

Why not epistocracy? Political legitimacy and “the fact of expertise”

a. State-of-the-art and objectives

Democracy, globalization and “the fact of expertise”

Globalization involves opportunities for democracy. Migration, new media and information technologies, international law and the genuinely transnational character of contemporary economic, environmental and security challenges, contribute to de-nationalize identities, loyalties and problem framing, making new alliances and cross-national political action possible. Transnational movements, organizations and institutions are already established or in the making, pointing towards the possibility of a future cosmopolitan democracy.

But there is a darker side. Globalization has brought to the fore extraordinary problems of coordination and regulation and extreme hazards. The age of globalization is the age of new possibilities for democracy, but it is also the age of the London bombings and “the war on terror”, of tsunamis and arctic ice-melting, of Goldman Sachs, mass-unemployment and the Greek tragedy.

A renewal of democracy is not automatically what comes out. Arguably, what we have observed in the aftermath of 9/11, climate changes and the financial crisis is not so much a deepening of transnational democracy as an extension and tightening of administrative and legal control.

Developments in Europe are illustrative. The EU has recently taken unprecedented administrative and legal measures to address threats of terror, the euro crisis, and environmental challenges. Critics claim that the Union’s crisis management contributes to pushing the EU further towards technocracy and “rule by the few” (Collignon 2010, Menéndez 2010, Fenwick 2010). Others appreciate the EU’s resoluteness, joining those who for long have denied that the EU has a democratic deficit (Majone 1998, Moravcsik 2002).

The heart of this debate is normative: The protagonists have clearly different, more or less ambitious ideas of what democracy requires and different ideas of what constitutes a legitimate political rule. However, normative position-taking and interpretations of facts are intertwined: The different approaches to democracy and political legitimacy are intimately linked to different notions of the strength and character of our expertise-dependence in the age of globalization – or of “the fact of expertise”.

It is well known that discussions of political ideals and norms must take into account certain “general facts about human society” and about modern society in particular (Rawls 1999 [1971]: 119). Many would probably agree with political philosopher John Rawls (1993: 36-40) when he says that a theory of justice with relevance for modern societies must recognize among other things “the basic fact of pluralism”: Normative theorists cannot go about assuming that people of modern pluralist societies would ever come to share “comprehensive doctrines”.

The question is whether we should not also include a basic fact of expertise” alongside “the basic fact of pluralism” and other basic facts normative theory must recognize. Should we not regard modern societies’ dependence on scientific and professional expertise as in the end inevitable and thus a “general fact” in Rawls’s sense? If so, must we not also let this fact be reflected in our normative ideas of legitimate political rule? And is it not the case that globalization has made us more expertise-dependent and hence expert rule more legitimate?

Some would simply say no. They do not deny, of course, that globalization requires institutional adaption, but normatively speaking, legitimacy and democracy must mean what it used to mean (Forst 2001, Eriksen & Fossum 2007, Scheuerman 2009).

A counter-argument would run like this: To deal with the new risks, the best available expertise must be mobilized and given the decision-making power needed, even if we by doing so are challenging familiar ideas of democracy and legitimacy. The age of globalization introduces new and exceptional interdependencies. Greece’s budgetary deficit affects not only Greece but people and businesses all over Europe; local responses to health and environmental risks somewhere in Europe may end up affecting all of us; inadequate anti-terror measures in one country can cause terror in any other. And

stakes are high. A European economic crisis could become world-wide and reduce growth, employment and welfare everywhere; terrorism is a threat to human life and security; environmental disasters could in the end undermine the material conditions for human existence. If more power to the experts can help save the planet, the economy, health, security and other goods, and whatever else we value – why not embrace it? Why not simply join those who salute the EU’s post-crisis resoluteness? Why talk of a democratic deficit if the moves that are made, basically and in the long run, are in the interest of all and something all reasonable persons would subscribe to if they had the insight and knowledge to make informed choices? Why stick to ideas of “rule by the people” that are irrelevant and even dangerous in a world that is in urgent need of decisions based on our best knowledge? Why not opt for a variant of what political philosopher David Estlund (2008; see also Besson & Marti 2006) refers to as “epistocracy” – a “rule by the knowers”?

Why not epistocracy? Conceptual clarification and normative theory

There is a fundamental normative challenge implicit in questions like these. If it is really the case that modern democracies are not up for the tasks we are facing, must we not do something? What can we do, and what would be the right thing to do? What if it is the case that our form of life in the age of globalization depends on science and professional expertise to the extent that democracy and legitimate political rule cannot mean what it used to?

Obviously, this challenge – I will refer to it as the new challenge from epistocracy – goes not only to social and political theorists, but as the latter question highlights, it is also a challenge to theorists; it is a normative challenge that requires, also, a normative-theoretical answer.

However, so far the response from theorists has been vague and unsatisfactory. On the one hand, there are contributions in science and policy studies, by political scientists, sociologists, economists and lawyers that no doubt highlight and explicate the new and expanding role of science and expertise in insightful ways. These scholars are however silent or jump to conclusions in discussions of normative-theoretical implications; they go either too easily along with the idea that an enlarged scope for expertise-based decision-making is compatible with ambitious ideas of societal democratization, or they take it, seemingly, that we due to our expertise-dependence must adapt our ideas of legitimacy and “rule by the people” and accept something less democratic than we used to. On the other hand, there is contemporary political theory, a field that is currently contributing elaborately and substantively to investigations of what democracy and political legitimacy mean in general and on the implications of globalization in particular, but that is at the same time peculiarly silent on the arguably persuasive fact of expertise and what this fact means for democracy and our ideas of legitimate political rule.

Thus, what is missing, and needed, is a sophisticated response that is up to date both with philosophy discussions on democracy, legitimacy and political rule and the wide range of empirical scholarship that investigate modern and globalized societies’ expertise dependence. This is what I will provide with EPISTO. Taking both philosophy and social science seriously and assisted by the EPISTO team, I will reconstruct and investigate the democracy/epistocracy debate in political theory and philosophy, but also review and bring in insights on knowledge and politics, democracy and expertise from contemporary science and policy studies.

