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Book Review

The Grounds of Political Legitimacy, by Fabienne Peter. Oxford: Oxford University Press, 2023. Pp. 246.

There are words that come up so often in public debate that we lose track of their meanings, especially once they have been weaponized. A prime example is *illegitimate*, a word whose meaning these days is all over the map. Evidently some people think that a government or organization is made illegitimate by failing to respect rights, other people by its failing to safeguard democracy, and still others by its failing to address poverty and inequality. Granted, it can be tactically useful to call into question the legitimacy of something in any of these ways. Even when objecting to an injustice, such as gender pay gaps, the issue becomes more pressing as soon as it is recast as a deficit of political legitimacy. As time goes by, then, the list of candidate evils to-be-remedied grows ever longer and more varied. This trend, in turn, makes it that much harder to find a single source of legitimacy underlying the plurality of uses. As the notion of legitimacy becomes more flexible, then, and its meaning more fractured, it loses its force. Today, in fact, even the scholars among us lack a clear theoretical grounding for the idea of political legitimacy—at least, the sort of grounding whose simplicity and clarity would show that we are not talking past each other when we argue about legitimacy deficits (Adams 2023). Surely it is the philosopher's job to bring things back into focus.

Fortunately, Fabienne Peter has taken up this task in a comprehensive and admirable way in *The Grounds of Political Legitimacy*. Casting a synoptic eye over the entire landscape of views about political legitimacy, Peter sorts the options by type. Whereas others have organized the field by the different moral values linked to political legitimacy, such as rights, autonomy and reciprocity, Peter wishes to look beyond these. She trains her eyes on the theoretical basis for these accounts, the grounds on which they rest. As she sees it, the underlying field can be divided into three segments. Conceptions of legitimacy can be will-based, fact-based, or belief-based. To have named these three already shows great insight on her part. From this vantage point, she disentangles the three types enough to expose the weakness of each by contrasting it with the others. This endeavour, in turn, enables her to fashion a superior account. In what follows, I trace the steps of Peter's reasoning, highlighting the key inferences through which she clears a path for her view to succeed where others have not. Along the way I point out both the contributions and shortcomings, as they seem to me, and I conclude with some observations on her overall method.

My final analysis: the book deepens our understanding of the multi-layered nature of legitimacy, operating, as it does, on the normative and meta-normative levels. Since this feature of the concept is unique and underappreciated, the book succeeds on its own terms. But the richness of analysis does not, in the end, bring us a great deal closer to resolving the age-old tension between knowledge and will as the basis of legitimacy. Still, it illuminates some points of reconciliation by presenting an ideal of well-ordered political deliberation. In defending the value of this ideal, the book makes a meaningful contribution to democratic theory and political epistemology.

1. The three possible grounds of political legitimacy

Peter seeks to capture the whole field of plausible theorizing about legitimacy and thereby harvest the insights that are available only through a panoramic lens (pp. 18–19). Her approach resembles the ancient method of collection and division: investigating the nature of something by first gathering up all the clear instances in one place and then, taking them in a single comprehensive view, asking how the field they make up can be organized. However neutral this method may seem, it encodes certain assumptions from the outset.

For Peter, one assumption is that decisions are the right targets of legitimacy assessments, as opposed to assessing the legitimacy of officials, laws or institutions (p. 11). What it means for political decisions to be legitimate, according to Peter, is that they are binding and enforceable (p. 12). Now, every author has the right to define her terms, and every analysis has to start somewhere. The focus on decisions, however, seems to rule out the classic targets of legitimacy assessments, such as sovereign power for Hobbes and the association of citizens for Rousseau, as well as modern targets such as authority for Raz and the state for Simmons (Raz 1986; Simmons 1999). Peter's choice of target interacts with another assumption: that there is a need to ground legitimacy in something beyond itself, where this further thing must be eligible to play a justificatory role. But the suitability of certain justificatory grounds will depend, presumably, on how we construe the thing that needs to be justified. Peter allows for other targets to be assessed for legitimacy, as long as it is done in terms of the legitimacy of political decisions (pp. 13–14). Entities like the state, however, need not be justified in the same or derivative terms. In fact, it is usually the other way around: the decisions of an authority are shown to be binding just when, and because, that authority is legitimate.

Also encoded in Peter's method is her trichotomy of the possible grounds of legitimacy. The three categories are presented as collectively exhaustive and mutually exclusive. Are they, though? Doesn't a person's belief-formation reflect his will? Doesn't a person's will reflect his beliefs? And, for that matter, aren't these also facts of a sort? Even though the assertion of a trichotomy is questionable if taken literally, still there is merit in the inclination behind it, which is to simplify things (pp. 18–19). Peter's set-up is meant to furnish a

stepwise recipe, a kind of decision tree, for theorizing the concept. She asks, '[H]ow important are subjective considerations ... relative to objective considerations?', and points out that we must choose (p. 16). But our answer is bound to depend on which objective and subjective elements we will end up plugging into the theory at a later point on the decision tree. Granted, there is some value in having brought this particular theoretical choice point into the foreground. However, to pose this question first, and allow it to be answered in isolation, flattens the construction of a theory into a linear process, one that artificially separates the key choice points. Once we see that such a separation is an artefact of this particular method, the result might not add much to our understanding. The two moves that her trichotomising method ostensibly makes way for—the elimination of one of the three segments and the blending of the other two—are hard to defend independently of presupposing a trichotomy of possible grounds.

