

James Johnson and Jack Knight

The Priority of Democracy: Political Consequences of Pragmatism.

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Although ambitious tracts in political philosophy are fairly common, those in which the author carries through with the project's aims – for instance, John Rawls's *A Theory of Justice*, Amartya Sen's *Development as Freedom* and John Dewey's *The Public and Its Problems* – are all too rare. Johnson and Knight's new book on democratic politics and institutional design promises much, but the question is whether, in the end, it delivers. The central argument of the book is that democracy proves superior to, or should have priority over, other governing mechanisms when choosing and monitoring highly effective political institutions.

The authors' scheme for prioritizing democratic institution building comes from the public choice literature. In the two-level model of political interaction, playing the game of politics (or making first-order political decisions) occurs on the primary (or object) level, while choosing the institutions and rules of the game functions at the secondary (or meta-) level. Public choice theorists recommend lower threshold decision rules (e.g., a simple majority) at the first level, since the stakes and transaction costs are less, whereas they favor higher threshold rules (e.g., a super-majority) at the second (and weightier) level of choosing institutions and rules. Although the methods of democracy, especially voting and argumentation, are not always better than alternatives at the primary level, they have priority on the secondary level (or 'second-priority') because they foster more effective governance amidst three enduring "circumstances of politics": (i) 'the fact of diversity' (or pluralism), namely, that citizens will have many different views of the good life, (ii) 'inescapable interdependence,' or that living together requires coordinating individual activity for the collective welfare, and (iii) 'persistent disagreement,' meaning that citizens' different conceptions of the good will often be incompatible, thereby generating ongoing conflict (3–5, 256).

The book is organized into three sections, each containing three chapters. The first section addresses the project's roots in philosophical pragmatism and the widespread mistake of treating free markets as *the* default mechanisms for choosing institutional arrangements. Part two tells the reader what is required to justify democracy's second-order priority, how argumentation functions in democratic politics, and why 'losers' or marginalized groups make democracies more self-critical (or reflexive). Finally, in the third section, Knight and Johnson argue that their pragmatist model of democracy satisfies both the formal and substantive requirements for equality and freedom, especially insofar as it offers equal chances for political access and opportunities to improve cognitive capacities. They conclude that democracy is better than its main competitors, particularly markets and courts, as a second-order decision-making procedure. In the two-level public choice model, it is at this secondary level that political agents make high-stakes choices about the institutions and rules that will govern their future interactions. In other words, playing the game of politics, at the primary level, should be governed by rules determined democratically, at the secondary level.

The authors announce and elaborate on the grand ambitions for their project in the book's first three chapters. In framing their argument, Knight and Johnson claim that 'democracy enjoys a second-order priority precisely because it is uniquely useful in approaching the crucial, complex, and conflictual tasks involved in the ongoing process of selecting, implementing and maintaining effective institutional arrangements' (12). They deny that this second-order model of democracy falls on either side of the ideal/nonideal theory distinction, since their project is, in their words, 'considerably more complicated than the dichotomy allows' (14). However, the few concrete examples of institutional design offered in the text suggest that they might have adopted a more ideal-theoretical orientation than they realize.

Laying the groundwork, the authors state that the project's key commitments are inspired by philosophical pragmatism, especially the work of John Dewey. These pragmatist commitments are (i) '*fallibilism*,' or that we can never be sure that we are entirely right, (ii) '*anti-skepticism*,' or that doubt cannot be hyperbolic, but must inspire inquiry and justification of our beliefs, and (iii) '*consequentialism*,' or that we must search for better means to obtain our intermediate goals, not absolute truths, firm foundations or final ends (26–27). Despite some commentators' insistence that Dewey dismissed the importance of institutions, Knight and Johnson argue that his pragmatism is perfectly compatible with an institutional approach. He stressed the interdependence of means and ends, and institutional reform happens to be one of the most effective means for facilitating the end of better governance (34–36; on the importance of institutions for pragmatists, particularly Dewey, also see my 'Can Pragmatists be Institutionalists? John Dewey Joins the Non-ideal/Ideal Theory Debate', *Human Studies* 33:1 [2010], 65–84). Dewey believed that a democratic way of life, including institutions that would support it, was better than all other alternatives.

But why, Knight and Johnson ask, would economic markets not prove superior to democracy as mechanisms for choosing appropriate governing institutions? With a growing faith in the ideas of *neoliberalism* (a term that appears nowhere in the text, but to which the authors often allude to) and the diffusion of *neoliberal* projects to decentralize and privatize the provision of public goods, competitive markets have become the default mechanism for making second-order or institutional choices. Although competition can produce greater efficiencies, the authors dispute the claim that market-based solutions are always best, since there is no reason for agents to honestly monitor and report failures ("no incentive to exercise oversight") and every reason for them to engage in strategic rent-seeking behavior ("to maximize that surplus [or profit] by overstating the cost threshold of providing particular public goods and appropriating the residual for other purposes") (88). A serious omission from this section is any discussion of Michael Dorf and Charles Sabel's proposal for local, competitive, decentralized decision-making units overseen by judicially-monitored administrative authorities – a proposal also inspired by Dewey's pragmatism and appropriately called 'democratic experimentalism' (see their 'A Constitution of Democratic Experimentalism').

