The Values of Democratic Proceduralism

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Abstract - A standard justification of democratic voting is that it is a fair procedure, providing for the equal treatment of voters. Democratic theorist David Estlund challenges the adequacy of that justification: flipping a coin between alternatives is also a fair procedure, but no one would propose substituting random draw for voting. Estlund provides several arguments that fair proceduralism is an untenable view, and I counter those arguments. He concludes that what distinguishes democratic voting from random choice is its better epistemic value in approximating a standard of justice independent of the procedure. I reply that a less controversial distinction between voting and coin flip is that voting tends to select what is thought best by the most people.

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Introduction

Do you think that modern political democracy, the collective authorization of laws by voting (Estlund, 2008: 66), is valuable just because it is a fair procedure? For many years now, David Estlund has posed the coin-flip challenge to such Fair Proceduralism (FP; I will label Estlund’s own views as Epistemic Proceduralism, or EP, and will often use those labels in the remainder of the essay).

Why not understand democracy as a way of giving every (adult) person an equal chance to influence the outcome of the decision?...That way we would not need to make any claims about the decision tending to be good or right or true....so far it looks like democracy is one fair procedure, and choosing between two proposals by flipping a coin is another one....If the value of democracy is its fairness, this random procedure should be just as good. Of course, this is impossible to accept. There is something about democracy other than its fairness that contributes to our sense that it can justify authority and legal coercion. (Estlund, 2008: 6)

The something other than fairness is, for Estlund’s EP, the epistemic value of the procedure in yielding outcomes that approximate a standard of justice independent
of the decision procedure. This epistemic value distinguishes democratic voting from equally random choice among alternatives. The Fair Proceduralist’s flight from substance, in contrast, drives her all the way to the untenable procedure of equal random choice among possible alternatives not sensitive to participants’ preferences or judgments (aims, in short). Why? Reference to the aims of voters is a procedure-independent standard, according to EP; thus, a procedure would not be intrinsically fair if it responded to voters’ aims. I counter that such reference to aims is an intrinsic procedural value, pertaining to the fair handling of inputs to the procedure. Moreover, I say, both fair democratic voting and fair coin flip are sensitive to participants’ aims; the latter because it is not drawn over all alternatives, but over a smaller number of alternatives by prior decision already judged to be among the best. If I am correct, then EP’s account of FP’s untenable flight from substance does not go through. Finally, I conclude that something less demanding than approximation of an independent standard of justice distinguishes democratic voting from random choice: voting selects what is thought best by the most people. At the outset of the essay, I shall review a few proceduralist theories, so we have a better idea about what motivates them; and provide an unconventional exposition of the May theorem about majority voting, the conditions of which inform some of EP’s arguments and my responses to them.

Estlund’s *Democratic Authority* is deservedly recognized as one of the leading philosophical treatments of the idea of democracy. It is a rich volume full of good arguments, and my queries about one strand of its arguments manifest respect for its importance.

**Why Proceduralism?**

A strong source of the emphasis on procedural value in democratic theory is horror at the doctrines and massive atrocities of Bolshevism, Fascism, and National Socialism, the 20th century autocracies. Hans Kelsen (1955), a literal refugee from one of those “true democracies,” argued that all governments are for the people, or say they are, but only democracy is by the people. Democracy is essentially government by the people, in his view. If a government is evaluated according to whether it is for the people, on the basis of aiming at some objectively ascertainable common good, then that allows an autocrat to rule for the people in the name of that common good. Kelsen is a relativist, and says that democracy is the form of government that best
realizes political relativism. There is no objective common good, only subjective value judgments grounded in wishes and fears (those individual value judgments are not uniform and hence there is no common will, either). The autocrat’s claim to know the common good is in fact a controversial subjective value judgment. The results of universal, free, equal, and secret suffrage, and of the majority votes of democratic legislatures, however, are objectively ascertainable fact, he says. Democracy is justifiable only if there is no objective common good. Since there is not, then democracy “is justifiable to enforce a social order against reluctant individuals only if this order is in harmony with the greatest possible number of equal individuals, that is to say, with the will of the majority.” The reader will likely notice that it would be difficult for a subjectivist relativism to justify the last claim. What if my wishes and fears recommend my way only, and I hold the wishes and fears of the majority in contempt?

