An Ideal Case for Accountability Mechanisms, the Unity of Epistemic and Democratic Concerns, and Skepticism About Moral Expertise

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How do we square democracy with pervasive dependency on experts and expert arrangements? This is the basic question of Cathrine Holst and Anders Molander's article "Public deliberation and the fact of expertise: making experts accountable." Holst and Molander approach the question as a challenge internal to a democratic political order. Their concern is not whether expert rule might be an alternative to democratic government.

Rather than ask if the existence of expertise raises an "epistocratic challenge" to democracy, they "ask how science could be integrated into politics in a way that is consistent with democratic requirements as well as epistemic standards" (236).[1] Given commitment to a normative conception of deliberative democracy, what qualifies as a legitimate expert arrangement?

Against the backdrop of epistemic asymmetry between experts and laypersons, Holst and Molander present this question as a problem of accountability. When experts play a political role, we need to ensure that they really are experts and that they practice their expert role properly. I believe this is a compelling challenge, not least in view of expert disagreement and contestation. In a context where we lack sufficient knowledge and training to assess directly the reasoning behind contested advice, we face a non-trivial problem of deciding which expert to trust. I also agree that the problem calls for institutional measures.

However, I do not think such measures simply answer to a non-ideal problem related to untrustworthy experts. The need for institutionalized accountability mechanisms runs deeper. Nor am I convinced by the idea that introducing such measures involves balancing "the potential rewards from expertise against potential deliberative costs" (236). Finally, I find it problematic to place moral expertise side-by-side with scientific expertise in the way Holst and Molander do.

Accountability Mechanisms: More than Non-ideal Remedies

To meet the challenge of epistemic asymmetry combined with expert disagreement, Holst and Molander propose three sets of institutional mechanisms for scrutinizing the work of expert bodies (242-43). First, in order to secure compliance with basic epistemic norms, they propose laws and guidelines that specify investigation procedures in some detail, procedures for reviewing expert performance and for excluding experts with a bad record of accomplishment, as well as sanctions against sloppy work.

Second, in order to review expert judgements, they propose checks in the form of fora comprising peers, experts in other fields, bureaucrats and stakeholders, legislators, or the public sphere. Third, in order to assure that expert groups work under good conditions for inquiry and judgment, they propose organizing the work of such groups in a way that fosters cognitive diversity.

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[1] All bracketed numbers without reference to author in the main text refer to Holst and Molander (2017).

According to Holst and Molander, these measures have a remedial function. Their purpose is to counter the misbehavior of non-ideal experts, that is, experts whose behavior and judgements are biased or influenced by private interests. The measures concern unreasonable disagreement rooted in experts' over-confidence or partiality, as opposed to reasonable disagreement rooted in "burdens of judgement" (Rawls 1993, 54). By targeting objectionable conduct and reasoning, they reduce the risk of fallacies and the "intrusion of non-epistemic interests and preferences" (242). In this way, they increase the trustworthiness of experts.

As I see it, this is to attribute a too limited role to the proposed accountability mechanisms. While they might certainly work in the way Holst and Molander suggest, it is doubtful whether they would be superfluous if all experts were ideal experts without biases or conflicting interests.

Even ideal experts are fallible and have partial perspectives on reality. The ideal expert is not omniscient, but a finite being who perceives the world from a certain perspective, depending on a range of contingent factors, such as training in a particular scientific field, basic theoretical assumptions, methodological ideals, subjective expectations, and so on. The ideal expert is aware that she is fallible and that her own point of view is just one among many others. We might therefore expect that she does not easily become a victim of overconfidence or confirmation bias. Yet, given the unavoidable limits of an individual's knowledge and intellectual capacity, no expert can know what the world looks like from all other perspectives and no expert can be safe from misjudgments.

Accordingly, subjecting expert judgements to review and organizing diverse expert groups is important no matter how ideal the expert. There seems to be no other way to test the soundness of expert opinions than to check them against the judgements of other experts, other forms of expertise, or the public at large. Similarly, organizing diverse expert groups seems like a sensible way of bringing out all relevant facts about an issue even in the case of ideal experts. We do not have to suspect anyone of bias or pursuance of self-serving interests in order to justify these kinds of institutional measures.

No Trade-off Between Democratic and Epistemic Concerns

An important aspect of Holst and Molander's discussion of how to make experts accountable is the idea that we need to balance the epistemic value of expert arrangements against democratic concerns about inclusive deliberation. While they point out that the mechanisms for holding experts to account can democratize expertise in ways that leads to epistemic enrichment, they also warn that inclusion of lay testimony or knowledge "can result in undue and disproportional consideration of arguments that are irrelevant, obviously invalid or fleshed out more precisely in expert contributions" (244).

There is of course always the danger that things go wrong, and that the wrong voices win through. Yet, the question is whether this risk forces us to make trade-offs between epistemic soundness and democratic participation. Holst and Molander quote Stephen Turner (2003, 5) on the supposed dilemma that "something has to give: either the idea of

government by generally intelligible discussion, or the idea that there is genuine knowledge that is known to few, but not generally intelligible" (236). To my mind, this formulation rests on an ideal picture of public deliberation that is not only excessively demanding, but also normatively problematic.