The output will be a systematic and comprehensive overview of what a “rule by the knowers” can mean normatively and institutionally and along several dimensions – an epistocracy-typology – and a thorough presentation and analysis of the legitimacy of different variants of epistocracy and expertise arrangements. What the fact of expertise means for the justification of modern political rule and whether this fact means something more and different in the age of globalization, will be given particular attention. Special attention will also be given to European studies discussions of expertise and democracy, reflecting the salience of these discussions for a closer understanding of the normative implications of the knowledge/politics relations in a transnational context, and to gender studies, where the debate on “feminist technocracy” and “feminism from above” can be seen as another democracy/epistocracy debate and interestingly be brought in touch with similar debates in other fields. Finally, particular weight will be put on the theory of deliberative democracy, reflecting my

contention that this theory offers the best parameters within which to conceptualize epistocracy, and to defend it – to the extent such a defense can be made.

Epistocracy in practice? Empirical studies and normative assessment

The new challenge from epistocracy, also paves the way for new empirical research questions and new evaluative tasks. What characterizes real world epistocracy and expertise arrangements? Which dimensions of epistocracy are today of particular relevance empirically speaking, and how do different real-existing epistocratic arrangements score on the different dimensions? Which empirical patterns of epistocracy can be identified and what cause these patterns to occur? What is the explanatory role of the fact of expertise and globalization processes? And to what extent are contemporary expert-rule arrangements legitimate?

The focus will be on the EU, and together with the EPISTO team I will: (1) map the unfolding system of Commission expert groups; (2) discuss to what extent this system is an institutional answer to a particular expertise-dependence in the age of globalization; (3) identify and analyze the particular characteristics of the expert groups' deliberation compared to deliberations in the standing committees of the European Parliament; (4) assess the overall legitimacy of the expert group system; and finally (5) discuss to what extent the deliberations of the expert groups have superior epistemic qualities compared to the deliberations of the parliamentary committees.

The empirical cases are strategically chosen. First, if the epistemic qualities of deliberation are higher and the decision-making better for all affected when made by experts than by “the people”, this could justify giving more power to the experts, according to a certain line of epistocratic argument. With its study of expert group deliberation compared to deliberation in parliamentary groups EPISTO contributes to testing of one of the decisive assumptions in the arguably most powerful version of the so-called outcome-oriented justification of epistocracy. Secondly, a central goal for EPISTO is to discuss to what extent the fact of expertise in the age of globalization amounts to a special justification for epistocracy. The study of the system of Commission expert groups will provide empirical insight in the characteristics of contemporary expertise and expertise-dependence and facilitate this goal.

In addition, the chosen cases will mend gaps in the empirical literature. There are several studies of expertise governance, also in transnational contexts, and in the EU in particular. So far, we know, however, relatively little about the Commission expert group system; we know little about who these experts are; their educational, disciplinary and institutional background and their careers before and after entering EU's expert group system; how they deliberate and make decisions; and why the system they inhabit has occurred. EPISTO will contribute on all points.

Finally, the EPISTO team will provide an additional study of EU's gender equality apparatus, by means of institutional mapping and qualitative interviews of key figures in EU gender equality policy-making. The study will shed light both on gender studies debates on “feminist epistocracy” and “feminism from above” and EPISTO's democracy/epistocracy debates.

Democracy and expert rule: state-of-the art and beyond

Epistocracy as a kind of political regime can be distinguished from expistocratic arrangements; different expertise-based arrangements of decision-making that you can find in different political regimes, even in democracies. Understood as a political regime, epistocracy is a rule by the wise; by those with the better knowledge – a “rule by the knowers” – of some kind. We could think of it as an alternative to letting the wealthy rule (plutocracy), the property-owners (timocracy), a few prominent families (oligarchy), the military (stratocracy), God (theocracy) – or indeed to democracy, “rule by the people”. Its normative basis could vary; we could think of norms that are more or less radically epistocratic, we could think of epistocracy variations along institutional and several other variables, and of different justifications of epistocracy.

With regard to epistocratic arrangements we could also think of arrangements with a variety of institutional and normative characteristics, and as more or less legitimate depending on their characteristics and standards of justification. One important distinction goes between the epistocratic arrangements of modern democracies and the more or less pre-modern and pre-democratic epistocracy and epistocratic arrangements and proposals. Plato's ideal state ruled by philosopher kings is a pre-

modern proposal; John Stuart Mill's proposal of giving an extra vote to the educated in *Considerations on Representative Government* (1861) is arguably modern, but many would deny that Mill's proposal is compatible with the contemporary democratic ethos.

A range of other epistocratic arrangements are, however, generally accepted and considered compatible with democracy. Much of the making and implementing of laws and policies in contemporary democracies is epistocratic in the sense that it is in the hands of public administration officials, courts, governmental expert agencies and expert groups, not "the people. In addition there are less formalized epistocratic arrangements, for example when people with higher education are overrepresented among ministers and legislators or in the process of political opinion formation in the public sphere and civil society.

Epistocracy and expert rule arrangements could be approached from several angles, and discussed on the basis of a wide range of literature, theory and scholarship. My point of departure will in part be particular branches of philosophy and social and political theory, in part empirical and theoretical literature on contemporary transnational expertise governance and on the qualities of expert deliberation.

Political theory and philosophy. Seminal contributions contain reflection and discussions that can be reconstructed meaningfully and interestingly as being on the character and legitimacy of epistocracy and epistocratic political arrangements, from *The Republic* by Plato and Aristotle's *Politics*, to Thomas Hobbes and Immanuel Kant and the Enlightenment philosophers, to Alexis de Tocqueville and John Stuart Mill, to Joseph Schumpeter, and contemporary theorists such as Niklas Luhmann and Jürgen Habermas. What is lacking is a systematic reading and interpretation of the contributions and serious attempts to link the insights of the philosophical tradition to contemporary theory and the new challenge of epistocracy.