It’s a short step from values relativism to values nihilism. From about 1950 to 2000, Schumpeter’s definition of democracy ruled in American political science and beyond (Schumpeter 1942: 250-283). Democracy is only a procedure, he argued, and only the most minimal procedure at that: the competitive election of leaders, and nothing else. American political scientists adopted descriptive and minimalist proceduralism because in comparative regime research it is clear and easy to measure whether or not a country’s leader is appointed by competitive election. Unfortunately, a descriptive definition suitable in a limited era for a limited purpose was promiscuously generalized to an all-purpose and even lamely justificatory definition of democracy. Schumpeterian proceduralism collapsed when comparative regime theorists found around the beginning of this century that about a fourth to a third of the regimes satisfying the “electoralist” definition are in fact pseudodemocracies lacking the institutions and values otherwise associated with modern democracies, and that such pseudodemocracies were proliferating in response to incentives flowing from acceptance of the merely electoralist definition by international institutions (Mackie 2010).

Dahl, the dean of 20th century democratic theorists, once summarized his approach as “procedural democracy” (Dahl 2006). Dahl wants to discern the criteria necessary and sufficient for democratic procedure in a human association whose members need to reach binding decisions. Among other requirements, the decision process includes at least two stages: setting the agenda, and deciding outcomes. The
criteria are, first, that members should have adequate and equal opportunity for effective participation. Second, equal opportunity to express a choice at the decisive stage of collective decisions, a choice counted equal in weight to the choice expressed by any other citizen. Third, each member should have equal and adequate opportunity to discover and validate her choice on the matter to be decided. Fourth, members must have final control of the agenda, to decide how and whether matters are to be placed on the agenda of the association. These criteria will be more or less imperfectly realized. Although he once termed his doctrine procedural democracy, later it is clear that for him democracy has strong substantive as well as procedural values. Democracy, he says, is an imperfect procedure, or a quasi-pure procedure, in Rawls’ terminology (Dahl 1989: 163-175).

Arrow’s social choice theory seeks to identify social welfare, but social welfare is a function, a mathematical function, aggregating each individual’s preference orderings over all social states. An individual’s orderings can reflect mere tastes for direct consumption, or also values including social and moral considerations. But all such tastes or values enter only through individual orderings, processed by aggregation, into an overall measure of social welfare. There are no values independent of individual orderings over social states aggregated by a social welfare function. This shows up in the so-called Pareto condition of his famous impossibility theorem: if every individual ranks \( x \) over \( y \), then the social choice should rank \( x \) over \( y \). At first glance, Condition \( P \) seems unassailable, but consider that it excludes all values that are independent of the content of individual preferences. Everyone could favor Sharia law, but if they do not it has no independent value, nor would any bill of rights, nor Rousseau’s general will, nor counterfactual criteria of fully informed and publicly motivated preferences, nor any theory of objective welfare. Arrow explicitly dismisses the notion that “there exists an objective social good defined independently of individual desires” (Arrow 1963: 22) as Platonic realism.

Riker (1982) radicalizes Arrow. Riker mistakenly concludes from various results of social choice theory that democratic voting is arbitrary and meaningless. There is no knowable connection between citizens’ votes and the outcome of an election: “we do not and cannot know what the people want” (238); superficially, democratic voting is formally responsive to the voter, but a full formal and empirical investigation shows that it is not. Democracy is nothing more than “an intermittent,
sometimes random, even perverse, popular veto” (244). Riker believes that his “liberal” interpretation of voting and its random veto promotes liberty because it accidentally removes tyrants. He also emphasizes that his liberal interpretation promotes equality: each citizen has an equal chance to veto officials (246).

**The May Theorem on Majority Rule Over Two Alternatives**

The May theorem will be central to our discussion. Here is an unconventional introduction to the theorem. Social choice theory explores the logical properties of rules for aggregating more than one list of relations among variables into a single list of relations among variables. A variety of assumptions is made, and from each set of them a variety of implications is deduced. The assumptions explored by social choice theory are not overwhelmingly compelling in the way that, say, Euclid’s’ first four axioms of geometry are. One does not know what to say to someone who denies that a line is the shortest distance between two points, but it is quite easy to find real counterexamples to typical social-choice assumptions.

