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# Authority and Expertise\*

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Call “epistocracy” a political regime in which the experts, those who know best, rule;<sup>1</sup> and call “the epistocratic claim” the assertion that the experts’ superior knowledge or reliability is “a warrant for their having political authority over others.”<sup>2</sup> Most of us oppose epistocracy and think the epistocratic claim is false. But why is it mistaken?

Contemporary discussions of this question focus on two answers. According to the first, expertise could, in principle, be a warrant for authority. What bars the successful justification of epistocracy is that the relevant kind of expertise does not exist in politics (either because there are no procedure-independent standards of right or wrong in politics, or because, though such standards exist, no one knows better than anyone else what they require).<sup>3</sup> This skeptical position comes, however, at a significant cost: Without the assumption that some political decisions are better than others, and that some people know better than others what these decisions are, it is

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<sup>1</sup>Estlund 2008, p. 7. For characterizations of the “epistocratic” position, see also, e.g., pp. 22, 30–1, 40, 277–8, n.16. Historically, perhaps the most influential statement of epistocracy is Plato (2003).

<sup>2</sup>Estlund 2008, p. 30. Cf. also Jerry Gaus’s (2011, p. 16) description of what he calls the “authoritarian” position.

<sup>3</sup>Richard Kraut (1984, p. 10) attributes a version of this view to Socrates (at least in the early Platonic dialogues). A similar view is suggested in Arendt (1977/1961, esp. pp. 246–7).

difficult to make sense of much of our political practice, including how we criticize politicians and choose among candidates for office.

The second answer accepts that there is expertise of the relevant sort in politics. It argues, however, that such expertise does not justify political authority because political justifications are subject to special “acceptability requirements.”<sup>4</sup> Since claims to expertise are normally not acceptable to all qualified (reasonable etc.) points of view, they cannot function as premises in the justification of political authority, and the epistocratic claim fails.<sup>5</sup> Yet as a number of critics have pointed out, this (broadly Rawlsian) strategy faces significant problems: it is at least unclear whether the strategy in fact bars all epistocratic conclusions;<sup>6</sup> whether there is any principled way to draw the distinction between qualified and non-qualified points of views on which it depends;<sup>7</sup> and whether principled defenses for it are available and internally consistent.<sup>8</sup>

But the aim of this article is not to dwell on the problems the existing positions face. It is, rather, to outline a third and previously largely overlooked answer, which resists the epistocratic claim without either denying the existence of expertise in politics or invoking special acceptability requirements for political justifications. The only plausible argument *for* the epistocratic claim, this article argues, focuses on the compensatory role that the expert’s authority plays in correcting the subject’s relative unreliability or other agential shortcomings. The expert’s authority is thus justified only if the subject, by adopting a policy of obeying the expert’s directives, does not face problems that are very similar to the ones that the expert’s authority was

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<sup>4</sup>Estlund 2008, p. 41.

<sup>5</sup>Estlund’s discussion of his “general acceptability requirement” focuses on justifications of coercion rather than authority. But he says that a “weaker” requirement also applies to authority (ibid., p. 41). It is weaker because one particular justification of authority—based on what he calls “normative consent”—can do without this requirement (cf. ibid., p. 279, n. 2). For other influential defenses of similar requirements, see Gaus (2011) and Rawls (1996).

<sup>6</sup>Lippert-Rasmussen 2012.

<sup>7</sup>Enoch 2013.

<sup>8</sup>Wall 2013.

meant to solve in the first place. If, for instance, the subject finds it no easier to reliably identify what the expert's directives require of him than to reliably assess and act on the reasons with which the expert is meant to help him, then the expert's directives lack the compensatory value that would justify her authority. But if some widely accepted empirical conjectures about politics in a pluralistic political community are correct, then citizens normally either have no reason to adopt a policy of obeying experts, or the experts with regard to whom they have reason to adopt such a policy differ, so that no expert has the kind of general authority over the polity that we associate with political rule. (We may call this the "non-compensation argument" against epistocracy.)

The argument is important both because it helps shed light on the proper relation between authority and expertise in general, and because it shows that we can normally reject the epistocratic claim without adopting either the skeptical or the Rawlsian strategy, thus undercutting whatever support these views derive from the mistaken perception that they are necessary for resisting the threat of epistocracy.<sup>9</sup> Finally, because the anti-epistocratic constraints it introduces apply only to justifications of the subjects' duty to obey, but not to the existence or activities of political institutions as such, the compensation argument can accommodate our anti-epistocratic intuitions without excluding epistemic considerations from the design of political institutions more generally.

I begin in section I by briefly explaining what authority and expertise consist in before distinguishing different roles that considerations of expertise can play in accounts of authority. In particular, I draw a distinction between two claims that talk of epistocracy often conflates: that expertise justifies the subjects' duty to obey political decisions because they are made by experts

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<sup>9</sup>I tend to think that this is in fact the main source of intuitive support for both positions. But since I cannot defend this claim here, I won't dwell on the effects my argument has on their overall plausibility.

(the “expertise-obedience claim”) on the one hand, and that it justifies the expert’s right to fill a position that carries independently justified authority (the “expertise-office claim”) on the other. Section II sketches what I take to be the strongest argument for the expertise-obedience claim, based on the benefit the subject derives from the expert’s having and exercising authority over him. This argument entails, however, that the fact that one person<sup>10</sup> has expertise justifies her authority over another only if the latter can sufficiently reliably identify that she has such authority (section III). While this “identifiability condition” can in principle be met, specific features of political authority make it implausible that any claimant to such authority in fact meets it to the degree necessary to justify her claim (section IV). So the expertise-obedience claim fails. What about the expertise-office claim? Section V argues that the failure of the expertise-obedience claim also undermines the strongest argument for the expertise-office claim. But even if experts have no claim to fill positions of authority, neither voters nor institutional designers are barred from relying on considerations of expertise in selecting political representatives, or in designing the rules governing that selection.

### **I. Authority, Expertise, Epistocracy**

Our governments make laws for us and expect us to obey them. They claim, that is, political authority over us. Political authority (and practical authority, of which it is a particular instance,

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<sup>10</sup>Throughout this article I speak of experts as persons. With appropriate adjustments, the following discussion also applies to non-natural persons, such as legislative bodies.

more generally) is the power to impose duties<sup>11</sup> on another at will. If you have authority over me with regard to matter *M*, and you give me an *M*-related directive to do *x*, then I have a duty to do *x*.<sup>12</sup> (In particular, I have such a duty at least in some cases even if you were mistaken in directing me to do *x* and should have directed me to do *y* instead.) The state's claim to political authority is thus the claim that we, the subjects, must do as the law says *because it says so*.