Science and policy studies. Contributions to contemporary science and policy studies come from scholars in different fields and disciplines, varying from the scholarship of science and technology studies (Gibbons et al. 1994; Hackett et al. 2007), to different political science studies of policy-making and the role of expertise (Miyakawa 1999; Boswell 2009), including European studies contributions, such as Majone (1996) and Radaelli (1999), and studies along the lines of the so-called evidence-based policy-making approach (Pawson 2007, Nutley et al. 2007). Contemporary science and policy studies have several virtues; they contain empirical and analytical insights and input to normative-theoretical reflection and discussions on design of effective knowledge/politics institutional arrangements inside and outside science. What is needed is a critical examination of these studies' normative subtext and assumptions about the democracy/expertise relationship. The studies should moreover be linked to contemporary political theory discussions on democracy and political legitimacy, and the theory of deliberative democracy in particular.

Deliberative democracy: normative and empirical contributions. Contemporary scholarship on deliberative democracy has for a long time been oriented towards political theory and philosophy. A particular branch of works investigates deliberative democracy and globalization; some link up to European studies in particular (Cohen & Sabel 1997; Eriksen 2009). There has in addition been an empirical turn that includes studies of the deliberative qualities of actual political discourse, but also experimental studies of deliberative effects on moral and political choices (Chambers 2003; Fishkin 2009; Habermas 2006; Mutz 2006 and 2008), and methodological reflections on how to develop indexes and other devices to measure deliberative quality (Bächtiger et al. 2007). Attempts to link deliberative democracy scholarship to contemporary science and policy studies generally and the new challenge from epistocracy are however scarce. Habermas's own intellectual career is illustrative. Despite his early contributions on scientization of politics (Habermas 1970 and 1974), his later development of a discourse theory of democracy (Habermas 1996) include few references to the fact of expertise and what this fact means and implies. Even though several have highlighted critically how the so-called epistemic justification of deliberative democracy could be transformed into a defense of a more expertise based political rule (for a not so critical approach however, see Pettit 2004), this point remains to be pushed. This goes even for Estlund (2008) who has contributed as one of the few to philosophical reflection on the democracy/epistocracy relationship from within the parameters of

deliberative democracy theory, without, however, linking up to discussions of the characteristics and legitimacy of contemporary expertise arrangements. On the opposite side, there are contributions successfully linking the deliberative democracy approach and science and policy studies, that however leave out what may be of deeper conceptual and philosophical implications (Fischer 2009). Finally, there are interesting attempts coming from philosophy of science to approach deliberative democracy theory (see Kitcher 2001 and Longino 2001), that are, however, sketchy with regard to political-philosophical implications.

Studies of transnational expertise governance and expertise deliberation. There are many studies of expertise behavior and discourse, for example within the more sociological branch of science and policy studies. What is lacking, also among the “empirical turn” contributions in the deliberative democracy literature, are more studies focusing systematically on the deliberative qualities of expertise discourse, and how these qualities vary in expert versus non-expert deliberation. There are studies of transnational expertise governance; an important concept has been that of “epistemic communities” (Haas 1992), but fewer than one might expect. **In European studies, scholars have moreover concentrated on investigating other epistocratic arrangements such as comitology, agencies and co-decision (Bovens et al. 2010; Stie 2010; Joerges and Vos 1999). The system of Commission expert groups remains to be studied more thoroughly. A few studies and planned studies exist that the EPISTO studies will complement but not overlap with (Gornitzka & Sverdrup 2008 and 2010, Hartlapp 2011).**

Gender studies. There are several contributions both on technocracy, paternalism and “feminism from above” (Fraser 1990; Squire 2007), and on feminism and cosmopolitanism (Fraser 2008; Nussbaum 2000), in political theory. Some operate within a deliberative democracy framework (Fraser 1996; Benhabib 1992 and 2002). There is also a range of empirical studies of state feminist machineries and gender equality policy-making, both in national contexts (Lovenduski 2006; Outshoom & Kantola 2007) and on EU-level (Hoskyns 1996; van der Vleuten 2007), even if European gender studies arguably have put too little weight on the feminism/democracy relationship. Discussions in gender studies are, however, of relevance to general democracy/epistocracy discussions to a degree that is not yet recognized. What is lacking, moreover, are studies that link feminist normative theory of democracy/technocracy and cosmopolitanism/globalization to the concrete discussions of EU’s gender equality policies and apparatus.

Figure 5: The democracy-epistocracy controversy:

- ✓ ... in the history of political philosophy
- ✓ ... in science and policy studies
- ✓ ... within the deliberative democracy approach
- ✓ ... in European studies
- ✓ ... in gender studies

Summing up: objectives, new horizons

Conceptual and philosophical innovation. EPISTO will provide a fine-grained typology of epistocracy and epistocratic arrangements. The typology will feed into EPISTO’s normative-theoretical discussions and empirical analyses, and be an important independent achievement, providing new horizons to political philosophy and social science discussions on the variation of knowledge/politics arrangements. EPISTO will also discuss different ways of justifying “rule by the knowers” and expertise governance, feeding into EPISTO’s more concrete assessments of EU’s Commission expert group system and gender equality apparatus and paving the way for future assessments of other expertise arrangements, but also contributing originally and unconventionally to normative-theoretical reflection on legitimate political rule. Particular weight will be put on the fact of expertise in the context of contemporary globalization, and implications of this fact for our ideas of political legitimacy. Recognizing “the fact of pluralism” (Rawls 1993) and the fact of different “scales of justice” (Fraser 2008) have transformed the fundamental parameters of our thinking on justice,

democracy and legitimacy. Possibly, recognizing “the fact of expertise” could have just as wide-ranging implications.

