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## Review

# Radical proceduralism: Democracy from philosophical principles to political institutions

Dannica Fleuß,  
Emerald Publishing, 2021, 192 pp. ISBN: 978-1-80043-721-0

*Contemporary Political Theory* (2023) **22**, S117–S120. <https://doi.org/10.1057/s41296-022-00565-6>; published online 3 June 2022

*Radical Proceduralism* is an excellent and provocative contribution to a new wave of democratic theory. Focus on the best model of democracy—deliberative, participatory, direct, agonistic, representative— is being replaced by debates about its value and the exact location of democratic legitimacy. This debate has evolved to produce two types of answers. One stresses that democracy’s value and legitimacy are intrinsic to the procedures themselves rather than the substantive outcomes that emerge from the procedures. Democracy might not always produce the best policy; it is, however, the only fair way to make decisions among people who see themselves as free and equal. The other set of arguments look at democratic procedures instrumentally or from the point of view of outcome. Here, democracy’s value and legitimacy are tied to claims about the quality of the policy, law, and governance produced by the procedures.

It is of course possible to value democracy for both intrinsic and instrumental reasons. But an interesting twist to this debate is the insistence that only one of these perspectives is defensible. Thus, champions of the intrinsic value sometimes argue that there is no objective or agreed upon measure of good outcome (this is precisely what we argue about in democracy), and so we must abandon the good outcome approach altogether. Strict instrumentalists ask what is the point of a decision procedure if it does not have good outcomes? If democracy cannot make our lives better and solve pressing problems, then no amount of intrinsic value (which is difficult to identify and measure anyway) can make up for that fact.

Dannica Fleuß falls squarely—indeed, radically—into the first group of proceduralists. She not only maintains that fair and inclusive democratic procedures are the selling point of democracy, but she also insists that we can have no other standards of legitimacy. Whatever is the outcome of the procedure, that is the right outcome. This position is also sometimes called pure



proceduralism. It takes aim at two possible of sources from which to evaluate the outcomes of democratic procedures.

One source is epistemic and suggests that even when democratic procedures are followed, it is possible to question the legitimacy of outcomes if they are bad policy and or have disastrous consequences. The second source is moral. Here, the argument suggests that we can question and indeed constrain the outcomes of democratic procedures if they violate basic ideas of justice, say by eliminating minority rights.

Fleuß questions these arguments on both epistemic and normative grounds. There are no agreed upon or shared standards of what counts as an epistemically bad policy and the same can be said for questions of justice. There is no ‘political truth’ against which we can evaluate outcomes. But even more important for her is that questioning the legitimacy of outcomes on either epistemic or moral grounds is normatively problematic, because such a conception of legitimacy takes decisions out of the hands of citizens and puts them into the hands of paternalistic elite actors. Thus, all instrumental conceptions of democracy are un-democratic. This is certainly true for extreme epistocratic arguments (for example, Jason Brennan). Fleuß argues that only radical proceduralism can escape this slippery slope to usurpation of decisional authority.

This proceduralism is radical in that it goes all the way down—so far down, in fact, that it encompasses the claims of the book itself, which only have normative force to the extent that they could actually be endorsed in a democratic process. But it is also radical in how she conceives of the procedures themselves. Jeremy Waldron, for example, is a pure proceduralist, but he (like many others) identifies electoral majority democracy as the procedure that we must work with. Here, fundamental but ultimately formal political equality is the defining feature of democratic proceduralism. Fleuß’s ideas of fair and inclusive procedures are significantly more extensive and substantive than Waldron’s and include demanding forms discursive participation. Elections and voting are hardly mentioned.

The book is a carefully constructed and meticulously argued defense of this view. Chapter One tackles methodological and meta-theoretic issues. Here, Fleuß wants to be clear that her argument is not metaphysical or utopian but nevertheless aspirational and action guiding.