Social choice theory does not take us up to a Platonic realm of truth, but rather forms logically consistent demonstrations that can imperfectly model the earthly realities of collective choice by humans. For example, the May theorem is routinely offered as some kind of higher truth about the nature of democracy, despite Beitz’ (1989: 60) warning 20 years ago that it “does not reproduce any problem that arises in commonplace reflection about political morality; indeed by abstracting from contextual considerations…it deflects attention from factors that ordinarily play an important, and sometimes a determining…role.” I shall illustrate.

May’s theorem says that four independent assumptions together uniquely identify majority rule over two alternatives: *decisiveness* (an alternative wins, loses, or ties), equivalent to *universality*; *anonymity*, in that if voters trade names the result is unchanged (that is, it treats all voters equally); *neutrality*, in that if alternatives trade names the result is unchanged (it does not privilege any alternatives); and *positive responsiveness*, that is, all else equal, if a voter changes their vote to favor an otherwise winning option it remains a winning one, *and* if a voter changes their vote to favor an otherwise tied option it becomes a winning one. The decisiveness condition, which counts ties as decisive, has little to do with the practical need for a choice, not a tie. Anonymity would block delegation of decisions from the citizens to the legislative assembly, or from the assembly to its leadership and committees, or to
executive and judicial authorities, but that violation does not imply that ideal representative democracy fails to accept each citizen’s vote at equal value. The idea of equal basic rights, a sphere of decisions reserved to the individual, also violates anonymity, but no one should be concerned that it does. Constitutional entrenchments violate the condition that a voting rule be neutral between alternatives, but that violation is good for democracy, not bad for it. The neutrality condition also says that a vote by two rich to tax one poor is no different than a vote by two poor to tax one rich.

Much is made of the fact that simple majority rule, given two alternatives, is uniquely identified by the four assumptions. One of Riker’s (1982, 60) arguments, often repeated in subsequent literature, is that democracy is arbitrary and meaningless because May’s theorem, and its venerable assumptions, are limited to votes over two alternatives, but politics is always about many alternatives. The four assumptions are written, however, in terms of the two-alternative case. Utterly unobjectionable generalizations of the four assumptions to the many-alternative case are consistent with the Borda and Black voting rules (Tideman 1986). Several commonly discussed democratic voting rules that can handle more than two alternatives satisfy decisiveness, anonymity, neutrality, and nonnegative responsiveness, that is, all else equal, if a voter changes their vote to favor an otherwise winning option it remains a winning one, and if a voter changes their vote to favor an otherwise tied option it remains tied or becomes a winning one. Nor is it necessarily a worry for a voting rule, such as plurality runoff or single transferable vote, not to satisfy nonnegative responsiveness as a logical possibility. The proper question should be: is the voting rule generally responsive in empirical settings (yes, for each), and what are its other empirical advantages and disadvantages, compared to the empirical advantages and disadvantages of some alternative voting rule?

**Epistemic Proceduralism versus Fair Proceduralism**

Estlund (2008: 60) says that a popular account of the legitimacy and authority of democratically-enacted laws is that voting is a fair procedure, “everyone had an equal role in determining the outcome”; call it Fair Proceduralism. Estlund’s Epistemic Proceduralism (EP) pursues the Fair Proceduralist (FP), draining him of the Substance he abhors, until he is driven into an indefensible corner. EP first marks out a procedure-independent substantive fairness. Next, consider what Rawls calls pure
procedural justice (which EP for its own purposes calls retrospective fairness): a pure procedure defines the justice of each of its outcomes. Any outcome of a lottery, voluntarily entered into and honestly played, would be fair in terms of the lottery, for example. Further, for Rawls, perfect procedural justice always yields an outcome just by some substantive procedure-independent standard, and imperfect procedural justice approximately yields outcomes just by that independent standard (called prospective fairness by EP). Finally, according to EP, there is Intrinsic Procedural Fairness, neither retrospective nor prospective. The given procedure is intrinsically fair, neither looking backward to a parent procedure which begat it, nor looking forward to the substantively fair outcomes it tends to beget. The idea is that anyone who claims to value democracy only as a fair procedure, say, only because it provides for an equal vote for each person, is driven to the thin and occasional fairness of Intrinsic Proceduralism.