We can helpfully distinguish authority from two other phenomena with which it may be confused. First, I may have a duty to do as the law says simply because what the law says is what I have a duty to do anyway (say, not to murder or rape). But if I have that duty independently of whether the law says so, then my duty is not a matter of the law's authority. Second, we often have reason to abide by the law because we will be punished if we don't. This too is not a matter of authority, since my reason to do as the law says is not "*because the law says so*" but "*because otherwise I will suffer sanctions*."<sup>13</sup> To distinguish between authority and these other reasons to do as the law says, I will reserve talk of "duties to obey," or of "reasons to follow the law," for cases of authority and will otherwise speak of reasons or duties to *conform to* the law.

This article adopts a fairly thin conception of expertise. First, expertise (as I use the term here) is a matter of *reliably judging a particular subject-matter*. This leaves it open whether such reliability is the result of greater knowledge, better training in reliable epistemic methods, or simply advantageous access to relevant information, and whether or not it goes hand in hand with deeper understanding of the relevant subject-matter or whether others recognize the expert as

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<sup>11</sup>This paper uses interchangeably "binding reasons," "duties," and "requirements." I take all of these to be what Raz (1986) calls "preemptive reasons." "Reasons" (etc.) here mean normative rather than explanatory reasons: reasons that in fact justify the agent's action rather than reasons she takes to justify her action.

<sup>12</sup>The reverse need not be true: Your directive might impose a duty on me even though you lack authority over me.

<sup>13</sup>If the threat of coercion is our only reason to abide by the law, then the state is no different from the highwayman who forces us to hand over our wallet. But in a well-run state coercion is not our only reason to do as the state requires. Rather, coercion provides merely a back-up reason to ensure that we conform to *other reasons* we already have. Whether the state's use of coercion is legitimate is conceptually and practically distinct from whether the state has authority over its subjects. Here I will not consider what role expertise can play in legitimating state coercion.

such. Second, expertise is a matter of *relative* reliability: the expert knows better, or judges more reliably, than others the truth about those matters that fall within her domain of expertise. While this characterization deviates in some ways from our everyday conception of expertise,<sup>14</sup> it captures those features that (I show in the next section) explain the significance often attributed to expertise in accounts of practical authority.

What follows practically—in terms of the reasons for action that we have—from that fact that someone has expertise so understood? David Estlund has recently introduced the term “epistocracy” for a regime in which the knowers rule. To this corresponds a theoretical position according to which greater knowledge or competence—for short, expertise—*justifies rule*. It is important to recognize from the start that this epistocratic position does not follow straightforwardly from the fact that expertise is a virtue we value in rulers, since the latter may be true even where expertise does not determine who has authority over whom. For instance, suppose (counterfactually) that we each had a duty to obey our parents because they created us. Even though parental authority would then be independent of parents’ competence, competence would be a virtue in parents. One distinction to draw, then, is between a weak “expertise-virtue claim,” according to which greater competence or knowledge is a virtue in an authority, and the stronger epistocratic position, that expertise justifies one person’s rule over another.

More importantly, we must draw a further distinction between two claims that discussions of epistocracy tend to conflate.<sup>15</sup> On the one hand, that *A* has expertise can justify *S*’s duty to do as *A* says. (Expertise, I will say, is the *basis of the subjects’ duty to obey*, and thus justifies authority.) On the other hand, that *A* has expertise can justify assigning a position of authority to

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<sup>14</sup>For discussion see Goldman 2001 and Brewer 1998.

<sup>15</sup>See, e.g., Estlund 2008, p.40: “After all, from the fact ... that you know better than the rest of us what should be done, it certainly does not follow in any obvious way that you may rule, or that anyone has a duty to obey you.”

*A*, where the subject's duty to obey the holder of that position is justified on independent grounds. (On this view, expertise is the *basis for assigning positions of authority*, but not the basis of the duty to obey.<sup>16</sup>) Both of these could be said to *justify rule by the knowers* (that is, epistocracy as Estlund has characterized it). Yet they do so in different ways: while one position explains why those who are knowers ought to be obeyed, the second position explains why those who are to be obeyed ought to be knowers.

Let me spell out explicitly what each of these claims amounts to with regard to the relation between expertise and authority, and what their practical implications are.

- (1) The *expertise-obedience claim*: The expert's superior reliability justifies her authority over others. If the expertise-obedience claim is true, then those others have a duty to obey the directives of the expert because she is an expert.
- (2) The *expertise-office claim*: Expertise is the proper basis for assigning offices or positions of authority to people, even if the authority that the office carries is justified independently of the expertise of the office-holder. If the expertise-office claim is true, then the rules governing the assignment of offices should take into account expertise in determining how offices are filled.

To further clarify the distinction between these claims it will help to consider in more detail the view that expertise is the proper basis for assigning positions of authority. Consider, for example, a system of laws and institutions that has authority over its subjects because it enables the coordination of expectations and projects. Such a system is partly constituted by offices that come with certain rights, duties, and powers. The power of an office-holder *H* to make authoritative decisions is based on the place that this office has in the overall system, and the

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<sup>16</sup>In fact, the matter is more complicated, since the authority of the office too could be justified on epistemic grounds (for instance, because the office holder alone has access to relevant information). What matters for our purposes is that *A*'s authority is conditional on holding the office, and not based on *A*'s personal expertise.

system's authority is in turn justified by the need for coordination: *H*'s power derives from her office, and if another person *G* filled the office in *H*'s stead, then *G* rather than *H* would have this power.<sup>17</sup> Someone could now argue that a particular office ought to be filled by certain people and not others (and perhaps even, more strongly, that certain people have a *right* to fill this office). For instance, one might suggest that holding this office is an honor; and that this honor is due to *K*, the wisest and most knowledgeable person around.<sup>18</sup> (*K* *deserves* to hold this office, just as the winner of a competition *deserves* her prize.) Less contentiously, one might think that a good legal-political system will have rules that determine who fills its offices, and that according to these rules the wisest or most knowledgeable person will be assigned the office in question. In either case *K* could complain if she were denied the relevant office. But since the office-holder's authority derives from the office and its place in the system as a whole, if the office is mistakenly assigned to *L* rather than *K*, then *L* (but not *K*) has the corresponding authority.