Filling descriptive and causal gaps. EPISTO will enter the new agenda of empirical research created by the challenge from epistocracy, and complement existing empirical studies of transnational expertise governance and expertise discourse. The EPISTO studies of EU’s expert group system and gender equality apparatus could interestingly be compared to future empirical studies of similar arrangements in national and transnational contexts; the study of the deliberative qualities of expertise versus non-expertise discourse with future studies of expertise versus non-expertise discourse in a wide range of other knowledge/politics contexts.

Linking political philosophy and social science. EPISTO will contribute to bridging the widening gap between philosophy and empirical analysis in the study of knowledge/politics. Instead of relying on thought experiments and conceptual analysis only, as is currently the trend in much contemporary political philosophy, EPISTO will deliver philosophy that is at the same time stringent and grounded in real world analysis. Instead of simply contributing cumulative to the existing empirical stock, EPISTO will deliver empirical studies that are conceptually challenging, reflexive and philosophically informed.

Crossing fields and disciplines. Instead of contributing to discussions in one enclave of the scientific community only, EPISTO reaches across fields, disciplines, traditions and perspectives. In particular, EPISTO will contribute to linking up European studies and gender studies to similar discussions in other fields, increasing chances of cross-fertilization and innovation.

Deep social relevance. EPISTO will provide discussions of political rule, institutions, decision-making and legitimacy of high pertinence to citizens, stakeholders and policy-makers, in the EU and in general. To facilitate dissemination to different non-scholar audiences, the EPISTO team will combine excellence and peer-review publications with accessible framing of the problems under discussion and relevant non-academic publication.

b. Methodology

The investigations of the EPISTO project will be organized around three subprojects.

Subproject 1: What does epistocracy mean? Developing a typology

A closer investigation of epistocracy requires a closer understanding of what “epistocratic” and “epistocracy” mean; a clarification of the normative basis of epistocracy, epistocracy’s institutional characteristics and, importantly, the conceptual relationship between democratic/democracy and epistocratic/epistocracy, since a range of modern epistocratic arrangements are considered compatible with democracy.

What “democracy” and “democratic” mean are not straightforward; there are different conceptions of democracy and different traditions in democratic theory. However, were we to identify a basic democracy norm across conceptions and traditions we would probably come out with something like the following: In a democracy all affected are given fair chances to participate on a free and equal basis in political decision-making. The norm could then be given different interpretations. Defenders of direct democracy and defenders of representative democracy would give different meaning to “fair chances” and “participate on a free and equal basis”, “all affected” would mean something different in a representative democracy than in a stakeholder democracy, defenders of deliberative democratic theory stress the significance of deliberative freedom and equality when they explicate what “participate on a free and equal basis” imply and talk of “political opinion formation” in addition to “political decision-making”, and so on.

It is hard to come up with a basic epistocracy norm corresponding to the basic democracy norm. Rather, it makes sense to think of different epistocracy norms on a radical-moderate continuum. A radical epistocracy norm would be: 1) Only the knowers, affected or not, are given chances to participate in decision-making. Or somewhat less radical: 2) Among the affected only the knowers are given chances to participate in decision-making. A more moderate basic epistocracy norm would be: 3) All affected are given chances to participate, but the knowers are given better chances. Or more

moderately: 4) All affected are given fair chances to participate, but in participation the knowers are given a privileged position.

Epistocrats – defenders of one of these norms as basic polity regulating norm – could then, just as democrats, be grouped with reference to how they defines terms such as “all affected”, “equal chances” and “political decision-making”, but also with reference to who they included among “the knowers” and on what basis, and what is meant by giving the knowers “better chances” and “a privileged position”.

Interestingly, many democrats would also subscribe to a moderate epistocracy norm, such as 3) and 4), in the sense that they would have few problems with subscribing to expert rule arrangements implying norms such as 3) or 4). One possibility is that many democrats therefore contradict themselves; they say both that all are to be given fair chances and that some, the knowers, are to be given better chances, both that no one is to be privileged in participation and that the knowers are. Another possibility is that the democratic normative requirements of “fair chances” and participation on a “free and equal basis” is interpreted as fulfilled despite the fact that the knowers are given better chances and a privileged role in participation.

We could refer to democrats subscribing also to moderate epistocratic norms such as 3) and 4) as subscribing to democracy tempered by epistocratic arrangements – an epistocratic democracy – or as subscribing to an epistocracy regulated by democratic mechanisms – a *democratic epistocracy* – depending among other things on the amount and more particular character of the expert rule arrangements subscribed to. At some point the amount of epistocratic arrangements becomes so large, the epistocratic arrangements so epistocratic and so on, that it makes more sense to talk about a democratic epistocracy than an epistocratic democracy. This implies thinking about the epistocracy/democracy distinction as a continuum rather than as an absolute distinction.

Institutionally what a democratic epistocracy would look like would vary, depending again on how many and how epistocratic the epistocratic arrangements are, how formalized they are (whether for example they are prescribed by a written constitution, regulated by law, or neither), in what part of the policy-circle they are situated (are they part of decision-making preparations, of decision-making implementation or of judicial or administrative decision-making review?), what kind of expertise is privileged, the justifications of privileging different kinds of expertise, what kind of decisions the expertise is set to make (decisions on purely technical issues or on larger issues involving value judgment etc.), and the significance of the decisions made.

A democratic epistocracy would, moreover, differ from more epistocratic, non-democratic political regimes. Epistocracies of the latter kind could be either pure or moderate. In a *pure epistocracy* all others than the knowers or experts are excluded from access to political decision-making – in a pure epistocracy there would for example be no such thing as universal suffrage. In contrast, in a *moderate epistocracy* all affected have access and basic political rights, the right to vote in parliamentary elections included, but whereas the experts making decisions in a democratic epistocracy are either elected by all affected, by representatives elected by all affected, or appointed by someone who is elected, or by someone who is appointed by someone who is elected, or appointed by someone who is appointed by someone who is elected etc., the appointment of the experts making decisions in a moderate epistocracy cannot easily and transparently be traced back to someone who is elected by all affected.