A possible problem for such an Intrinsic Proceduralist is that democratic voting rules should be responsive, that is, they should respond in the right way to votes cast. May’s theorem requires positive responsiveness, but, as we have seen, a strong tendency to positive responsiveness could suffice in the weighing up of empirical advantages and disadvantages of a voting rule. A voting rule could be anonymous, that is, treat each voter equally, but be negatively responsive. A democratic voting rule should not be negatively responsive, however. For example, it should not add up what the majority wants and then always choose the opposite. May’s positive responsiveness condition is a formal and narrow implementation of a broader idea, that a collective decision procedure should be sensitive to the aims of those participating in it. Estlund’s EP generalizes the idea of responsiveness and calls it “aggregativity”: a collective decision procedure is aggregative if and only if there exists a possible change in individual preferences that would result in a different collective preference. EP continues that an Intrinsic Proceduralist could not count aggregativity as part of procedural fairness. Aggregativity, and hence positive responsiveness, are procedure-independent standards, and not intrinsic to the voting procedure, according to EP. An equal random choice of outcome from among possible alternatives, though, is completely insensitive to individuals’ preferences and hence is not aggregative, Estlund continues, and thus is available to the Intrinsic Proceduralist. He argues that consistent application of procedural fairness must reduce to equal treatment of alternatives, and have nothing to do with equal treatment
of voters. I shall argue the contrary, that responsiveness is intrinsic to voting procedure, and that random choice is aggregative.

EP acknowledges that social choice theory considers responsiveness a procedural matter (74). EP goes on to claim, if I understand it correctly, that social choice theory models actual procedures and thus serves as the procedure-independent standard for their evaluation. Thus, general responsiveness of any kind would be substantive and not procedural; as I understand it, because the ideal standard of positive responsiveness could be poorly or perversely approximated in actual practice (e.g., voters could be mistaken, votes could be mistakenly or fraudulently counted, and the like). But, it seems to me, the EP argument here implies that, when it comes to actual procedures, there can be no proceduralists. Those commonly considered to be proceduralists in democratic theory would not be counted as such. This collapses a useful and real distinction. Brettschneider (2005: 424), for example, distinguishes pure outcomes theorists who understand democratic procedures as solely instrumental, from pure procedures theorists who “locate the standard of legitimacy for the outcomes of a process entirely in the fact that they were produced by democratic procedures.” If EP’s construal of social choice theory were correct, then we would need a new pair of terms for theories of actual collective decision procedures: one for the procedure-independent correctness of aspects of the actual procedure, and one for the procedure-independent correctness of the actual procedure’s substantive outcomes. The contrast between procedural values and substantive values would recur.

Social choice theory defines a variety of conditions, shows that one or more functions is consistent or inconsistent with one or more conditions, and can more ambitiously show that an already given function is uniquely consistent with a set of conditions, as in May’s theorem (or that no function is consistent with a set of conditions, as in Arrow’s theorem). The given procedure here is simple majority rule over two alternatives. The procedure happens to satisfy the formal properties of decisiveness, anonymity, neutrality, and positive responsiveness. Each is a property of the procedure. It would no longer be the same procedure if it lacked one of the properties. The given procedure has the procedural value of always yielding an outcome, the different procedural value of equality among voters, the different procedural value of equality among alternatives, and the different procedural value of positively responding to inputs (to repeat, each of the properties is logically
independent of the other). Permissible inputs are defined as individual preference or indifference over alternatives $x$ and $y$, and permissible outputs as group preference or indifference over the same two alternatives.

EP correctly identifies an error made by some democratic theorists: the idea that the procedural value of equality among voters is the only value of voting. But EP, I propose, makes a similar error. We might attribute potential value to a democratic procedure because it counts citizens’ votes equally, and we might also attribute potential value to the procedure because it is properly responsive to citizens’ votes. There are two questions: whether or not a value of a collective decision procedure is procedural or substantive, and if procedural whether or not it should be called “fair.” For equal citizens to have equal votes is a procedural value, and it might be have to do with fairness, in the sense of equal treatment of the parties. For the procedure to be positively responsive to all citizens’ votes is a procedural value, and it might have to do with fairness, not in the sense of equal treatment of the parties, but in the sense that the procedure responds to citizens’ judgments as they expect it should. The once Fair Proceduralist could concede that equal votes are fair but that positive responsiveness is right in some other way, and become a more defensible Proceduralist: call her now a Fair-and-Right Proceduralist.