One reason why the expert-obedience claim and the expert-office claim are commonly run together may be that they both fit the general description of the epistocratic position—that greater knowledge justifies rule. Another explanation may be that, if *A* has authority over *S* with regard to matters *M* because of *A*'s expertise on *M*, then it would in fact make sense to assign to *A* whatever offices carry authority on *M*-related matters, because doing so would avoid clashes between the (personal) authority *A* has with regard to *M* *qua expert* and the (impersonal, institutional) authority another has *qua office-holder*. From the perspective of institutional design in general, and of concern with the question whether an epistemic elite should rule in particular, it might then look like the expertise-obedience claim identifies a particular (and perhaps often

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<sup>17</sup>Perhaps not just anybody can fill the office, because the office holder must meet some minimum standards. What matters here is that the justification of the subject's duty to obey significantly underdetermines who must hold the office, so that there is room for invoking alternative considerations, like expertise.

<sup>18</sup>On the link between office and honor, see Aristotle 1998, bk. III, ch. 10, 27–31, p. 83.

conclusive) reason for adopting the expertise-office claim. But if (as I argue next) the expertise-obedience claim is normally unjustified with regard to political decision-making, then this—to my mind most plausible—argument for the expertise-office claim also falters. Or so I suggest towards the end of this article.

## **II. Expertise-Based Authority**

In the previous section I introduced what I called the “expertise-obedience claim”: one person’s expertise on matter *M* justifies her authority over others with regard to *M*-related issues. But how does *A*’s expertise justify another person *S*’s duty to follow *A*’s directives?

One possibility (suggested by the previous discussion of a knowledge-based right to a public office) appeals to the notion of *entitlement*: if you are an expert then you are entitled to be obeyed with regard to those issues on which you have expertise.<sup>19</sup> (The most intuitive basis for such a claim may be desert: Obeying you is the right way to show the respect that you deserve *qua expert*.)

I will not argue here in detail against this position, mainly because it is not clear to me what the argument for such an entitlement claim would be to begin with. Why should respect for experts require obeying them, rather than, say, carefully listening to what they have to say, or rewarding them with trophies? So I merely mention it to bring out the distinctive character of the alternative proposal I develop, according to which expertise justifies authority because the expert’s having and exercising this power benefits the subjects. According to this *service*

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<sup>19</sup>Cf. Estlund’s (2008, p. 40) question, “[W]hat kind of principle might explain why experts are not necessarily entitled to be bosses?”

justification of expertise-based authority, the expert has the normative power to change the subjects' reasons at will because, by having and exercising this power, she provides them with guidance that helps them act more reliably (or equally reliably at a lower cost in time and energy) in accordance with whatever normative standards apply to them than they could if she did not possess or exercise the power and they had to try to follow the applicable standards directly.<sup>20</sup>

Let me spell out this argument in some more detail:

- (1) Let us say that *A* counts as an expert for *S* with regard to issue *M* if *A*'s judgments relating to *M* are more reliable than the judgments *S* makes regarding *M*. (Notice that expertise is thus defined relative to both particular agents and particular issues.) Thus, when *M* is a practical matter, and the judgment is about how *S* ought to act in light of the relevant *M*-related reasons, then by following *A*'s expert judgment of *M* rather than his own, *S* may be able to more reliably conform to his *M*-related reasons.<sup>21</sup>
- (2) We have reason to act as best we can (within the limits set by the need for time and resources associated with a decent life) to conform to moral requirements that apply to us (such as respecting the rights of others), and thus to take (permissible) means towards conforming to them.<sup>22</sup> Among these means is following another's directives instead of acting on our own, less reliable assessment of the matter at issue.<sup>23</sup>
- (3) So we have reason to follow an expert's directives (and set aside our own, competing,

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<sup>20</sup>The notion of "service" is borrowed from Joseph Raz's influential theory of authority (Raz 2006). But the characterization I offer here differs from Raz's account so as to better capture the idea of service (and exclude entitlement justifications).

<sup>21</sup>Since we can usually conform to reasons to a greater or lesser degree, the relevant assessments of reliability will consider both how likely the expert is to identify the correct course of action, and how far she deviates from that course when she goes wrong.

<sup>22</sup>Sometimes it is less important to correctly conform to the relevant reasons and more significant to act on one's own judgment. (Think of romantic choices.) By focusing on cases where authority helps us act on moral requirements, I mean to largely avoid the complications this raises.

<sup>23</sup>As I show below, the conditions under which submitting to an expert's authority is in fact useful are more demanding than may initially appear.

assessment of the matter) with regard to the moral requirements that apply to us. The expert thus has the power to change our reasons for action at will, by giving us binding directives; and her having this power is justified by the benefit or service it provides to us.

It is worth emphasizing two features of this account. First, authority of the sort just considered is *compensatory* in nature: Obeying the more reliable expert—treating her directives as binding—enables me to correct or compensate for my own deficiency or unreliability in assessing *M*. Assuming that the issues with regard to which decisions are made are generally of moral significance, the decisions of someone who is an expert with regard to these matters—to be precise, someone who is more reliable than I am in identifying the relevant reasons and what course of action best conforms to them—will be authoritative for me insofar as her power to impose duties on me helps compensate for my shortcomings.<sup>24</sup> (This will be central to the argument in section III.)

Second, I focus here on cases where the purported authority is, at least in part, an expert on normative matters. This is not necessary for an account of expertise-based authority as such, as the following example illustrates: We are on a plane, and in the middle of the flight you have a heart attack. I call for help, and one of the other passengers, *D*, reveals himself to be a doctor. *D* cannot perform whatever actions are necessary to resuscitate you; but he directs me how to do them. Since I have, I am assuming, a duty to try to save your life (at little cost to myself etc.), and the best way to do so is to follow *D*'s orders, I ought to be doing what *D* tells me to do, and I ought to be doing it because he tells me to do it. Yet *D* need not have any expertise on normative

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<sup>24</sup>Much more could be said about such justifications of expertise-based authority. In particular, it could be defended against some objections that have been raised against broadly instrumental justifications of practical authority. I cannot consider these. But notice the dialectic here: If it turns out that instrumental justifications of the sort just sketched fail anyway, then so do arguments for the expertise-obedience claim that rest on them. And showing that this claim – and with it much of what is often labeled “epistocracy” – lacks support is the aim of this essay.

