comprehensive and substantial doctrine, but it has to face the difficulty of justifying the procedure itself only by procedural aspects. The substantial epistemic conception tries to justify the legitimacy and authority of its results by the tendency of the procedure to produce outcomes that are susceptible to be true or correct from an epistemic point of view. So, it is not confronted with the problem of justifying the procedure, but has to face the problems related to the idea that there is a unique set of substantial truths and a unique set of epistemic standards regarding these truths. Epistemic proceduralism has to justify both the epistemic value and the authority of the procedure without relying either on the substantial truth or on the ideal character of the procedure.

With his epistemic proceduralism Estlund seems to do nothing more than to hesitate to commit himself to a pure proceduralism or to a pure epistemic doctrine. However, the epistemic dimension of his conception demands for a non-procedural account regarding the tendency of the deliberation to produce the right results, and the procedural dimension demands a non-epistemic account concerning the authority of these results. So, I believe we can say that Estlund did not really accomplish the combination of the two conceptions: he rather avoided to commit himself to any one of them.

3. Why not pragmatism?

In the paper *Truth and Democracy: Pragmatism and the Deliberative Virtues*, Cheryl Misak defends an epistemic theory of deliberative democracy regarded as a kind of pragmatism. She argues that truth and politics can and must coexist and the link between them is secured by a pragmatist account of truth.

She begins by analyzing two main objections regarding the link between truth and politics. The first objection affirms that the attempt to link truth and politics makes that theory vulnerable to the “philosophical danger” of committing itself to a realist ontology for morals and politics. The second objection points to the more practical danger: “much evil has arisen because people claim that they know what the truth is” (Misak 2009, 30).

She addresses the second objection first and argues that the dangers of denying the link between truth and politics are more significant than the dangers of affirming it: “If we were to get rid of the notion of truth, nothing would protect us from the idea that there is nothing to get right, no better or worse action, and no better or worse way of treating others” (Misak 2009, 30). She

adds that affirming the link between truth and politics does not carry with it the idea that there is only one true answer to every question and, consequently, it does not imply that one theory of good should triumph over the others.

Her response to the first objection is that truth and politics are indeed compatible because without truth it makes no sense to talk about any kind of belief or assertion or debate and “the very idea of disagreement turns on the notion of truth”. The fact that we aim to the truth in affirming our beliefs is associated with the fact that the beliefs are sensitive to reasons. It is a constitutive norm of the belief that p to have good reasons for it. There is nothing more to the process of holding a belief than this process of offering reasons for or against it. There is nothing that transcends this process, nothing “metaphysically interesting”, nothing of the sort of the realist ontology mentioned in the first objection. And this is the pragmatist account of truth that she defends. Truth is a product of human inquiry. This is a fallible process that does not deliver truth: it is only a method that is conducive to finding the truth. In this respect, truth is a “regulative ideal” in working out conflicts (Misak 2009, 31-35).

She continues her argumentation by analyzing a problem that any defender of deliberative democracy has to face: Even if we admit that there should be a link between truth and politics, consisting in the fact that the political beliefs should be sensible to reason, why must we think that only a regime of deliberative democracy will do? Why not appeal to a form of epistocracy (the government of the experts) or even to any other kind of democracy (based on non-deliberative procedures like voting or bargaining)?

Her answer to the first question is that the epistemic justification associated with the political process of decision making must be democratic because “we do not and will never have an identifiable pool of moral and political experts” and even if we would have some experts they would be liable to be corrupted (Misak 2009, 35). Hence, all the citizens are potential contributors to moral and political deliberation. So, a deliberative democracy is the best regime for establishing the link between truth and politics.

In order to distinguish good and bad deliberation she appeals to deliberative virtues like open-mindedness, courage, honesty, integrity, rigor, willingness to listen to the views of others and to put oneself in another’s shoes. She justifies these virtues by the means of a reliabilist account of virtue according to which a virtue is justified if it is a part of a reliable method – one that is likely to lead to true beliefs:

“If we want to get a rational belief (and of course, that’s the best we can get here and now), then we will want to reason and inquire as extensively as we can. We will want to follow reasons and evidence, rather than self-interest; take our views to be fallible; be willing to listen to the views of others; be willing to uphold the deliberative process, no matter the difficulties encountered; provide forums for the free expressions of views, etc.” (Misak 2009, 37).