It is a mistake to assume that political deliberation cannot include "esoteric" expert knowledge if it is to be inclusive and open to everyone. If democracy is rule by public discussion, then every citizen should have an equal chance to contribute to political deliberation and will-formation, but this is not to say that all aspects of every contribution should be comprehensible to everyone. Integration of expert opinions based on knowledge fully accessible only to a few does not clash with democratic ideals of equal respect and inclusion of all voices.

Because of specialization and differentiation, all experts are laypersons with respect to many areas where others are experts. Disregarding individual variation of minor importance, we are all equals in ignorance, lacking sufficient knowledge and training to assess the relevant evidence in most fields.[2] Besides, and more fundamentally, deferring to expert advice in a political context does not imply some form of political status hierarchy between persons.

To acknowledge expert judgments as authoritative in an epistemic sense is simply to acknowledge that there is evidence supporting certain views, and that this evidence is accessible to everyone who has time and skill to investigate the matter. For this reason, it is unclear how the observation that political expert arrangements do not always harmonize with democratic ideals warrants talk of a need for trade-offs or a balancing of diverging concerns. In principle, there seems to be no reason why there has to be divergence between epistemic and democratic concerns.

To put the point even sharper, I would like to suggest that allowing alleged democratic concerns to trump sound expert advice is democratic in name only. With Jacob Weinrib (2016, 57-65), I consider democratic law making as essential to a just legal system because all non-democratic forms of legislation are defective arrangements that arbitrarily exclude someone from contributing to the enactment of the laws that regulate their interaction with others. Yet, an inclusive legislative procedure that disregards the best available reasons is hardly a case of democratic self-legislation.

It is more like raving blind drunk. Legislators that ignore state-of-the-art knowledge are not only deeply irrational, but also disrespectful of those bound by the laws that they enact. Need I mention the climate crisis? Understanding democracy as a process of discursive rationalization (Habermas 1996), the question is not what trade-offs we have to make, but how inclusive legislative procedures can be made sufficiently truth sensitive (Christiano 2012). We can only approximate a defensible democratic order by making democratic and epistemic concerns pull in the same direction.

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[2] This also seems to be Kant's point when he writes that human predispositions for the use of reason "develop completely only in the species, but not in the individual" (2007 [1784], 109).

Moral vs Scientific and Technical Expertise

Before introducing the accountability problem, Holst and Molander consider two ideal objections against giving experts an important political role: '(1) that one cannot know decisively who the knowers or experts are' and '(2) that all political decisions have moral dimensions and that there is no moral expertise' (237). They reject both objections. With respect to (1), they convincingly argue that there are indirect ways of identifying experts without oneself being an expert. With respect to (2), they pursue two strategies.

First, they argue that even if facts and values are intertwined in policy-making, descriptive and normative aspects of an issue are still distinguishable. Second, they argue that unless strong moral non-cognitivism is correct, it is possible to speak of moral expertise in the form of 'competence to state and clarify moral questions and to provide justified answers' (241). To my mind, the first of these two strategies is promising, whereas the second seems to play down important differences between distinct forms of expertise.

There are of course various types of democratic expert arrangements. Sometimes experts are embedded in public bodies making collectively binding decisions. At other occasions, experts serve an advisory function. Holst and Molander tend to use "expertise" and "expert" as unspecified, generic terms, and they refer to both categories side-by-side (235, 237). However, by framing their argument as an argument concerning epistemic asymmetry and the novice/expert-problem, they indicate that they have in mind moral experts in advisory capacities and as someone in possession of insights known to a few, yet of importance for political decision-making.

I agree that some people are better informed about moral theory and more skilled in moral argumentation than others are, but such expertise still seems different in kind from technical expertise or expertise within empirical sciences. Although moral experts, like other experts, provide action-guiding advice, their public role is not analogous to the public role of technical or scientific experts.

For the public, the value of scientific and technical expertise lies in information about empirical restraints and the (lack of) effectiveness of alternative solutions to problems. If someone is an expert in good standing within a certain field, then it is reasonable to regard her claims related to this field as authoritative, and to consider them when making political decisions. As argued in the previous section, it would be disrespectful and contrary to basic democratic norms to ignore or bracket such claims, even if one does not fully grasp the evidence and reasoning supporting them.

Things look quite different when it comes to moral expertise. While there can be good reasons for paying attention to what specialists in moral theory and practical reasoning have to say, we rarely, if ever, accept their claims about justified norms, values and ends as authoritative or valid without considering the reasoning supporting the claims, and rightly so. Unlike Holst and Molander, I do not think we should accept the arguments of moral experts as defined here simply based on indirect evidence that they are trustworthy (cf. 241).

For one thing, the value of moral expertise seems to lie in the practical reasoning itself just as much as in the moral ideals underpinned by reasons. An important part of what the moral expert has to offer is thoroughly worked out arguments worth considering before making a decision on an issue. However, an argument is not something we can take at face value, because an argument is of value to us only insofar as we think it through ourselves. Moreover, the appeal to moral cognitivism is of limited value for elevating someone to the status of moral expert. Even if we might reach agreement on basic principles to govern society, there will still be reasonable disagreement as to how we should translate the principles into general rules and how we should apply the rules to particular cases.

Accordingly, we should not expect acceptance of the conclusions of moral experts in the same way we should expect acceptance of the conclusions of scientific and technical expertise. To the contrary, we should scrutinize such conclusions critically and try to make up our own mind. This is, after all, more in line with the enlightenment motto at the core of modern democracy, understood as government by discussion: "Have courage to make use of your *own* understanding!" (Kant 1996 [1784], 17).

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