matters—he need not be particularly good at determining whether I have a duty to save your life in the first place. So what justifies this article’s focus on cases involving normative expertise? Notice that in the example at hand the reason-giving force of *D*’s directive is *conditional*: if I have no undefeated reason to save you, then *D*’s order will not change that. But political authorities do not usually claim to give us conditional orders of this sort. They do not merely tell us that, insofar as we have reason to provide our children with an opportunity to a decent life, we ought to send them to school; they tell us that we have to send them to school *full stop*. This is reflected in a distinctive feature of political institutions: They generally do not merely pass laws and expect us to conform to them. They also coercively enforce these laws, and thus intend to make the option of non-conformity rationally less eligible. Yet it is difficult to see how such coercion could be justified if it weren’t for the fact that all other options are anyway unacceptable given the balance of reasons.<sup>25</sup> So political authority is meant to give us a final answer as to how we should act, not just an intermediate conclusion that still leaves it open how reasons overall line up.<sup>26</sup> And such a final answer requires making normative judgments about how competing considerations are to be balanced, what moral requirements apply to us when, and so on.<sup>27</sup> (This feature of political authority will be central to the argument in section IV.)

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<sup>25</sup>I take this to be a necessary, though not sufficient, condition for the legitimacy of state coercion to which the subject has not validly consented.

<sup>26</sup>This is a feature of political authority in particular, not of practical authority in general. Someone may have practical authority with regard to a subset of reasons—say, reasons of health—but not others.

<sup>27</sup>I am setting aside cases where the expert’s authority is not “final” in the same way. For instance, if citizens have a democratically imposed duty to minimize the risk of spreading infectious diseases, and the best way to do so is to obey the directives of the government’s chief scientist, then the chief scientist may have instrumentally justified authority. But this is not a core case of political authority, for the reasons just explained. I am not alone in setting aside these kinds of cases. Estlund’s discussion, for instance, focuses quite consistently on normative expertise. See, e.g., Estlund’s (2008, p. 30) formulation of the “Knowledge Tenet” of the epistocratic argument.

### **III. From Expertise to Political Authority: Identifiability and Convergence**

In the previous section, I sketched a service justification of practical authority based on expertise. The expert's power to give binding directives (that replace the subject's own less reliable judgments of the underlying reasons) is justified if and because it benefits the subject. Such expertise-based justification of authority is, I explained, compensatory: *A* has the power to impose duties on *S* at will if her having and exercising such power helps *S* sidestep the problems that his own unreliability creates when it comes to doing what he morally ought to do.

In this section, I build on this sketch to identify two conditions a successful expertise-based justification of political authority must satisfy. First, to establish *A*'s expertise-based authority over *S* along these lines, it is not enough to show that *A*'s decisions are in fact more reliable than are *S*'s own judgments (that is, that *A* meets the "expertise condition"). *S* must also be sufficiently reliable when it comes to identifying whether *A* has authority over him. Specifically, *S*'s reliability with regard to *A*'s authority must be greater—indeed, usually quite a bit greater—than is *S*'s reliability with regard to *M*-related requirements that apply to him. I call this the "identifiability condition." Second, to establish *A*'s legitimate *political* authority requires showing that *A* has justified authority over most of the members of the relevant polity. Thus to establish political authority based on expertise, the justifications establishing the subjects' duties must converge in their conclusions about whose directives the subjects ought to obey. I call this the "convergence condition."

#### **A. Identifiability**

Why is meeting the expertise condition—that the bearer of authority *A* is more reliable than the

subject *S*—not sufficient to establish *A*'s authority over *S*?<sup>28</sup> According to the justification of authority we are considering, the expert's directives are meant to compensate for *S*'s unreliability in determining how he ought to act. But they can do so only if *S* can more reliably judge what he ought to do *after* his normative situation has been changed by the expert's directives than he could *before*. And this condition will be met only if *S* can more reliably judge what authoritatively imposed duties apply to him than what reasons he has independently of the authority's directives. Yet to reliably judge what authoritatively imposed duties apply to him, *S* must normally be in a position to reliably judge who has authority over him, and what that person directs him to do.

Let me emphasize that I am not assuming here that in general an agent has reason to do *x* only if she can reliably judge that she has such reason. Instead the identifiability requirement I rely on here follows from the particular character of compensatory justifications of authority. More specifically, it follows from the fact that expertise-based authority is justified by the benefits it provides to the subjects, and the way in which such authority is meant to benefit them. One useful way to think about authority is as a policy adopted by the subject: *A* has de facto authority over *S* if *S* has adopted a policy of doing what *A* directs even if certain reasons (those that *A*'s directives exclude) would normally be sufficient to justify not acting as *A* directs. *A* has justified authority over *S* only if *S*'s adopting such a deliberative policy is overall beneficial because it reduces *S*'s risk of failing to act on the reasons he has. But if by adopting such a policy *S* cannot in fact reduce that risk, because *S* is no better placed to reliably identify what the policy

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<sup>28</sup>Conditions on the identifiability of political authority are common in the history of political thought. See, e.g., Locke's *First Treatise* (2003, §124, p. 76) and Hobbes's *Leviathan* (1651/1986, ch. 33, p. 426). More recently, Melissa Lane has emphasized that an authority must have "marks" by which it can be picked out if it is to help us overcome the problems associated with the state of nature (Lane 1999). Raz (2006), too, has recognized the importance of what he calls "knowability" for justifications of authority. These authors do not, however, pay due attention to identifiability's comparative character; nor do they explain what follows for the justification of expertise-based political authority.

requires than he is to reliably identify the reasons that apply to him in the first place, then adopting the policy does not benefit *S*, and the justification of *A*'s authority fails.<sup>29</sup>

It is not uncommon that what I have instrumental reason to do depends on my actual capacities and deficiencies. (Whether I have instrumental reason to walk or to cycle to school depends on whether I am a fast walker, or know how to ride a bike.) The argument here applies this general observation to the specific case of expertise-based authority: *S*'s action, to adopt a policy of following the authority's directives, is valuable only insofar as it helps the subject perform other actions, namely, to conform to those reasons that the expert can judge more reliably than the subject can. But then whether the policy is worth adopting despite *S*'s deficiencies depends on whether successfully acting on it is possible even though directly acting on the underlying reasons is not. Since in the case under consideration authority is conditional on expertise, reliably judging whose directives impose duties on him requires *S* to reliably identify the expert and what her directives require. After all, if *S* cannot reliably identify who has authority (which, here, requires meeting the expertise condition), he cannot reliably identify whose directives impose duties on him, and thus can no more reliably judge what he ought to do after receiving the expert's directives than before. In fact, assuming that the expert herself is not perfectly reliable in judging the underlying reasons that apply to *S*, *S* benefits from the expert's authority only if he is *sufficiently more reliable in identifying the expert*, and the duties she imposes on him, *than he is in assessing the underlying reasons* so as to make up for the expert's imperfect reliability.