In my opinion, there are several problems with her theory. First, even if we were to admit that there should be a link between truth and politics, I believe we must ask if the link with the truth is essential or not for politics. Because, it could be the case that this link was only of secondary importance and the practical or volitional aspects of politics were its primary dimensions. In this case, even if we were preoccupied to show that our beliefs are sensible to reason, we would be more preoccupied to demonstrate that our solution is feasible or to motivate others with the same interests to embrace it.

Moreover, if we follow Glen Newey's argumentation from the paper *The People Versus the Truth: Democratic Illusion*, we will come to the conclusion that often democracy opposes truth on some important dimensions. First, the people who practice politics as a profession often perceive the tendency to tell the truth and to disclose as a form of liability. Secondly, ordinary people are very often more interested in values like prosperity or security and not the truth. Third, politicians often find themselves forced to avoid telling the truth precisely because of the democratic demands on them. One of these democratic constraints is the equal status that various social groups have in a multicultural and pluralistic society: all of them have a right to make their voice heard and to use powerful lobby in this process. However, their claims that are presumably equally reasonable are different nonetheless. And this puts pressure on the idea that there are some moral or political truths "out there". Fourth, some democratic institutions also oppose truth, like the scrutiny and accountability mechanisms that seem to promote truth, but which might also be accompanied by the tendency to conceal and to deceive. So, as Newey rightfully underlines, the fact that truth is an important value for democracy does not exclude the fact that other values could be equally or even more significant than the truth. And even if we admit that there is a tendency to promote the truth in democracy, this does not exclude the possibility that there also is a powerful tendency to oppose the truth (Newey 2009, 82-85).

Unfortunately, Misak does not address this problem at all. She seems to assume that the political activity should be something like the scientific inquiry: an objective and neutral attempt to establish the right answer to a problem. But, if the political activity (as it is usually conceived) is not like the scientific inquiry, then the connection between truth and politics cannot be used in an epistemic justification of deliberative democracy.

Secondly, her argument against epistocracy does not seem convincing. She argues for a democratic regime by appealing to the "fact" that we have no "identifiable pool of moral and political experts". However, in my opinion, it is not so obvious that the absence of moral and political experts is a "fact". Moreover, there is not an obvious connection between the justification of deliberative democracy and this "fact". Even if we were to admit that there are no authentic moral and political experts, this does not mean that we should automatically appeal to the opinions of all the ordinary citizens, unless we assume that these opinions are somehow *epistemically superior* to those of the

so called specialists. We could say that, given the absence of the authentic experts, we are forced to appeal to the opinion of the masses, but only after we considered all the alternative solutions. And this does not mean that the masses are the next best thing from an *epistemic* point of view. Unless we demonstrate that the masses have a tendency to give *the right* answers to political problems, the *epistemic* justification of democracy would fail.

Furthermore, the epistemic argumentation against epistocracy does not address the main worries regarding this conception: the worries that the government of the moral and political experts would be tyrannical even if they were authentic specialists in their fields. In the scenario that Misak defends, if we could indicate a set of authentic moral and political experts she will be forced to admit that their non-democratic regime would be legitimate. That's because the condition of the link between politics and truth would be satisfied, even if ordinary citizens were not allowed to express their opinions. However, this is surely unacceptable, and not from an epistemic, but from a political point of view.

Thirdly, I believe that her conception regarding the distinction between good and bad deliberation is problematic as well. The "justificatory problem" she mentions – how can we specify what good deliberation is without simply assuming that our current standards of deliberation and inquiry are the gold standards? – is not properly solved. She affirms that the standards of deliberation are justified because they are part of a reliable method that is likely to lead to true beliefs. But, again, I believe we should ask: *how do we know that the method is really reliable and really has this tendency?* In the attempt to answer this question she will have to face all the problems we mentioned regarding Eslund's first line of argument: the verdict if the method is good or bad would come at the end of this verifying process, so we would apply a method all this time without knowing that it would yield the right results; the evaluating process does not seem to have an *ending clause*, because without knowing what the future result will be, we will never be in the position to judge if the method has a real tendency to produce correct outcomes; the process of evaluating the method does not consist in merely counting the right and the wrong results, but in the applying of some *standards* of right and wrong to some particular cases.

4. Trustworthiness instead of truth?

From the previous sections we can notice that there are serious problems with the attempt to link politics and truth. Conceding this fact, Matthew Festenstein in the article *Truth and Trust in Democratic Epistemology* argues for the very important role that trustworthiness and testimony plays in deliberative democracy.