Chapter Two lays out in more detail the defining features of radical proceduralism vis-à-vis contemporary debates in democracy. The chapter concludes with four core principles. The first principle insists that no consideration of the quality of political results is ever relevant for questions of legitimacy. The second principle states that only democratic procedures themselves can limit and constrain democratic procedures. This principle points to the problematic nature of constitutional courts and judicial review. The third principle excludes any consideration of expertise and knowledge in the distribution of any political power within democratic decision procedures. The final principle insists that no



limitation of reasonableness or competence can be imposed on participants in democratic procedures.

Chapters Three and Four assess John Rawls and Jürgen Habermas on these standards of radical proceduralism. Habermas comes out better than Rawls. Indeed, Fleuß is a careful, knowledgeable, and generally sympathetic reader of Habermas. But he nevertheless comes in for some criticism. One would think that the issue would be Habermas' co-originality thesis which clearly questions a one-sided democratic proceduralism and argues that there can be no democracy without strong constitutional rights protections (and vice versa). But Fleuß takes different tack. Habermas has sometimes been faulted for an unwillingness to propose or suggest specific institutional innovations beyond the endorsement of the overarching and generic constitutional democratic institutional infrastructure to emerge from the 18<sup>th</sup> century. Here, it is said that as a proceduralist he leaves it to specific democratic peoples to work out, via their own democratic procedures, what would be best for them. Philosophy has no role to play here. Fleuß, who has an even more radical proceduralism than Habermas, thinks that we can talk about institutional innovation within the bounds of radical proceduralism at the same time as avoiding paternalism.

Chapter Five then takes many of Habermas' insights about the discursive core of democratic procedures and sets out to give them more flesh and blood. Here, Fleuß argues that the procedures that sustain democratic legitimacy are inclusive, open-ended discursive procedures that promote reflectiveness. She treads a fine line between, on the one hand, outlining a robust set of procedural ideals that include high levels of reflectiveness, the exercise of critical capacities, symmetry and non-coercion, and the pursuit of mutual understanding and, on the other hand, insisting that "radical proceduralist ideals do not permit any definite conclusions about institutions that should organize political processes in particular democracies" (p. 123). How then can she claim that this view is action guiding and more institutionally grounded than Habermas'?

Fleuß answers this question in Chapter Six. Ultimately, citizens themselves must be the institutional designers. Thus, all processes of democratic innovation must be self referentially open to participant-led design as the process unfolds. Democratic theorists and entrepreneurs can make suggestions, but these are always to be thought of as only 'conversation starters' and not as any kind of expertise that might preempt citizen democratic agency. The Icelandic process of constitution reform and the German Citizen Assembly on Democracy are cited as exemplary cases of this type of institutional experimentation. The concluding chapter reviews the arguments and answers some objections.

I am extremely sympathetic to the views presented in this book. I consider myself a proceduralist and, following Habermas, I understand the most important democratic procedures to be discursive ones framing opinion and will formation. But I eventually part company with Fleuß in her insistence that proceduralism must



lead to radical proceduralism—one that goes all the way down in real life. A great deal of the book is about wrestling with the normative and epistemic status of the claims made by pure proceduralists vis-à-vis democracy.

The question that preoccupies Fleuß is a second-order question: how to be true to one's procedural and democratic convictions at the same time as pursuing action guiding and relevant political theory? Can critical theory be non-paternalistic? This is an old and venerable question for critical theory. And Fleuß offers an interesting answer. But I would have liked to have seen more about the role and function of her legitimacy measure in a political world in which most democratic decisions do not come anywhere near the procedural ideal laid out in the book. Can we limit outcomes using, say, constitutional courts, if our procedures are inadequately discursive? Must all citizen-generated outcomes be legitimate under condition of mass manipulation and disinformation?

The 'everything up for grabs' position inherent in radical proceduralism seems frankly dangerous under present conditions. Fleuß suggests that citizens, if given participatory opportunities like the Icelandic process or the German Citizen Assembly, show themselves to be sensible and committed to the basics of democracy. I agree with this. But our democracies are far from being governed by anything like these participatory procedures. Does this mean that our democracies are illegitimate? Does this mean that we are not bound by the outcomes of the procedures after all?

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