One point is worth highlighting here: In principle, *S* could reliably identify the expert's directives even if *S* does not know that the expert is an expert, or that the expert's authority is

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<sup>29</sup>Note that the issue is whether *S* can reliably identify *A*, not whether *S* in fact identifies *A* or recognizes her authority. If *S* can reliably identify *A*, but fails to deploy this capacity (and thus fails to recognize that *A* has authority), the compensatory justification of *A*'s authority nonetheless stands.

justified by her expertise. Consider parental authority. Such authority plausibly rests on the parent's greater reliability in judging what the child ought to do. But the child can benefit from that greater reliability even if it neither knows that this is what justifies the parent's authority nor identifies the bearer of authority as an expert (and instead simply obeys the parent qua parent). A policy of obedience is *opaque* if the subject does not have access to the considerations that *in fact* justify the decision-maker's authority. Such a subject will normally identify the bearer of authority *A* under a description ("parent") other than the one under which *A*'s authority is justified ("expert"). On a *transparent* policy, by contrast, the subject does have access to the underlying justification. The features by which *S* identifies *A* will thus either coincide with those features that justify *A*'s authority over *S*, or *S* will at least be aware that the identificatory feature is appropriate because it is a proxy for the justificatory feature. (We will return to this distinction in the next section, which discusses the value of both transparent and opaque policies.)

## **B. Convergence**

In section II, I emphasized one important feature of political authorities: They purport to establish final rather than intermediate conclusions about how their subjects are to act. So if political authority is based on expertise, then the bearer of authority must reliably judge what the subjects have, all things considered, reason to do with regard to those issues regulated by law. She must be able to assess competing considerations that bear on which actions are obligatory and legally enforceable, which ends are worth pursuing, and what is to be done when some worthwhile or obligatory actions are practically incompatible. She must, that is, have distinctly moral expertise.

Here I want to highlight a second feature of political authority. As Leslie Green has

emphasized, the authority asserted by states is *general* in character: they claim “the ability to regulate the *vital interests* of *everyone* within their territory. ... All those living within a certain area, or all fulfilling certain conditions [of membership], are deemed to be bound.”<sup>30</sup> Even if I personally have consented to Parliament’s authority over me, as long as most other people within its purported jurisdiction have not (and are not otherwise bound by its directives), Parliament’s power lacks the generality that political authority requires. The generality of political authority is reflected in the kinds of tasks that we expect political institutions to fulfill: they settle what system of property rights exists around here, what collective defense efforts we take against outsiders, or how we ensure that the poorest among us are taken care of. And since each of these normally requires the coordinated efforts of many people, each of these tasks can also normally be fulfilled only if enough members of our community abide by the authority’s decision about how they are to be fulfilled. The assumption of generality is, finally, connected to the intuitive thought that political authority is authority for a political community: for it to count as such, it must be an authority for at least a sufficient number (even if not all) of the community’s members—enough of them so that the resulting acts can properly count as acts of the community.

Since someone has political authority only if her power is sufficiently general and covers most members of the polity she purports to rule, any attempt to justify political authority by appeal to expertise must satisfy a “convergence condition”: It is not enough to show that all, or most, members of the polity are bound by the directives of an expert. There must also be significant convergence among them with regard to which expert they ought to obey. The same person must have authority over most or all of them.

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<sup>30</sup>Green 1988, pp. 83, 84.

#### **IV. The Challenge**

For *A* to have political authority based on her expertise, both the identifiability condition and the convergence condition must be satisfied. She must, that is, be reliably identifiable as the bearer of authority by those bound by her directives; and this condition must be satisfied vis-à-vis most members of the polity over which she asserts her authority, so they converge on her as the source of binding directives. The purpose of this section is to argue that, given some widely recognized facts about our political and moral life, it is highly unlikely that both of these conditions are met simultaneously. Some identification policies that subjects can adopt (those policies I earlier called “transparent”) are valuable, and justify the authority of the person whom the subject identifies as having authority; but these policies are unlikely to lead to convergence. Other identification policies (those I earlier called “opaque”) may lead to convergence; but they are very likely not worth adopting, all things considered. There is thus, I conjecture, no successful expertise-based justification of political authority for the kinds of people that we are, living in the kinds of polities we are familiar with.

##### **A. Transparent Strategies**

Let me begin with transparent identification strategies: the subjects know that the purported authority’s legitimacy rests on her expertise, and they seek to reliably identify who has authority over them by identifying who has the requisite expertise. Now it is quite likely that they cannot identify the expert directly, but must instead rely on features that indicate expertise. (When choosing among doctors, I normally cannot directly assess their expertise; but I can find out

where they were trained, whether they have had to fight a disproportionate number of malpractice suits, and so on.) Still, insofar as the subject attends to these features because he considers them to be indicative of expertise, he will adjust his identification strategy if it turns out that these features are not in fact useful indicators of the underlying characteristic (if, for instance, it turns out a particular medical school does a less good job than previously thought training its students).

Transparent identification, I argue, is incompatible with expertise-based justifications of political authority in a community characterized by the diversity of moral and political outlooks familiar from pluralistic societies. Political authority requires that (enough) citizens converge on a particular moral expert; and if identification is transparent, this requires them to be able to reliably identify that expert *as a moral expert*. But our capacity for reliably identifying moral experts is closely tied to our capacity for reliably identifying moral considerations more generally.