He declares that deliberation should be perceived not as concerned with evaluating the truth, but with assessing the trustworthiness of the people who advance reasons in the deliberation procedure. In his view, one important feature

of every one of us as citizens is our dependence of others for our knowledge. There are numerous dimensions of the political life that we do not and we cannot fully understand so we have to rely on a division of the epistemic labor. So, the main problem we face is whether to trust or not to trust those who advance arguments since we lack the competence to evaluate the arguments themselves. We have to decide whether they are reliable sources of testimony (Festenstein 2009, 73).

He acknowledges the fact that he has to face an obvious problem: which are the standards that help us evaluate the trustworthiness of any such source of testimony? In Festenstein's view, a pragmatist conception is the most appropriate epistemic theory that could help us solve this problem by placing the epistemic value of the democratic procedures in the deliberative and communicative dimensions of democracy. It is a theory that emphasizes features of democracy like public discussion, a free press, mutual influence, persuasion, debate. It also involves a commitment not to a robust conception of truth, but to more "local aims" like explanatory and predictive power, fruitfulness, consistency, critical feed-back, open-mindedness in relation with different experiences and reasons and so on, and a commitment to the fallibility of the deliberative procedure.

Festenstein admits that a further problem his theory has to face is that the trustworthiness of the sources of information is dependent not only on their competence, but also on their interests, interests that might conflict with ours: "In other words, what is at issue in judgments of political credibility is not only the competence of someone offering us testimony, but also whether they have an interest in presenting their presentation of testimony as wholly a matter of strategic manipulation, itself insensitive to truth" (Festenstein 2009, 74).

His pragmatism starts from the premise that it is impossible to ground all our beliefs. Hence we have to rely on some of them in order to criticize the others. So, on historical and practical reasons we will assume the trustworthiness of some sources and assess the credibility of others. Nevertheless, this will be done not in an authoritarian and uncritical manner, but in a critical way. The evaluating process will always be open to new reasons and experiences that could modify the present result. He indicates some of the pragmatic virtues on which the trustworthiness of a source depends: the character, the capacity to speak on the issue in question, the reliability, independence and disinterestedness regarding the subject, willingness to expose one's arguments to test, reflexive critical openness toward claims and so on. He also mentions free press as an important mechanism that reduces our dependency on some partial sources and helps us make reliable judgments on various sources including media themselves.

However, I believe that this brief talk about pragmatic virtues is hardly sufficient for solving the problem of the standards of trustworthiness. First, as Festenstein himself admits, pragmatic values could function in some cases as a sign of the source's epistemic sensibility to reasons and in other cases as a sign

of its insensibility to reasons. This is the reason why he affirms that the pragmatic values should not be considered as formal rules of trustworthiness, but as kind of “ethos” or “sensibility” (Festenstein 2009, 75-76). Secondly, this problem is more serious than Festenstein thinks: the real question is how we distinguish between the cases in which the possession of these qualities is genuine from those in which it is only apparent. The talk about the “ethos” or the “sensibility” of the source does not solve the problem because we should rightfully ask: what are the standards in relation with which we appreciate if a source possesses this ethos or not?

Another problem that Festenstein also acknowledges is the fact that in many particular cases it could be sensible or rational for us to overlook the claims of others. And if the answer of the defender of pragmatic virtues will be that we should cultivate these virtues nonetheless, as a part of the ethos we want to develop, he will have to face another problem: maybe these virtues have no utility or applicability in the political life. Or maybe, in many cases, the attempt to firmly respect and cultivate these virtues would result in a worse political outcome than the attempt to pursue the personal interest. Festenstein response to this problem is that even in this situation “I will still wish to form my interests, ideal and projects on the basis of true beliefs and so through epistemically responsible habits and practices” (Festenstein 2009, 77).

Regarding this answer I would like to point out the fact that this epistemic utility of the pragmatic virtues that Festenstein affirms at the end of his argumentation is very different from the one he mentioned at the beginning of it. At the start of his argumentation he declared that the pragmatic values could be a criterion of the trustworthiness of various sources of information that advance claims and reasons in a democratic deliberation. Hence, the crucial aspect was the fact that the possession of these values could function as a *signal* for ordinary citizens that they could trust the source. But, at the end of his argumentation he declares that despite all the objections the doctrine of pragmatic values has to face, there will remain a minimal utility for these values: they could help even the self-interested citizen to form his personal ideals and interests on the basis of true beliefs.