Figure 1: Epistocracy Norms

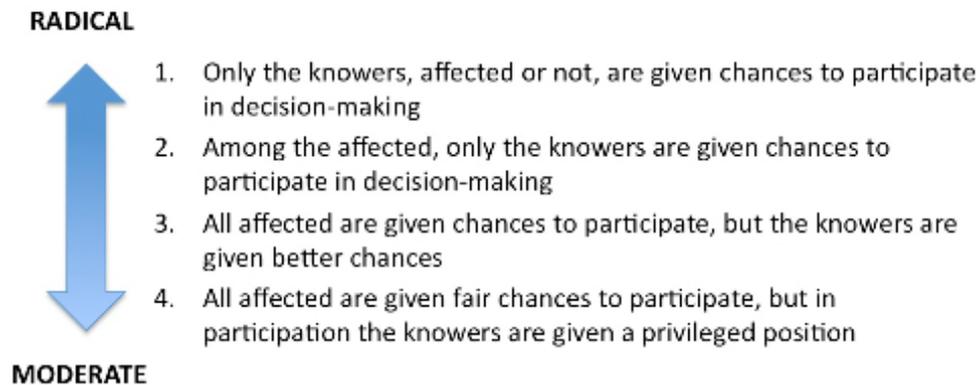


Figure 2: Epistocracy Political Regime

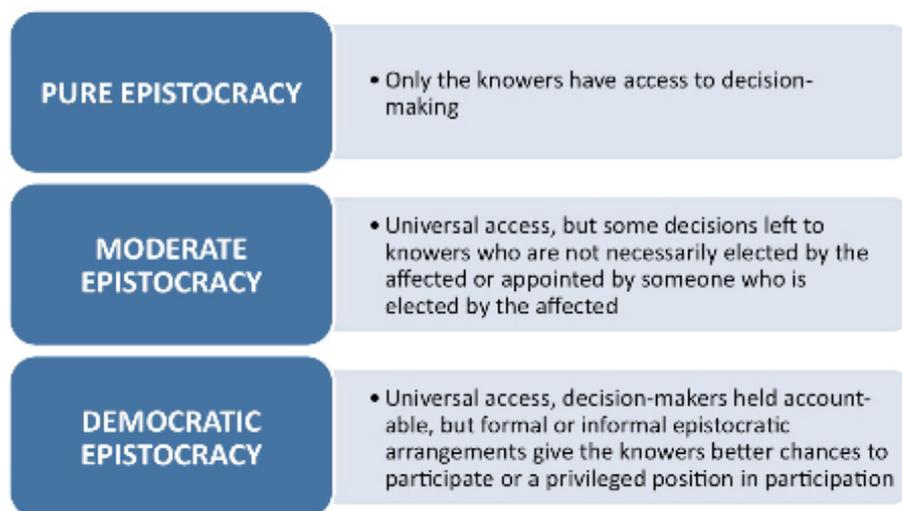


Figure 3: Democratic epistocracy: dimensions

- How many are the epistocratic arrangements?
- How epistocratic?
- How formal/informal?
- Where in the decision-making process do we find the epistocratic arrangements?
- How are epistocratic arrangements justified as legitimate?
- What kind of expertise are they based on?
- What kind of decisions are left to the experts?
- How significant are the decisions left to the experts?
- How is the delegation to expertise justified?

Starting out with these basic distinctions and dimensions, the overarching goal of EPISTO's subproject 1 is to develop a fine-grained epistocracy-typology. Input will be provided from the history of political philosophy and from different branches of contemporary political and social theory.

Method will be standard philosophical method: Textual interpretation, argumentative reconstruction, analysis and assessment.

Subproject 2: Limits to expert rule? Political legitimacy and “the fact of expertise”

EPISTO will go on to identify and assess different ways of justifying epistocracy and epistocratic arrangements. To what extent and why is expert rule legitimate? Why epistocracy – and why not?

This raises the question of the definition of political legitimacy. It is common to distinguish between input-oriented or procedural definition and outcome-oriented definitions of political legitimacy. According to the first group of definitions, a political rule is legitimate to the extent that it is regulated by procedures with certain favorable qualities. According to the second group of definitions, a political rule is legitimate to the extent that it produces certain favorable outcomes.

One could furthermore distinguish between democratic and non-democratic procedural justifications and democratic and undemocratic outcome-oriented justifications. According to a democratic procedural justification, political institutions are legitimate, if they are regulated by democratic procedures, whereas according to a non-democratic procedural justification, political institutions are legitimate if they are regulated by procedures with certain favorable but not necessarily democratic qualities. A democratic outcome-oriented justification on the other hand, regards political institutions as legitimate to the extent that they produce democratic outcomes, meaning outcomes all affected would subscribe to if they were given fair chances to participate on a free and equal basis in political decision-making. A non-democratic outcome-oriented justification regards, finally, political institutions as legitimate to the extent that they produce favorable, but not necessarily democratic outcomes.

To what extent would it be possible to justify a moderate epistocracy or a rather epistocratic version of a democratic epistocracy with reference to one of these justifications? *Prima facie* a democratic procedural justification is a good candidate for how political rule is to be justified. However, it is not obvious how this justification can be of use to epistocrats, since it prescribes political institutions to be regulated by procedures based on democratic, and not epistocratic norms. The non-democratic procedural justification and the non-democratic outcome-oriented justification look more promising from an epistocratic point of view, since they both allow for political institutions either to be regulated by non-democratic norms, or to be so organized that they produce favorable outcomes, but not necessarily outcomes all affected would subscribe to. However, it is not obvious why any of these justifications are good candidates for how political rule should to be justified.