At the extreme, the link may be so close that those who are unreliable judges of first-order moral reasons, and would thus benefit from the directives of a moral expert, will also be unreliable moral judges of moral expertise, and thus cannot help themselves to the benefits of expertise-based authority. But often the link is looser, and our incapacity to reliably identify first-order moral reasons does not completely bar us from reliably identifying others whose judgments are more reliable than our own. Yet even then the connection is sufficiently close that those who hold quite divergent moral views will reliably identify different experts, and thus different experts will have justified authority over them.<sup>31</sup>

We may try to identify moral experts either based on what decisions they have made (their

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<sup>31</sup>My argument thus falls between the pessimism of Scott Brewer (who worries that non-experts can never identify experts), and the optimism of Elizabeth Anderson (who thinks that such identification is relatively unproblematic) (Brewer 1998; Anderson 2011). Anderson's optimistic view has greater plausibility with regard to scientific instead of moral expertise. But even then identifiability is an achievement, and someone sufficiently dedicated to the task may be able to effectively undermine its preconditions, and destroy some of the practical benefits scientific expertise could provide. (Climate change denialism may depend for its political impact on just this.)

track-record) or how they go about making decisions (their skills or methods).<sup>32</sup> Let me start with the former. In many contexts reliance on track-record is attractive because our capacity to judge whether the expert can do  $x$  is quite distinct from our capacity to do  $x$  ourselves. I cannot make shoes and yet I can judge who is a good shoemaker because the skills I need to judge whether shoes fit me are quite different from those involved in making shoes. And despite our different view on medicine in general, you and I may be able to converge in our identification of a good doctor because we can both see that she has a higher success rate fighting diseases than her colleagues.

Moral expertise is importantly different. The capacity involved in forming moral judgments *ex ante* is the very same one we deploy to assess another's moral judgments *ex post*. To assess someone's moral track-record with regard to  $M$ , I have no standard to rely on other than *my own considered view of M*.<sup>33</sup> And this close link between judging moral reasons and judging moral experts makes it difficult to envisage *political* authority based on moral expertise. In a pluralistic political community, citizens significantly disagree not only in their initial assessment of moral questions, but also in their *considered judgment*. Furthermore, in a large polity there are many potential experts—many people whose track record each of us may consider and potentially find superior to our own. I can reliably identify someone as a moral expert by her track-record only by asking whether her moral views conform to my own considered judgment of the matter. If your considered judgment and my considered judgment diverge to a significant degree, and our

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<sup>32</sup>I am setting aside here a third option familiar from medical and other contexts: referral by other (identifiable) expert. The kinds of considerations I offer in the text also extend to this third (anyway rather less plausible) strategy.

<sup>33</sup>This does not yet bar me from compensating for my own shortcomings by instead following a moral expert. We must often act before we had a chance to form a considered judgment of what morality requires. If I discover that, when you and I disagree at time  $t$  about what I morally ought to do, I commonly come to agree with your assessment once I have had a chance to form a more considered (and thus presumably more reliable) judgment at time  $t+1$ , then I may be able to reliably identify you as someone whose judgment is more reliable than mine under time constraints.

considered judgments are the basis on which we assess other people's track-record and expertise, then (assuming our community is reasonably large) it is very likely that the person I can reliably identify as being more reliable than I am is someone other than the person you can reliably identify as being more reliable than you are.<sup>34</sup> But then it follows that different persons have authority over each of us, and neither of them has general authority over our political community.

What if we identify moral experts, not based on *what* judgments they have formed in the past, but rather *how* they form their judgments? Despite our disagreements about a medical issue, you and I may easily agree that the doctor, with the training and the instruments to diagnose the problem, is more reliable than either of us. So perhaps I can also identify a moral expert based on the skills, virtues, or tools she brings to bear on the matter? The problem is that, with regard to moral skills or virtues, there is a significant trade-off between *accessibility* and *predictive power*. Some indicia of another's morally relevant skills are easily accessible; but they also tend to have little power predicting her reliability or distinguishing her from many other potential claimants to expertise-based authority. Other indicia, by contrast, would uniquely mark her as the most reliable judge around here; but they are difficult to access, and my assessment of them depends on my own considered moral judgment, so that the convergence condition is once again unlikely to be satisfied.

Let me start with the latter. There may be distinctive moral virtues or capacities, capacities that are displayed in moral judgment in particular, and that would, if possessed, make someone a much more reliable moral judge than others. But to assess these distinctively moral capacities, we must deploy our own moral judgment and determine whether another's judgments or actions

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<sup>34</sup>Furthermore, even if *A* has expertise-based authority over you and I can reliably identify *A* as being more reliable than I am myself, this does not suffice to establish *A*'s authority over me. If I can just as reliably identify another person *B* who is still more reliable, then I have instrumental reason to treat as authoritative *B* rather than *A*, since treating as authoritative *A* and treating as authoritative *B* are mutually exclusive where *A* and *B* make decisions on the same subject-matter and may disagree.

show her to be especially attuned to moral considerations. And that returns us to the previous problem: Since we must each rely on our own considered judgment of what moral considerations apply, our disagreement with regard to that judgment will likely translate into divergence in our identification of reliable moral judges.

Not all morally relevant capacities may be assessable only on the basis of one's own moral judgment. Some such capacities are also displayed outside of moral contexts: Lack of bias or a capacity for disinterested reflection, for instance, may be revealed in an agent's deliberative endeavors more generally. So I may find it relatively easy to know about someone that she is generally unbiased and reflective; and if I have reason to believe that I am biased, or incapable of adequate reflection on the issue at hand, then I may have reason to defer to her. The problem is, however, that the criteria so revealed are unlikely to uniquely identify her as the person others too ought to follow: Even if I have reason to follow her (and I may not, either because, though she is unbiased, she lacks other predicates, such as distinctive moral virtues, that are relevant, or because others who are also unbiased more clearly possess these predicates), others may not because they themselves are suitably unbiased, or because they can as reliably identify others as being more unbiased than she is.

The problem with transparent strategies is thus this: Those features that can be reliably identified without invoking one's own moral judgment, and with regard to which we may thus be reasonably likely to agree with others, are features that will normally not suffice to mark out their bearer as someone who has expertise-based authority over us. And those features that are likely to suffice to identify someone as a moral expert for us are identifiable only on the basis of our own moral judgments, which are likely to diverge from that of our fellow citizens. Thus in a transparent practice of identifying authority—a practice in which the subjects seek to identify the authority qua moral expert—the pluralism of moral outlooks typical of political communities

makes implausible the convergence that political authority requires.