Positive response to inputs is a common background assumption. Consider the following analogy. The four of us share a dinner that costs $120 and agree that equal division would be a fair procedure. Three of us put in $30, but one of us balks. To be procedurally fair, he says, equal division must make no reference to the total restaurant bill; rather, it must randomly assign a dollar amount from the set of all rational numbers, positive and negative, as the object of equal division. The first three diners could respond to the fourth that, given the input of the restaurant bill, it must be a part of a fair procedure that each diner’s equal contribution respond positively to the input. Whether the output of each paying $30 is fair by standards independent of the procedure of equal and positive contribution -- desert, need, equity -- is indeed a separate question, they could acknowledge.

For EP, the input is a substantive matter, independent of the procedure. Consider, however, that voting is, among other things, a mathematical function. A full description of a function defines the set of permissible inputs (or domain), the rule of correspondence, and the set of the permissible outputs (or codomain). Change the domain, or change the codomain, and it is no longer the same function. The domain
of May’s simple majority decision is citizen votes of preference or indifference over alternatives \(x\) and \(y\). Change the domain to the set of alternatives \(\{x, y\}\), and it is no longer the same function. With no votes as inputs, there is no aggregation of votes; equality of votes and positive responsiveness to votes become inapplicable conditions.

To manufacture gunpowder, take saltpeter, charcoal, sulfur, and other inputs, and process them in proper quantity, sequence, and conditions. The materials exist prior to the procedure, but they become inputs to the procedure, which further must handle them properly, for example mixing the inputs in the proper proportion. Both the materials as inputs, and their right handling, are not independent of the manufacturing procedure.

May defines a general decision function, that the group decision prefers or is indifferent to \(x\) over \(y\), or prefers or is indifferent to \(y\) over \(x\), and the group decision is some function of all relevant individuals’ preference and indifference relations over \(x\) and \(y\). Then, May’s set of four independent necessary and sufficient conditions uniquely constrain the general decision function to be simple majority rule. One condition of May’s theorem is that “each individual be treated the same as far as his influence on the outcome is concerned,” and he says that this would usually be called an equality condition. His formal definition requires that the group decision function be a symmetric function of its inputs, and he mentions that it could be called an anonymity condition, since it says roughly that you could permute the names of the preference holders without changing the outcome. I speculate that the anonymity label stuck because it successfully dodged mid-20th-century squeamishness about values claims such as the equality of voters. But equality of voters and its meanings are what the condition is about, not anonymity and its meanings. Estlund defines anonymity thus: “A rule is anonymous if and only if no difference is made in the collective ordering if the identity of the owner of the preference ranking is change.” (78). He says that a condition such as May’s is sensitive to preferences, but not to preference-holders. It remains a mixture of nonanonymity and anonymity, and thus Estlund objects that it is not Fully Anonymous: “A procedure is fully anonymous if and only if it is blind to personal features; its results would not be different if any features of the relevant people were changed” (80). The consistent Fair Proceduralist, says EP, must embrace Full Anonymity, and hence would only be able to justify coin flip.

The Full Anonymity ascribed by EP to FP is no longer about votes, equal or
unequal, or about positive responsiveness, as aspects of the procedure. Full Anonymity rejects not only simple majority vote over two alternatives (in this illustration), it also rejects any general decision function. All that is left is what May called neutrality (equality among alternatives). A fully anonymous procedure chooses with equal chance among possible alternatives $a, b, c, \ldots, x, y, z, aa, bb, \ldots$, even though the humans in the illustration only express preferences over alternatives $x$ and $y$. However, if EP is correct that general positive responsiveness (more broadly, aggregativity) is not a procedural value of actual voting because it refers to a procedure-independent standard of procedural correctness, then for the same reason anonymity (equality) is not a procedural value of actual voting. More dramatically, neutrality could not be a procedural value of actual voting, because an ideal standard of neutrality could be poorly or perversely approximated in actual practice (e.g., someone neglected to include many of the possible alternatives). FP would not be able to advocate any actual decision procedure. But let’s set this objection aside, and return to EP’s main account of FP’s purported flight from substance.