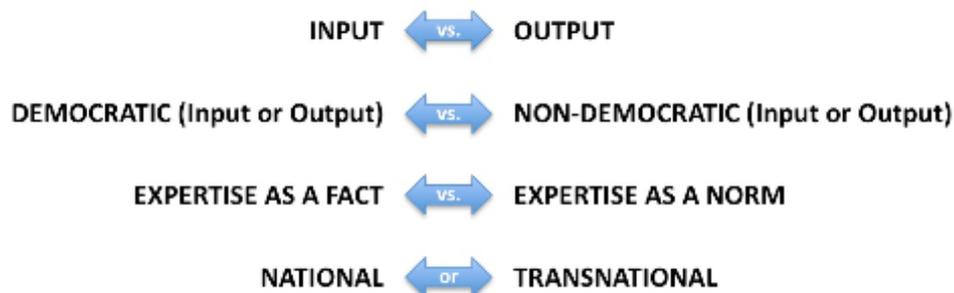
My contention is that if a moderate epistocracy or a democratic epistocracy on the epistocratic side of the democracy/epistocracy continuum can at all be justified, it must be with reference to a justification that regards political institutions as legitimate to the extent that they produce certain democratic outcomes, meaning outcomes all affected would subscribe to if they were given fair chances to participate on a free and equal basis in political decision-making.

My contention is also that the most promising version of a justification of this kind is the so-called epistemic justification of deliberative democracy, the argument that deliberative democracy is justified because the epistemic qualities of deliberation lead to better decisions, meaning decisions that all affected have good reason to prefer. It seems to follow from this line of argument that experts should be given more power if the epistemic qualities of their deliberations are higher and the decision-making better for all affected than deliberation and decision-making by “the people”. EPISTO will scrutinize the different steps and assumptions of this argument theoretically and – in subproject 3 – empirically.

Moreover, expert-rule can be a norm, or it can be a fact. EPISTO will investigate the fact of expertise empirically – in subproject 3 – and conceptually in this subproject, as well as the relationship between this fact and the justification of expert-rule. A central question is how to distinguish in normative theory between basic facts and “other”, more contingent facts that more easily could be sidestepped; another what it means that societies “depend on”, “need” or “functionally require” expertise. Both discussions will be related to the general discussion of how the relationship between is and ought, facts and norms, should be conceived of in normative theory. Finally, this subproject will address the

claim that globalization increases expertise-dependence, and if so, what this implies for the justification of expertise governance, and for the justification of national versus transnational expertise governance in particular.

Figure 4: Justification of epistocracy



The method of EPISTO's subproject 2 will once more be standard philosophical method; conceptual and logical analysis and argumentative reconstruction and assessment; and once more the material scrutinized and assessed will come from a range of branches in social and political theory.

Subproject 3: Expertise in Europe: empirical analysis and normative assessment

The new challenge from epistocracy provides also a new agenda for empirical research and evaluation. EPISTO will, first, provide a study of the expanding system of Commission expert groups. A data base with information about the Commission's nearly one thousand expert groups already exists. (Gornitzka & Sverdrup). Here, the groups have been classified according to policy area, main task, and some information on the expert group members' background (whether the groups mainly consist of "scientist", "public officials" etc.). The EPISTO team will have access to this data base, and complement it with information from public available administrative data (the Commission's lists of names of the expert group members) and other data available, either on the internet or by means of personal request (the expert group members' CVs). On the basis of this complemented data base, patterns in the experts' educational, disciplinary and institutional background and careers will be identified, related to the relevant dimensions of the epistology-typology and analyzed. The number of groups and group members in question are huge. Depending on the more detailed design and methodology chosen, the focus of the analysis will be on a selection of groups (more or less) representative for the universe at large.

Secondly, EPISTO will provide a study of the epistemic qualities of deliberation in two selected expert groups, and compare it with data on the epistemic qualities of deliberation in two selected European parliament committees. Data will be produced by means of group meeting observation. EPISTO team members will be present at group/committee meetings and code group/committee members' discourse and behavior by means of a deliberative quality coding device. The coding device will be developed on the basis of already existing deliberative quality indexes and devices, and adapted in relevant ways to the research context. To control for differences in deliberative qualities between expert groups and parliamentary committees due to policy field, the committees will be selected from the policy fields covered by the selected expert groups. To get insight in possible variations in deliberative qualities among policy fields, the selected expert groups will be from two different policy fields, one from a standard field of regulative policy, for example one of the expert groups issued to deal with internal market regulations, such as Internal Market Information – expert group or Standards and Technical Regulations (and the corresponding parliamentary committee; Standing Committee on Internal Market and Consumer Protection), and one from the field of redistributive policies, for example Expert group on promotion of a uniform interpretation and implementation of gender equality legislation or Network of experts in gender equality, social

inclusion, health and long-term care (and the corresponding parliamentary committee; Standing Committee on Women’s Rights and Gender Equality), due to EPISTO’s focus in other part of this subproject on EU’s gender equality policies and apparatus. Findings will be organized, related to relevant dimensions in the epistocracy-typology and analyzed.

Figure 6: Comparison of deliberative qualities: expert groups versus parliamentary committees

	European Commission expert groups	European Parliament committees
Regulative policies	Standards and Technical Regulations Standing Committee	Standing Committee on Internal Market and Consumer Protection
Redistributive policies	Network of experts in gender equality, social inclusion, health and long-term care	Standing Committee on Women’s Rights and Gender Equality

Thirdly, EPISTO will provide a qualitative interview study of key officials and figures in EU’s gender equality apparatus, from The Commission’s Directorate-General for Employment, Social Affairs and Equal Opportunities, from the European Institute for Gender Equality, from The Advisory Committee on Equal Opportunities for Women and Men etc. The interviews will focus concretely on the organizational and political challenges for gender equality policy-making in the EU as perceived by those interviewed, but be framed by the interviewer(s) so they also shed light on how the democracy/expertise relationship is conceived of in EU’s gender equality apparatus. The interviews will be recorded on tape and transcribed, and findings will be related to the dimensions of the epistocracy-typology, and analyzed.

Fourthly, this subproject will deliver substantial insights in the relationship between the fact of expertise in a transnational context and the characteristics of EPISTO’s two study objects: the Commission expert group system and EU’s gender equality apparatus. To what extent can these arrangements be interpreted as institutional answers to a particular expertise-dependence in the age of globalization? Institutional mapping and review of relevant literature will contribute to shed light on this, together with the above described studies.