Consequently, the utility of the pragmatic values is not associated with the democratic deliberative perspective of the political life any more, but with a personal or group-centered perspective of it. And, in this case, they cannot represent the key element for the doctrine according to which the significance of democracy is based on its epistemic value, associated with the trustworthiness of the sources of information that participate in a deliberative democratic procedure. They will be nothing more than the standards in relation with which we could develop even our most self-centered, manipulative and cynical political strategies. So, if at the beginning the role of these pragmatic values for Festenstein’s scenario was to promote trustworthiness, at the end of it they could serve the opposite aim.

Another problem concerns the notion of trustworthiness itself. If the tendency to promote truth at least had the advantage of being an objective standard for evaluation (if we were to ignore all the problems mentioned above), trustworthiness does not have this quality. The verdict regarding the trustworthiness of a source is much more subjective. When the citizens evaluate this feature they analyze the qualities of the person which advances a set of arguments and not the arguments themselves. This means that they could focus on various personal features and judge them in very different ways, the judgment depending not only on the respective features, but also on the citizen's subjective perspective on it. Consequently, the same person with the same qualities and the same communicative performances could be perceived in very different ways by different citizens. As a result, a collective verdict concerning the trustworthiness of a source would be very difficult to obtain in a deliberative manner.

Of course Festenstein could respond that citizens could influence each other's judgments even in this respect. However, I think that this influence would be one of a more persuasive and manipulative nature than the influence manifested in relation with the evaluation of the arguments of a source. So, there will not be much deliberation going on. Therefore, I believe we can conclude that the epistemic conception which appeals to trustworthiness fares no better than the theory based on the deliberative democracy's tendency to promote truth.

5. How does the truth matter in democracy?

The conclusions of all the previous sections are that neither truth nor trustworthiness has an essential role in justifying the legitimacy and authority of democratic decisions. However, there seems to be a tension between these conclusions and the common intuition that truth should play an important role in the democratic process of decision-making. Because, as Cheryl Misak declared, if we were to get rid of the notion of truth, nothing would protect us from the idea that there is nothing to get right, no better or worse action, and no better or worse way of treating others. So we seem to be confronted with the following *dilemma*: if we sustain that truth is the most important value for democracy, we have to face all the problems we mentioned above, but if we say that truth does not matter in democracy, then we have to face all the dangers associated with epistemic and moral relativism. So, we have to ask: What is the relation between truth and the legitimacy and authority of democratic decision? How does the truth matter in democracy?

I believe that the first step in the attempt to answer these questions is the distinction between the epistemic dimension of consensus and the political dimension of consent. As I have argued in a previous contribution², the main

² For a more detailed analysis of this problem see: Viorel Țuțui. 2011. "The Epistemic Standards of Public Reason". *Argumentum – Journal of the Seminar of Discursive Logic, Argumentation Theory and Rhetoric* 9 (1): 169-183; Viorel Țuțui.

problem of the epistemic conception of deliberative democracy is the fact that it tries to derive the political dimension from the epistemic one. But, we can never reduce one to the other. The epistemic competence of some experts or even of the deliberative group can never force me to accept their solution to a political problem without denying me my political authority and without being tyrannical from my point of view. The fact that somebody is better than me from an epistemic point of view does not mean that he is also better than me from a political point of view. Moreover, to hold that the political consent should always follow the verdict of the experts, of the majority or of a deliberative group, is to deny the political autonomy and sovereignty of ordinary citizens, which is the core principle of democracy.

As supplementary arguments for this distinction (supplementary to those presented in the paper mentioned above), we can indicate Philippe Raynaud objection against deliberative democracy based on Thomas Hobbes's classical critique of traditional authorities and on the worries of Tocqueville regarding the tyranny of the majority.

In the article *Truth and Power in Modern Politics*, Raynaud distinguishes two traditions of democratic thought originated in the modern dispute between Thomas Hobbes and the defenders of the doctrine of common law (like Edward Coke). In his opinion, we could link some of the most important contemporary defenders of democracy, like Ronald Dworkin and Jürgen Habermas, to the later tradition which is a doctrine that sustains the prevalence of the truth over will or authority. The first tradition has some contemporary representatives of its own, like Hans Kelsen, that sustain a legal-positivist doctrine according to which equality, individualism and refusal of any "natural" hierarchy are the central ideas of democracy (Raynaud 2009, 55-57).