Estlund says that someone might object that Full Anonymity is not about fairness at all, but if that were right, “we should never think of a coin flip, which gives no regard to preferences at all, as a fair way to resolve a dispute, and yet we often do” (80, emphasis added). Are disputes that are actually and fairly resolved by coin flip about “possible decisions” (82), however, or are they are about a narrow range of decisions valued by the individuals involved in the flip? If the latter, then the coin flip would violate Full Anonymity, and FP would not be able to advocate even the thin alternative of equal draw among possible alternatives. In response to Thomas Christiano (2009), who first raised this objection, Estlund (2009) proposes that alternatives mentioned in the newspaper as supported by some or opposed by others could be arbitrarily selected. I say that this still violates the Full Anonymity condition though, because, if the alternatives supported or opposed by individuals involved were to change, then they would not appear in the newspaper, and hence the results of the procedure would change.

EP goes astray, I think, because it does not explicitly conceptualize agenda formation. In Arrow’s social choice theory individuals have preference orderings over all conceivable social states; whatever the formalization, the general idea is that that there is a set of possible alternatives, that some subset of those alternatives come under consideration by a procedure, and that the procedure selects one or more of the
alternatives under consideration. The problem of agenda formation came to the attention of political scientists after Dahl’s landmark *Who Governs* (1961), which found that of alternatives under consideration by the city government of New Haven, Connecticut, no one economic group had special sway. Later critics hypothesized and showed that a special interest could almost undetectably keep an alternative entirely off the political agenda, as US Steel kept the issue of air pollution off the agenda of Gary, Indiana city government in the 1950s (Bachrach and Baratz, 1962).

Dahl’s later work was sensitive to agenda formation as a problem in democratic theory. His “procedural democracy” emphasizes that the decision process has two stages: setting the agenda and deciding the outcome. Also, one of Dahl’s four necessary and sufficient conditions of democratic procedure is that members must be able to decide how and whether matters are to be placed on the agenda of the association. The claim that agenda formation is essential to understanding democratic procedure is not idiosyncratic. Social choice theorist Nicolaus Tideman (2006: 17, emphasis added) defines voting as follows:

> A collective decision is made by voting if and only if, *on the basis of a previous collective decision, a set of possible options is identified for consideration*, the members of the collectivity report one or more aspects of their evaluations of the outcomes, and an outcome is selected on the basis of a mathematical function of these reports.

The previous collective decision could be a democratic one, as explicitly required by Dahl, or a nondemocratic one. Making a decision by a random process Tideman (16) defines as follows:

> A collective decision is made by random process if and only if, *on the basis of a previous collective decision, a set of possible options is identified for consideration*, and the outcome is selected from among these on the basis of the outcome of a random process.

EP’s claim that we consider as fair an equal random choice among possible alternatives is a descriptive generalization. It is not clear to me that the descriptive claim that the choice be among possible alternatives is correct. Generally, it seems to me, a prior collective decision selects a set of more favored options which would be randomly chosen from. Often a lottery is used when there is no good argument for
choosing one alternative over another within the top set. The U.S military conscription lottery of 1969 chose among all US residents born between 1944 and 1950, not all American males, not all humans, not all possible social states. Coin flips are used in politics, and are sometimes mandated by statute as a way of breaking a tie vote. The coin flip is between the tied vote-getters at the top, however, not among all alternatives voted upon, and not among all possible alternatives. Peter Stone (2007), a student of the subject, suggests that the circumstances of a just lottery are these: “1) two or more individuals have equally strong claims to a good; 2) the claim of each of these individuals is stronger than the claim of anyone else with an outstanding claim; and 3) there is not enough of the good to satisfy the claims of all of these individuals with equally and maximally strong claims.”

If a lifeboat is capable of holding only four but five are aboard, and if no better argument prevailed, a lottery might be held to select one person for sacrifice. There is no sense of fairness or of anonymity which demands that the random draw be among all possible combinations of the five individuals in the lifeboat (not include, for example, choosing Messrs. Alpha, Bravo, and Charlie together for sacrifice when only one need go, and not include choosing no one), or that it be among all possible alternatives in the world, whatever that means. There is a prior consensus that the exclusive alternatives are A goes, B goes, C goes, D goes, or E goes. Each of the five prefers a sacrifice of any one of the five, to a sacrifice of any combinations of more than one of the five. EP holds that random draw does not violate the Full Anonymity Condition, but notice in the lifeboat example that for the random draw to choose only among one of the five would, contrary to EP, violate the condition. To check, suppose that each of the five now most prefers a draw of any combination of four out of the five to be sacrificed. Now the draw would be among all those combinations, and the outcome would change. Thus, I submit, coin flip in practice does not satisfy the Full Anonymity condition.