Finally, EPISTO will contribute to a normative assessment of the legitimacy of the Commission’s expert group system and of EU’s gender equality apparatus. Given the empirical descriptions and analysis of the two arrangements provided in this subproject, and the normative discussions of EPISTO’s subproject 2; which are the problems – if there are problems – from the point of view of political legitimacy? Whether the EU as such fits the description of a moderate epistocracy or of a democratic epistocracy on the epistocratic side of the democracy/epistocracy continuum, is an open question. What EPISTO will analyze, is the extent to which the Commission’s expert group system and of EU’s gender equality apparatus are arrangements contributing to pushing the EU in the direction of moderate epistocracy or a rather epistocratic democratic epistocracy, and the extent to which this is normatively troublesome.

References

- Bächtiger, André, Markus Spörndli, Marco R. Steenbergen & Jürg Steiner (2007): "Deliberation in Legislatures", in *Deliberation, Participation and Democracy. Can the People Govern?*, Shavn W. Rosenberg (ed.), pp. 82-100. New York: Palgrave.
- Benhabib, Seyla (1992): *Situating the Self. Gender, Community and Postmodernism in Contemporary Ethics*. Cambridge: Polity Press.
- (2002): *The Claims of Culture. Equality and Diversity in the Global Era*. Princeton: Princeton University Press.
- Besson, Samantha & José Luis Martí (eds) (2006): *Deliberative Democracy and its Discontents*. Aldershot: Ashgate.
- Bohman, James & William Rehg (eds) (1997): *Deliberative Democracy. Essays on Reason and Politics*. Cambridge, Mass.: MIT Press.
- Bohman, James (2007): *Democracy across Borders. From Dêmos to Dêmoi*. Cambridge, Mass.: MIT Press.
- Boswell, Christine (2009): *The Political Use of Knowledge. Immigration Policy and Social Research*. Cambridge: Cambridge University Press.
- Bovens, Mark, Deirdre Curtin & Paul't Hart (2010): *The Real World of EU Accountability. What Deficit?* Oxford: Oxford University Press.
- Brown, Mark B. (2009): *Science in Democracy. Expertise, Institutions, and Representation*. Cambridge, Mass.: MIT Press.
- Chambers, Simone (2003): "Deliberative Democratic Theory", *Annual Review of Political Science*, Vol. 6, pp. 307-26.
- Cohen, Joshua & Sabel, Charles F. (1997): "Directly-Deliberative Polyarchy", *European Law Journal*, Vol. 3, No. 4, pp. 313-42.
- Collignon, Stefan (2001): "Democratic Surveillance or Bureaucratic Suppression of National Sovereignty in the European Union? Ideas on the Multilateral Surveillance Regulation", European Parliament Briefing Paper, http://www.stefanollignon.de/PDF/DemocraticSurveillance_Sep10.pdf
- Elster, Jon (ed.) (1998): *Deliberative Democracy*. Cambridge: Cambridge University Press.
- Eriksen, Erik Oddvar & John Erik Fossum (2007): "Europe in Transformation. How to Reconstitute Democracy?", *RECON Online Working Paper* 2007/01.
- Eriksen, Erik Oddvar (2009): *The Unfinished Democratization of Europe*. Oxford: Oxford University Press.
- Estlund, David (2008): *Democratic Authority: A Philosophical Framework*. Princeton: Princeton University Press.
- Fenwick, Helen (2010): *Civil Liberties and Human Rights*. London: Routledge.
- Fischer, Frank (2009): *Democracy & Expertise. Reorienting Policy Inquiry*. Oxford: Oxford University Press.
- Fishkin, James (2009): *When the People Speak. Deliberative Democracy & Public Consultation*. Oxford: Oxford University Press.
- Forst, Rainer (2001): "Towards a Critical Theory of Transnational Justice", *Metaphilosophy*, Vol. 32, No. 1-2, pp. 160-179.
- Fraser, Nancy (1990): *Unruly Practices: Power, Discourse and Gender in Contemporary Social Theory* Cambridge: Polity Press
- (1997): *Justice Interruptus: Critical Reflections on the "Postsocialist" Condition*. London/New York: Routledge.
- (2008): *Scales of Justice. Reimagining Political Space in a Globalizing World*. New York: Polity Press.
- Gibbons, M. et al. (1994): *The New Production of Knowledge: The Dynamics of Science and Research in Contemporary Societies*. London: Sage Publications.
- Gornitzka, Åse & Ulf Sverdrup (2008): "Who consults? The configuration of expert groups in the European Union", *West European Politics*, Vol. 31, Issue 4, pp. 725-50.
- (2010): "Enlightened Decision Making. The Role of Scientists in EU Governance", *ARENA Working paper*, No. 5/10.
- Haas, Peter M. (1992): "Epistemic Communities and International Policy Coordination", *International Organization*, Vol. 46, No. 1, pp. 1-35