In Raynaud's view, the doctrine of common law is characterized by three features: First, common law is the sedimentation of English customs which impose rules that are reasonable, accepted by public spirit and characteristic for a common way of life. So, it is obligatory for the judges: they do not make law, they discover it. Second, the authority of the judges is founded on their knowledge of the law which is superior to that of the common citizens. Third, the authority of judges is counter-balanced by the sovereignty of the parliament and of the king (Raynaud 2009, 58). So, this is a tradition of thought in which he includes the epistemic conception of deliberative democracy (although he does not use this specific expression), a conception according to which there is a link between epistemic competence and political authority. And, if I understood it right, the main objection of Raynaud against this tradition is that it wrongfully proclaims that this is the only way in which we could justify democracy. It is a doctrine according to which "the law makes authority", a law based on some preexisting truths that should be discovered by competent "interpreters" of it. For this conception, to declare that "authority makes the law" is to open the way for authoritarianism.

Raynaud suggests that this is a false dilemma: we could maintain that “authority makes the law” without surrendering to authoritarianism. And he appeals to Thomas Hobbes and his legal positivist doctrine which explicitly states that “authority makes the law” and not the other way around. Raynaud argues that we could reinterpret the theory of Thomas Hobbes in a way that underlines not its authoritarian consequences, but its egalitarian, individualistic and democratic premises. In his opinion, Hobbes held a radically egalitarian and individualistic view that is inseparable from his moral skepticism and his refusal of the idea of natural superiority of some men over the others: people are equal both from a physical and from an intellectual point of view. No one is as powerful or as wise as to be entitled to rule the others. He reconstructs the Hobbesian argument against the doctrine of common law and against other theories of religious or aristocratic elites as follows: “if one supposes that the ultimate source of Law is some true doctrine, which states what is permitted and what is forbidden, than the consequence is not that « True » makes « Law » , but that power is given to the (legally) authentic interpreter of the doctrine, whose interpretation expresses in fact the *will of the interpreter* as much and even more than the *truth of the doctrine*” (Raynaud 2009, 57).

Hence, I think that the main lesson to be learnt from this argument is that the political dimension is never absent from any decision-making process, even if it could be very well concealed. Although, the so-called “interpreters of truth” may pretend that what they do when they establish a political decision is only an epistemic inquiry, their will of power is always present. The political dimension is autonomous and always exists alongside the epistemic one. And, we cannot speak about the political authority of the citizens as long as any presumably epistemic authority will be considered to be more important from a political point of view.

But, traditional authorities are not the only dangers. Raynaud also mentions the internal difficulties of democracy which were underlined by Tocqueville. The main difficulty is that, although democracy reduces the dependence of individuals upon traditional authorities, it increases the impersonal force of public opinion: “the representation of equality itself produces the idea of an homogeneous and irresistible force, present in all the components of modern culture and at the same time the greater danger to the idea of individuality” (Raynaud 2009, 64). Hence, we could say that the political sovereignty of common citizens could be endangered by the tyranny of the majority as well. In a regime where the tyranny of the majority is present, we will face the threat of both epistemic and political oppression: people will be forced to adhere to the majority’s epistemic consensus and to consent to their political decision. And, as Raynaud himself seems to suggest, this risk is present even in the deliberative models of democracy.

So, we observed that we cannot reduce the political dimension of democracy to the epistemic one, and neither the other way around. The epistemic deliberation of the experts does not replace the political consent of

ordinary people, and the consent of ordinary people does not replace epistemic deliberation. The two dimensions should remain autonomous.

However, this is only one part of the story. Each one of the two dimensions presupposes a complex process of opinion or will formation. First, concerning the epistemic dimension, we have to notice that there are some factual and formal (logical) truths that could be established (in principle) in a relatively non-problematic manner. For example, we all can understand (in principle) if an event took place or not, and if a source uses a contradictory argumentation. A discussion or a deliberation on this type of subjects could result in a common solution. And, in some domains, experts should play an important role: politicians, diplomats, economists, legal specialists, and even logicians, and other kinds of experts. We have to acknowledge that, in these areas, no citizen could claim a kind of “epistemic sovereignty”, which would entitle him to simply refuse to accept the decision that seems to be the most reasonable for the epistemic community, without advancing reasons for his refusal and without considering the reasons of everybody else. And, if as a result of the deliberation the epistemic community wins, then I see no harm in imposing the solution to that individual. There would not be any “epistemic oppression” to worry about: if a truth was established, it could be imposed, but only from an epistemic point of view. This epistemic imposing entails nothing more than the fact that the epistemic community is entitled to declare that its perspective on the subject is more correct than the one held by that individual.