### **B. Opaque Strategies**

For  $A$  to have expertise-based authority over  $S$ ,  $S$  must be able to reliably identify  $A$ . But, I flagged earlier, he need not identify her *as an expert*—that is, under that description. Now imagine a society in which a widely accepted social norm requires citizens to follow the directives of some person  $A$ , who, though in fact an expert, is not (by the terms of the norm) identified as such. Citizens who abide by the norm will thus benefit from expert directives. And if the content of the norm is such that citizens who adopt it converge in their judgment as to who rules, the problem of disagreement that transparent policies face may also be avoided. Might such an opaque identification strategy thus succeed in justifying expertise-based political authority?

Some may object to any justification of authority that requires opacity. Certainly opacity entails that the justification cannot be offered to and accepted by the person whom the authority's directives are meant to bind. Such justifications cannot, that is, serve a useful role in persuading someone who asks: "Why should I obey you?" Perhaps this is sufficient to deny them any important role in our political life.

But even if it is not sufficient, there are other grounds for doubting that opaque strategies can justify expertise-based political authority. For  $S$  to benefit from an expert's authority, though  $S$  need not identify the expert *as an expert*, he must identify her as *having authority*, and her directives as reason-giving. Otherwise he would be no better positioned to conform to the underlying reasons that apply to him by being under her authority than by not being so. For  $S$  to identify  $A$  as having authority,  $S$  must have some understanding of what it is to have authority,

and who has it. This does not, however, require a correct view of why someone has authority. If *S* holds the view that *A* has authority because *A* has some special feature *F* (which *S* does not take to be either expertise or a proxy for expertise), and *F* is in fact sufficiently correlated with expertise, then *S* benefits from the practice of treating a bearer of *F* as a source of authoritative directive, even if he does not know or understand why that practice in fact benefits him.<sup>35</sup> (Think again of the child that takes the fact that *A* is its parent as an adequate basis for treating *A*'s directives as binding.)

Adopting the policy “Treat bearers of *F* as having authority” may thus be instrumentally valuable as long as *F* is in fact appropriately correlated with expertise. To be more precise: such a strategy is worth adopting as long as, by adopting it, *S* will reliably follow the directives of genuine experts rather than of non-experts, and will thereby achieve an overall improvement in her conformity to the underlying reasons compared to trying to identify and act on those underlying reasons directly. It is important to emphasize that adopting an identification strategy is worthwhile only if the *overall effects* of adopting it are positive. For instance, if relying on the strategy increases conformity with reasons during one period, but decreases conformity with reasons during another, and the agent deploying the strategy is in no position to reliably distinguish between these periods (and thus cannot stop using the strategy when its effects are negative), then the value of adopting the strategy depends on the net effect it has on the agent's conformity with reasons across the two periods.

I want to suggest that opaque identification strategies are likely not worth adopting in politics. First, an opaque policy is unlikely to be stably positively valuable. Bearers of authority commonly derive personal benefits from their position, whether in the form of respect and admiration or of financial remuneration and gifts. This provides significant incentives for non-

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<sup>35</sup>Pace Lane 1999, pp. 222–3.

experts to acquire characteristic *F* without bothering to acquire expertise. As the link between *F* and expertise weakens, the benefits to the subject vanish, and further obedience becomes costly, whether because we have intrinsic interests in acting on our own judgments or because the newly minted bearers of *F* have a non-zero probability of abusing their power to advance their own ends.

Second, it is unlikely that the identification strategy will be adjusted once it has become costly rather than beneficial. Since the identification strategy is opaque, the subject is not in a position to abandon the strategy when it turns costly, or adjust it to better track expertise. In principle we could imagine someone else adjusting the strategy: The bearer of authority may be able to direct the subjects to look at some feature other than *F* to identify bearers of authority in the future. Or some third party could step in and remove the purported bearers of authority and replace them with someone who has expertise. (A parent may teach a child that, past a certain age, it need no longer obey its parents. And parental authority is at least to some extent supervised by state institutions.) But in politics it is difficult to see who would have the incentives and power to pursue such adjustments. The bearers of authority will normally lack the incentives, since this would undermine their power; and they may in fact be in no position to identify what features other than *F* do correlate with genuine moral expertise. And in politics (unlike in the case of parental authority) there is normally no third party able to intervene and revise the existing practice of obedience.<sup>36</sup>

In light of these problems the expected value of the opaque identification strategy in politics is likely negative overall. Consequently the strategy is likely not worth adopting to begin with; and the subject thus lacks reason to abide by the decisions of *F*s identified as bearers of

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<sup>36</sup>Let me flag one complication: In a democratic polity, the electorate may be able to remove politicians whom they deem morally incompetent. For various reasons I cannot develop here, I doubt this would suffice to sustain sufficient moral reliability in the system to justify its expertise-based political authority. In any event, even if it did suffice, we would be left with a form of democratic epistocracy that may be quite unproblematic insofar as our anti-epistocratic commitments are at bottom pro-democratic ones.

authority even if those *F*s are in fact experts.

### **C. The Distinctiveness of the Compensatory Argument**

I have suggested that distinctive features of political decision-making render it very difficult for many of us to reliably identify the same person as possessing expertise-based authority on the difficult question of what we should, all things considered, do. Yet political authorities ordinarily claim the power to decide just that question for most members of the political community. The argument shows, then, why expertise, even if it can in principle be the basis of *practical* authority, cannot in practice justify the expertise-obedience claim with regard to *political* authorities.

Crucially, it shows that the expertise-obedience claim can be rejected—and our anti-epistocratic political convictions accommodated—without either denying that standards of truth or correctness apply to politics or appealing to the acceptability constraints on political justification that philosophers in the Rawlsian tradition invoke. Whether someone has expertise-based authority over us depends on whether we, *as we actually are* (and not our idealized “reasonable” counterparts), can more reliably identify the expert than we can identify the reasons with regard to which her expertise is meant to guide us. And so it is the fact that we, as we actually are, do not converge in our reliable identification of moral experts that makes expertise-based justifications of political authority implausible.

Let me highlight what I take to be the deeper methodological difference between the anti-epistocratic argument offered here and arguments for the same conclusion that depend on Rawlsian acceptability requirements. Acceptability requirements rest on substantive moral claims, while the argument against epistocracy offered here simply reflects the basic compensatory

structure of expertise-based justifications of authority. One way to see this is to recognize that my argument (unlike Rawls's or Estlund's) is independent of claims about political (or moral) equality. It simply rests on the observation that, if the expert's authority over *S* is justified instrumentally, then certain conditions have to be in place—most centrally, that *S* can reliably identify the expert-authority. This is true whether or not *S* is treated as anyone's equal. (Even a society of slaveholders must recognize that the master's authority over the slave can rest on epistocratic grounds only if the identifiability condition is met.)