Estlund might say (as suggested by his informal comments on a previous draft) that, after agenda formation, equal random choice among items on the agenda is not aim-sensitive (aggregative). I think Estlund’s claim would be that we generally consider as fair an equal random choice among alternatives on a final agenda. However, I claim that random equal draw among alternatives on an agenda would be considered fair only by reference to fair treatment of participants in a previous decision to form the agenda, and thus would be aggregative. Although it might be
considered fair for two people to agree to flipping a coin to allocate between them an indivisible good owed them, it would not be considered fair for one of them to flip a coin to decide whether or not she murders the other one.

If democracy were only about equal influence over the outcome, then there would be no difference between democratic voting and equal draw among possible alternatives, but democratic voting is better than equal draw. Estlund says that the logic of such Fair Proceduralism drives it to Intrinsic Proceduralism. The logic of IP, he says, is that an intrinsically valued procedure cannot be responsive to the preference rankings of citizens (cannot be aggregative), to so respond would appeal to a substantive matter independent of the procedure. The Intrinsic Proceduralist must endorse Full Anonymity, and is left only with equal draw among possible alternatives. I counter on the one hand that sensitivity to the aims of participants is intrinsic to democratic voting procedure, and on the other hand that in practice equal draw among possible alternatives is sensitive to aims of participants and thus violates the Full Anonymity condition. I am not convinced that Estlund’s account of the Fair Proceduralist’s necessary flight from substance goes through. Another argument I understand to imply that no actual procedure has any procedural values. I observe that this would abolish the real and useful distinction between procedural values and outcome values.

Centrality Value and Epistemic Value of Democratic Decision

Whether or not we label any of the proposed values of democratic voting as procedural or substantive, each is still a value requiring explication and evaluation. Even if the equal vote were the only procedural value of democratic voting, and all other proposed values of voting are better called substantive, we would still need to investigate and compare all proposed values, procedural and substantive. If I am correct that decisiveness, anonymity, neutrality, and responsiveness, are examples of procedural values, some of which might fairly handle inputs, I would still need to inquire as to whether there is a procedure-independent value of fairness to the outputs.

Democratic voting possesses one striking outcome value, it tends to select what is thought best for the collective, or what is most wanted for the collective, by the most people. What is thought best or is most wanted by the most people need not be true, right, or wise. We hope that majority decision is true, right, or wise, or more soberly that it tends to be, compared to feasible alternative institutions, but for the
moment I want to isolate one value, that the decision be one thought best by the most people.

It is well known that, under standard conditions, if alternatives are along a single dimension, then pairwise majority voting will select the alternative favored by the median voter, and if alternatives are along several dimensions then strategic pairwise voting will tend to select alternatives in the center of the multidimensional issue space. All practiced or seriously proposed democratic voting rules share the tendency to centrality -- surely that is a major reason why they are used or proposed. Return to the single-dimension case for illustration, and suppose there are 21 alternatives. We know that the median alternative will be selected by pairwise majority voting. The value of centrality is that no other alternative is thought best by more people. When random choice is actually used in democratic politics, it is usually to select among tied central alternatives, and it makes sense in that context. It wouldn’t make sense to choose randomly among the 21 alternatives: there is only a 1/21 chance of choosing the alternative thought best by the most people, and, worse, a 2/21 chance of choosing one or the other of the most extreme alternatives, thought best by the least people.

Suppose that people tend to be biased towards their own judgment of what is best for all, or towards their own advantage in a compromise of wants. Democratic voting tends to cancel out those particularistic biases in favor of more general alternatives. Assume there are three voters, P, Q, and R, and four alternatives, all for P, all for Q, all for R, and equal accommodation among P, Q, and R. PQR need not be equal division of a pie, but could be something like Kolakowski’s conservative-liberal-socialism (that our institutions respect the best value from each doctrine that is tolerable by all three doctrines). The three voters rank the options as follows.

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<tr>
<th>All for P</th>
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<td>PQR</td>
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PQR, the more general alternative, is no one’s first-ranked alternative, yet it wins by pairwise majority voting or by Borda count, each an imperfect but attractive
implementation of the idea of finding the alternative thought best by the most.