The book's next two sections are devoted to working out the details of Knight and Johnson's centralized model of second-priority democratic decision making. What the authors call a 'pragmatist justification of democracy' (93) is only possible if the inquirer first settles on where the burden of justifying democratic arrangements lies. To demonstrate that institutional designers (not normative theorists or street-level politicians) carry the burden, the authors

develop an ‘argument for the second-priority of democracy’ (95) that requires meeting strict preconditions before selecting high-performance political institutions through voting and argumentation. Voting in the absence of constraints is problematic because (1) the electorate can be ignorant or misinformed and (2) elections are prone to manipulation and instability vis-à-vis a technical problem public choice scholars call *majority cycling*. When preferences are intransitive across voting options, a simple majority can settle on a different outcome depending on the order in which the choices are voted upon. A clever agent can then manipulate the electoral outcome, depending on the order in which she presents the options and where in the cycle she stops the voting. To counteract majority cycling, Knight and Johnson recommend that election designers focus on framing choices so that voters know the issue dimensions or what is at stake (thereby undermining cycling by making voters’ preferences *single-peaked*) (146–147). A similar condition would need to be met if institutional designers wish to facilitate quality political discourse. Rather than emphasizing the need for consensus or agreement – as do many deliberative democratic theorists – institutional designers should instead construct forums that maximize opportunities for participants to reach ‘a common understanding or description of what is at issue in some situation even if they disagree in substantive terms regarding how best to respond to it’ (149).

Another exacting precondition is that all citizens have relatively equal access to the political process. With access also comes responsibility, specifically, the responsibility to become competent political agents who, even after losing a political contest, rebound, reflexively criticize and seek to improve the institutional order rather than denigrate, subvert, or raze it. According to Knight and Johnson, ‘just as the “losers” press to alter institutional arrangements that work less to their disadvantage, those already relatively advantaged will pursue strategies designed to fortify extant arrangements against such pressures. That said, there is an inherent learning process that takes place in such interactions’ (281). However, to play devil’s advocate, loyal opposition, or what the authors term *reflexivity*, is not always so reasonable or effective – to borrow the authors’ rational choice language – in an environment of power politics. Take, for example, the activity of political redistricting or gerrymandering in U.S. politics. Every ten years, the majority party in the legislature creatively redraws their district boundaries in order to protect their incumbent office holders from losing in forthcoming elections. In some cases, the opposing party’s candidate might have a greater appetite for institutional experimentation. However, learning to overcome the power of redistricting in American electoral politics is difficult, and for the candidates who lose year after year it may even seem futile.

Overall, Knight and Johnson’s *The Priority of Democracy* is a refreshing read. The book offers a unique perspective on the study and practice of democratic politics. It invites the reader to contemplate how democratic experimentation would happen at the level of institutional design (rather than street-level politics or abstract theorizing), and to discover the intellectual resources for such a project in America’s homegrown philosophy: pragmatism. However, I am skeptical that the book delivers on its promises. Although the authors argue that solving political problems democratically has priority at the secondary level of institutional choice, they never propose actual institutions that would satisfy their demanding preconditions. In contrast, democratic experimentalists Michael Dorf and Charles Sabel suggest several actual and imagined democratic experiments: community policing in Chicago, the European Union’s regime of occupational health and safety laws, the expansion of U.S. drug treatment courts, and the U.S.

Environmental Protection Agency's Toxic Release Inventory program (see their 'A Constitution of Democratic Experimentalism', *Columbia Law Review* 98:2 [1988], 267–473).

The authors also countenance the reflexive critique of democratic institutions followed by the democratic choice of “various nondemocratic institutional forms” (166). This will worry the Dewey scholar (since Dewey insisted that “democratic ends required democratic means for their realization”) and any observer of local politics. For instance, many city codes (specifically in cities with a strong mayor/weak council form of government) dictate that the mayor serves as the tie-breaker when the city council splits over whom to appoint to a vacated council seat between city-wide elections. Appointment is already a derivatively (and therefore an attenuated) democratic decision procedure, since it involves a vote by four to six previously elected council members, but does not demand a popular vote. Arguably, though, it is a patently undemocratic – even dictatorial – rule that the mayor, a single person with a limited executive mandate, chooses the new council member in the case of a divided council. Typically the person selected is someone loyal to the mayor (a so-called *crony*), though not necessarily someone devoted to the interests of the municipality's residents (or tax-payers). In some American states, especially those with so-called “tax-payer revolts,” outraged citizens have lobbied to reform city codes – for instance, requiring a special election, not appointment by council with the mayor as tie-breaker, when a city council seat becomes prematurely vacant. My point is that these nondemocratic institutional forms are dangerous, even if they are chosen democratically. As pragmatists, the authors ought to be concerned first and foremost with the primacy of (political) practice, but the greater attention paid to theoretical models of rational and public choice tends to undercut this key pragmatist commitment. Still, the book is a significant contribution to the academic literature on democratic politics and institutional design, one that will hopefully inspire critical response and perhaps some experimentation with democratic institutions.

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