The flipside of this observation is that the compensatory argument is potentially more limited in its reach, and depends on some broadly empirical assumptions about political life in a pluralistic community, and the structure of our moral beliefs and judgments. Since I tend to think both (a) that these conditions are unlikely to change and (b) that our anti-epistocratic intuition is strongest under circumstances not dissimilar to those we are currently living under, I do not believe that this is a significant weakness in an argument against epistocracy. Nonetheless, anyone wishing to assess the argument developed here as against other strategies for defeating epistocratic conclusions should be aware of its limits.

## **V. Assigning Offices**

The previous section argued that our difficulty in identifying whether someone is an expert on the kinds of questions that the law purports to authoritatively settle for us undermines the basic justification for political authority based on expertise. This section considers its effects on the second, distinct issue that may be involved in discussions of epistocracy: what I earlier called the “expertise-office claim,” according to which political offices that have authority on expertise-

independent grounds should nonetheless be filled by experts rather than non-experts.

It is worth distinguishing between three different positions, of decreasing strength, that may be involved here. First, experts have a right to an office (and others a corresponding duty to see to it that the office be granted to them). Second, there are generally conclusive reasons (though not duties) to fill the office with experts. Third, there are some reasons for seeing to it that offices are filled by experts, though these reasons are not generally, or perhaps ever, conclusive. I will propose here that we have good reason to reject the first two, but not the third.

Let me start with the claim that expertise entitles one to hold an office. The entitlement argument is no more persuasive here than it was when we discussed the expertise-obedience claim. As I suggested in section II, the most intuitive such argument appeals to desert: the expert, qua expert, deserves the honor that comes with holding an office of authority. The difficulty with this argument is, however, that we have no basis for thinking that an expert deserves the office. Or, to put the matter differently: even if the expert deserves to be recognized, why should she be recognized by being awarded this (or any) office, rather than by a Nobel Prize, a sum of money, or a framed note of congratulations? (That the fastest runner deserves the prize doesn't tell us yet what prize he deserves.) So the entitlement claim fails simply for lack of adequate foundations.

What about the second position, that even if experts are not entitled to offices, there are normally conclusive reasons to assign the office to them? In section II, I briefly sketched what I take to be the best argument for this: Even if an office has authority over matter *M* independently of the expertise of the office-holder, we have reason to assign that office to an expert if that expert has expertise-based authority on the same matter *M* and there would otherwise be a risk of conflict between the expert's personal authority and the office-holder's institutional authority. This is a good reason for taking seriously the thought that, if there is expertise-based authority, the expert should be assigned the office regulating the area of his expertise. But this argument

loses most of its force if, as I argued in the previous section, there is normally no expertise-based political authority that could generally conflict with the institutional authority the state claims for its officials.<sup>37</sup> As the threat of conflicting duties diminishes, so does the need to accommodate the competing authority claims by unifying them through the assignment of offices to experts.

Where does this leave us with regard to the third position, according to which we have *some* reason to see to it that offices are filled by more rather than less reliable decision-makers? How reliably we can judge issues of reliability matters here too: Anyone who tries to improve the reliability of institutions by ensuring that a more reliable person fills the office must thus also take into account the risk that she is an unreliable judge of those features that make someone reliable, and must discount the significance she attaches to the purportedly reliability-indicating features accordingly. In practice the significance of this constraint increases as the effects of her choice extend into the future: A constitutional designer who must decide what rules ought to govern the assignment of offices, if not in perpetuity, then at least for decades or even centuries, should consider that the most important virtues required for discharging official responsibilities may change with the problems the polity faces. A rule that selects for features that make an office-holder reliable with regard to the problems we now deem important may exclude others whose virtues are more valuable for solving the quite different problems our polity encounters in the future. By contrast, voters considering who should fill an office for the next two, four, or six years are reasonably much less concerned with the risk that the features that are currently associated with reliability will become less important as circumstances change.

Crucially, however, while institutional designers or voters must ask themselves how

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<sup>37</sup> That there is no expertise-based political authority does not entail that there could not be expertise-based authority over some people with regard to some issues. This would have to be taken into account in assessing how offices ought to be assigned. But if coordination is sufficiently important, then experts incapable of coordinating the efforts of many people will commonly lack authority even over those who can recognize them. So the risk of conflict is small.

reliable they are in judging reliability, they need *not* ask how reliable those subject to the office-holder's authority are when it comes to judging her reliability. If the office carries authority, and the subjects recognize that and act on this recognition, then they benefit from the office-holder's greater reliability whether or not *they* can reliably identify that she is more reliable. Imagine we all look to the bearer of office *O* to coordinate our collective endeavors. If *A* fills *O*, we will do as *A* says. If *B* fills *O*, we will do as *B* says. Now imagine *A* is more reliable than *B*; but we, the subjects, have no way of finding that out given our limited information. Still, we are better off living under an arrangement where *A* exercises the authority that comes with *O* than where *B* does. So if the office-holder's authority is justified on independent grounds, then those who can reliably identify which (type of) person is more reliable have reason to act on this judgment, and take steps to ensure that the office is indeed assigned to that person (for instance, by voting for her), even if those who live under the office-holder's authority are in no position to reliably identify the office-holder's reliability.<sup>38</sup>

Let me conclude by highlighting that allowing for considerations of expertise to enter into the assignment of offices is not to say that they are decisive there. They must be weighed against competing considerations. Where a concern for reliability would entail imposing limits on egalitarian decision-procedures like democracy, they must, crucially, be weighed against whatever value there is in making decisions as equals. In fact, I think a stronger claim can be justified. Reliability that the subjects cannot identify can nonetheless bear on the assignment of offices (I argued) only if the offices have authority on independent grounds. But this suggests that a concern with sustaining the office-holder's authority must take at least some practical priority over increasing the reliability with which the office-holder makes decisions. If, as many of us think, the egalitarian character of our decision-making procedures plays an important role in

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<sup>38</sup>For a Rawlsian view that would, by contrast, limit the bases on which citizens may vote, see Quong 2011, ch. 9.

justifying the office-holder's authority,<sup>39</sup> then a concern with sustaining those egalitarian grounds of authority may generally win out against the desire for greater reliability when the two come into conflict. But defending this stronger claim is a task for another day.

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<sup>39</sup>I defend this claim in Viehoff 2014.

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