What does the example show? First, that thinking of democracy in terms of plurality voting, which pays attention only to voters’ first-ranked alternatives, can be misleading. In this example, P, Q, and R would be tied in a plurality vote, and PQR would never be considered. Second, that a democratic voting rule tends to select the alternative judged best by the most people, and that choice tends to be more general. Third, suppose we allow unequal voting: P gets five votes, Q gets one, and R gets one. Alternative All-for-P would win, not the alternative judged best by most people, not the more general choice. Fourth, suppose we draw randomly one of the three voters to decide. Then, either P, Q, or R would be selected, one of the more partial alternatives and not the more general alternative. Fifth, suppose we draw randomly over the four alternatives. There is a \( \frac{3}{4} \) chance that one of the more partial alternatives would be selected, rather than the more general alternative.

Estlund says that “there is something about democracy other than its fairness” that contributes to our sense that it can justify coercion (6). The example shows that a strong reason that democratic vote is better than random choice is that democratic vote tends to pick the alternative judged best by the most people, and in comparison random choice does not. There is something to be said for this (even if it were not enough for a full justification of democracy). A modern-day Kelsen could argue that democracy is justifiable because its commands are “in harmony with the greatest possible number of equal individuals,” but that random choice is unjustifiable because its commands would not be. Recall the historical phenomena that made people like Kelsen hostile to the notion that the idea of a procedure-independent standard helps us to understand and to justify democracy. It could be that a substantive Kelsenian claim is less controversial and more justifiable than EP’s substantive claim that democratic voting is justified (among other reasons) because it is better than random in its tendency to produce outcomes that are correct by independent standards (98). I do not say so, but merely state the possibility.

**Conclusion**

I do not disagree that much with the outlines of EP. I have examined only one strand of its arguments, concerning the limits of fair procedure. It seems to me that these arguments are more complex, more risky, more controversial than they need to be. The clear and easy way to slay the claim that democracy is wholly justified by the
ideal of equal influence over the outcome, and Estlund has done it elsewhere (2005, 208), is to confront her with the problem of a procedure with the properties of equal influence and negative responsiveness. Jonathan Swift was the first to propose negatively responsive governance. A professor at his fictional Grand Academy of Lagado recommended, “That every senator in the great council of a nation, after he had delivered his opinion, and argued in the defence of it, should be obliged to give his vote directly contrary; because if that were done, the result would infallibly terminate in the good of the public.” Values-allergic political scientists sometimes tell me that democracy is only about the procedural equality of citizens, and I reply, fine, you won’t mind then if we add up their votes and do the opposite of what they deem best. When they say they would mind, I then ask, why should we do what the citizens think best? Finally, I ask them, Is it possible to be mistaken about what is best?

References


**Notes**

¹ I thank Eddie Hyland for a long conversation about democracy in Dublin, and more importantly for his accomplishments in democratic theory. I thank Corey Brettschneider and Thomas Christiano for thoughtful comments. I thank David Estlund for patient and thorough comments on two drafts, correcting many confusions and errors. I alone should be blamed for the contents.

² Riker’s views are rebutted in Mackie (2003).

³ Democracy is much more than majority vote over two alternatives. This sketch concentrates on that for simplicity of exposition. A fuller argument would have to incorporate a more general account of voting, public deliberation, delegation including representation, constitutionalism, and other features of modern political democracy.

⁴ The consistency of various conditions with a given voting procedure does not exhaust the meaning of that procedure, because the procedure behaves differently with different patterns of inputs, actual humans in actual votes may act in ways not contemplated by the formal model, and so on.

⁵ May calls it the equality condition, says it has to do with equal influence of individuals on the outcome, and says that his “simple majority decision” is meant to be the same as Arrow’s “method of majority decision” (681). Arrow’s definition of the method of majority decision does not refer to symmetric inputs but instead refers directly to counting the number of individual humans voting for each alternative (46).

⁶ Estlund’s (2009) replies to Christiano are implicitly addressed at various points herein; to rehearse explicitly those arguments and my responses to them is not possible within the available space.

⁷ Each of the five has preferences not only over their most favored alternatives, but also over their less-favored and least-favored alternatives. The idea of preference is not limited to top-ranked preference.

⁸ It is a mistake to consider plurality voting, which only considers each voter’s top-
ranked alternative, the exemplary democratic voting rule. Voting rules which aggregate all of each voter’s rankings allow us to talk about an alternative that, although not top-ranked by any is most wanted by all, as will be shown in the upcoming example.