- Habermas, Jürgen (1970): "The Scientization of Politics and Public Opinion", *Toward a Rational Society*, pp. 62-80. Boston: Beacon Press
- (1974): "The Classical Doctrine of Politics in Relation to Social Philosophy", *Theory and Practice*, pp. 41-81. London: Heinemann.
- (1996): *Between Facts and Norms*. Cambridge, Mass.: MIT Press.
- (2001): *The Postnational Constellation*. Cambridge, Mass.: MIT Press.
- (2006): "Does Democracy Still Enjoy an Epistemic Dimension: The Impact of Normative Theory on Empirical Research". *Communication Theory*, Vol. 16, Issue 4, pp. 411-26.
- [Edward J. Hackett](#) et al. (2007): *The Handbook of Science and Technology Studies*. Cambridge, Mass.: MIT Press.
- Hartlapp, Miriam (2011) "The Agenda Set by the EU Commission: The Result of Balanced or Biased Aggregation of Positions?", "Europe in Question" Discussion Paper Series (forthcoming). London: London School of Economics.
- Held, David (2010): *Cosmopolitanism. Ideas and Realities*. Cambridge: Polity Press.
- Hoskyns, Catherine (1996): *Integrating Gender. Women, Law and Politics in the European Union*. London: Verso.
- Joerges, Christian and Ellen Vos (1999): *EU Committees: Social Regulation, Law and Politics*. Oxford: Hart Publishing.
- Kitcher, Philip (2001): *Science, Truth, and Democracy*. Oxford: Oxford University Press.
- Longino, Helen E. (2002): *The Fate of Knowledge*. Princeton: Princeton University Press.
- Lovenduski, Joni (ed) 2006 *State Feminism and Political Representation*. Cambridge: Cambridge University Press.
- Majone, Giandomenico (1996): *Regulating Europe*. London: Routledge.
- (1998): "Europe's "Democratic Deficit": The Question of Standards", *European Law Journal*, Vol. 4(1), pp. 5-28.
- Menéndez, Agustín J. (2010): "Three fallacies of the European financial crisis", commentary in RECON Newsletter 2/2010. <http://www.reconproject.eu>
- Mitchell, Sandra D. (2009): *Unsimple Truths: Science, Complexity and Policy*. Chicago: University of Chicago Press.
- Miyakawa, Tadao ed. (1999): *The science of public policy: essential readings in policy sciences*. London: Routledge.
- Moravcsik, Andrew (2002): "In Defense of the "Democratic Deficit": Reassessing Legitimacy in the European Union", *Journal of Common Market Studies*, Vol. 40(4), pp. 603-24.
- Mutz, Diana (2006): *Hearing the Other Side. Deliberative Versus Participatory Democracy*. Cambridge: Cambridge University Press
- (2008): "Is Deliberative Democracy a Falsifiable Theory?". *Annual Review of Political Science*, Vol. 11, pp. 521-38.
- Nowotny, Helga et al. (2001): *Re-thinking Science: Knowledge and the Public in the Age of Uncertainty*. London: Polity Press
- Nussbaum, Marta (2000): *Women and Human Development: The Capabilities Approach*. Oxford: Oxford University Press.
- Nutley, Sandra M., Isabel Walter & Huw T. O. Davies (2007): *Using Evidence. How Research Can Inform Public Services*. Bristol: Policy Press.
- Outshoorn, Joyce & Johanna Kantola (2007): *Changing State Feminism*. Basingstoke: Palgrave Macmillan.
- Pawson, Ray (2007): *Evidence-based Policy. A Realist Perspective*. London: Sage.
- Pettit, Philip (2004): "Depoliticizing Democracy", *Ratio Juris*, Vol. 17, No. 1, pp. 52-65.
- Radaelli, Claudio M. (1999): *Technocracy in the European Union*. London: Longman.
- Rawls, John (1999) [1971]: *A Theory of Justice*. Oxford: Oxford University Press.
- (1993): *Political Liberalism*. New York: Columbia University Press.
- Risse, Thomas (2000): "'Let's argue!': Communicative Action in World Politics, *International Organization*, Vol. 54, No. 1, pp. 1-39.
- Rosenberg, Shawn W. ed. (2007): *Deliberation, Participation and Democracy. Can the People Govern?* New York: Palgrave.

Stie, Anne Elizabeth (2010): *Co-decision – the panacea for EU democracy?* ARENA Report 2010/1. Oslo: ARENA.

Scheuermann, Will (2009): , *Ethics & Global Politics*, Vol. 2, No. 1, pp. 41-63.

Squires, Judith (2007): *The New Politics of Gender Equality*. London: Palgrave.

Slaughter, Ann (2004): *A New World Order*. Princeton: Princeton University Press.

Van der Vleuten, Anna (2007): *The Price of Gender Equality. Member States and Governance in the European Union*. Hampshire: Ashgate.

c. Resources

The EPISTO team

EPISTO will be organised as a project at ARENA – Centre for European Studies, University of Oslo. The PI will be head of the EPISTO team, which will also benefit from the PI's (and other team members') broader research network. The PI will coordinate and supervise the project team. The team members will be assigned to specific parts of the project and its sub-projects, but they will work together as an integrated research group under the PI's leadership. The project will be organised to facilitate interactions, including seminars, workshops and conferences, also involving the ARENA staff and the broader research network. The project will rely on the basic infrastructure at ARENA , and the research team will not require specific resources beyond office space and computer equipment. The core team will consist of the following members.

Principal investigator (PI): The PI will be fully dedicated to EPISTO in the project period. 80 per cent of the PI's time is sought funded through this grant. The PI will be actively involved in the project management, and supervise and cooperate closely with other team members. The PI will be main responsible and main executor of all three subprojects: (1) developing an epistocracy-typology; (2) providing a ground-breaking contribution to discussions of legitimate political rule, globalization and "the fact of expertise", and; (3) being actively involved in the more detailed development of empirical design and analysis.

Postdoctoral researcher 1: will work in particular on the theme *Epistocracy in the history of philosophy*. S/he will be funded for 2 years, working on subprojects 1 and 2.

Postdoctoral researcher 2: will work in particular on the theme *EUs expert group system: mapping, explaining, assessing*. S/he will be funded for at least 3 years, working on subproject 3 in particular, but links also to subprojects 1 and 2.

PhD fellow 1: will be funded for 3 years, on the theme *Does epistocracy deliver good outcomes? Comparing expert and non-expert deliberation*, an empirical study applying group observation. Suitable candidates should have a background from political science/sociology.

Phd fellow 2: on the theme *Feminism and epistocracy*, an empirical analysis and normative assessment of EU gender quality apparatus. S/he should have background from gender studies, political science/theory.

Other costs of EPISTO would include funding for research assistance. In particular research assistants are needed to facilitate PI and Postdoctoral researcher 2 in the mapping of EUs expert groups system. In addition the costs would fund the EPISTO team's participation at academic conferences, and not least the workshops and conferences staged by the project.