However, there could be moral, religious and political issues in relation with which different and equally reasonable conceptions could be advanced. In such a case, the epistemic deliberation would not result in a unique and non-controversial outcome. And, in these cases, people could withhold their approval of the decision that contradicts some of their most important moral, religious and political principles. Nevertheless, even in these domains, operate not only individual commitments to a set of principles, but also *collective commitments* to a set of general principles that govern their life in common: tolerance, the interdiction to cause unnecessary harms to other people, and so on. So, as long as we live in a society, we also commit ourselves to respect these principles. This is the reason why some moral, religious and political doctrines could be banned, even if there is no unique truth regarding that subject, but various conceptions that are equally reasonable.

Secondly, concerning the political dimension, we must notice that it is governed by a fundamental principle of individual political autonomy. No decision could be imposed to an individual, from a political point of view, not even if everybody else was convinced that it was the right one. But, this amounts to nothing more than to state that the individual will be always entitled to vote however he wants. He could even choose (for his own reasons) to refuse to consent to a solution that he recognized to be the right one. The most important principle is that of individual freedom understood in a Kantian way: an

individual is free only when he is subjected to his own will and not to the will of others.

But, we have to ask: Is he also entitled not to respect a political decision established by the majority only because he did not vote for it? I think that the answer to this question must be negative. In order to understand why we have to keep in mind the fact that, as Raynaud rightfully underlines, following the work of Hans Kelsen, the freedom we are talking about is not the natural freedom. It is a *social and political freedom* that presupposes a form of government in which a citizen is only subjected to his own will and not the will of others (Raynaud 2009, 60-62). It is a freedom that could manifest itself only in a social and political framework.

So, an individual that lives in this framework cannot claim an absolute right to auto-determination. In this domain also, there are some *collective commitments* presupposed by the decision to live life in common. Consequently, every individual is committed not only to respecting his own interests, desires, principles, but also to respecting the set of principles that makes life in common possible. And, I believe that we have to include among these principles some basic democratic norms like the majority principle. Therefore, the freedom that any citizen enjoys in a political community is restricted by the requirement to respect the principles that govern the functioning of that community. Hence, an individual could choose not to respect a majority's political decision only for the price of leaving that political community. But, as long as any member of the community could cast his vote however he wants, as long as he has the opportunity to convince the others of the legitimacy of his claim, and as long as the possibility to leave the political community is open for any of its members, we cannot speak about any "political oppression" performed by the majority.

Consequently, every one of the dimensions of democracy has indeed a complex structure and a complex way of functioning. Nevertheless, someone could object: we have the strong intuition that some element should be the one that is essential and decisive in assessing the value of democracy. And he could suggest: maybe the truth is that element after all, despite all the objections we mentioned above. To this I would respond that truth is indeed important when it can be established, but only from an epistemic point of view. And, it cannot be considered the essential element in the process of justifying democracy as a political regime. Because, if the epistemic process was the only significant aspect, then I do not see why the deliberative democratic procedure of opinion-formation should be preferred to a powerful computer, which would presumably analyze all the relevant facts and reach the optimal decision (from an epistemic point of view) much more efficiently. Hence, I believe that the fundamental aspect in assessing the value of democracy remains its political dimension of will-formation. In this respect, the free manifestation of will, the consent of every citizen is the factor that gives legitimacy and authority to political decisions.

In conclusion, truth does matter in democracy, but other factors also play a very important role. The democratic decision-making process is a complex procedure which has two distinct and autonomous dimensions: one is the political will-formation process; the other is the epistemic solution-finding procedure. And, each one of them is functioning in a complex manner, depending on numerous elements: the type of problem to be solved, the various substantial conceptions, the facts, the logic, the trustworthiness of the sources, and so on, for the epistemic dimension; the principles and interests of every individual, of the political community and the relation between them, the level of social and political freedom, the majority rule and other mechanism of public will formation, and so on, for the political dimension. And if we are to consider the relation between the epistemic and the political dimensions of democracy, we understand that the complexity will be even higher. The temptation to simplify this entire complex phenomenon is great, but surrendering to it exposes us to the risk of discovering that there are more things out there, in the social and political world, than in our oversimplifying philosophy.

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