As the investigation gets underway, we learn that Peter thinks the most promising grounds of political legitimacy are beliefs. The beliefs relevant to political decisions are not always able to contribute to their justification, but when they do so, and do so decisively, they thereby confer legitimacy. The problem she sees is that this route to legitimacy is cut off too often by the underdetermination arising from the 'epistemic circumstances of politics' (p. 7). Fortunately, a grounding of legitimacy in the political will is also promising. It has the potential to justify decisions, but not when it is arbitrary (p. 44). But according to Peter, the third type of grounding, the one based on facts, is hopeless. What she calls 'political factualism' is not even eligible to be reshaped into something suitable. The property of political legitimacy 'must be such that it can settle political decision making' (p. 58). Since some normative facts 'may remain inaccessible in judgment' (p. 55), she thinks that 'they are the wrong basis for settling what we should do' (p. 60).

It is not clear, however, why this problem is not equally a threat to the other two views. Why should what people believe, or what they will, be any more accessible than facts are? A worry about access would apply to the other two grounds unless the form of access were shown to be different. That is, we would need to differentiate the kind of access that is afforded to us by believing and willing, compared to the kind of access afforded by facts. As long as believing and willing are themselves facts, this seems hard to pull off. It would beg the question to restrict the analysis only to facts that are will- and belief-independent. At any rate, it turns out that accessibility has now emerged as a *conditio sine qua non*, as a constraint on a theory of political legitimacy that is derived from certain necessary features of the concept. One may wonder, then, why an accessibility constraint was not reflected in the original demarcation of the field of viable views.

Peter's adoption of an accessibility constraint is a strategy familiar from the public reason approach to justifying the claims of coercive political authority (Quong 2022). The shortcomings of this approach have been aired (Enoch 2015). In my view, it is not so much wrong as incomplete. What sort of access must be possible, and over what range of scenarios, in order for facts to count

as accessible? And why is accessibility needed—for what, exactly? In other words, we need to hear more about why accessibility is possible and necessary.

Peter is admirably forthcoming about why accessibility is needed (pp. 56–60). She claims that political legitimacy is the sort of normative property that has a settling function. This implies, she thinks, that the normative property must be available for us to use. Thus she invites us to distinguish between the existence and the availability of a normative property. The idea seems to be that factualism has to be ruled out because it would turn legitimacy into the sort of normative property that exists but does not function properly. But then in what sense could we say that the property exists if it takes a form that renders it non-functional in precisely those ways that are essential to its being a normative property?

Alternatively, maybe Peter thinks that legitimacy *is* what legitimacy *does*; that is, this function of settling things is so much a part of the concept as to be almost analytic. But in so far as the argument is analytic, the tables could be turned. As she acknowledges, someone might say that unless political legitimacy has its grounds in the relevant facts, it cannot fulfil its function. Viewed from both sides of the stand-off, the question of what qualifies as eligible or ineligible grounds of political legitimacy would depend on what we think the property of legitimacy should *do*—and specifically, how exactly the settling function should work. So these questions—what the property is and what the property does—must go together, though they sit on different levels.

The defender of political factualism may also challenge the assumptions made about the possibility of accessibility. What is the sense in which it must be possible to access facts? Here Peter gives us less to go on. If we were to consider a historical example, it might be argued that the facts about whether Iraq in 2003 had weapons of mass destruction were relevant for the legitimacy of the US decision to invade. And we might think that it was virtually impossible, even with all the intelligence resources of all concerned parties, to determine definitively that these weapons did not exist. Still, these facts are not fundamentally unknowable, and so they are accessible in some sense. A similar point would seem to hold for normative facts, which are of special concern for Peter.

Actually, the relevance of facts need not be impugned by their unknowability. Psychological facts, such as ones about when an enemy leader would be willing to use chemical weapons, may be inaccessible even to the leader himself. Moreover, some things are unknowable because they lie in the open future. It would seem that every basis for a political decision is bound to contain a certain element of inaccessibility. The real problem is that whatever we take inaccessibility to mean, it will be—in terms of the settling function of the normative property, which is Peter's set-up—indistinguishable from the uncertainty that besets all political deliberation. Sometimes we 'need' to settle on a decision, but the facts we 'need' in order to decide aren't available. When it turns out that what is needed is not possible, then the meaning of the word 'need' comes under pressure. A shortage of facts is not the fault of

a theory that claims political legitimacy should be based on facts. Its defenders could well say that uncertainty itself is a fact, with its own role to play in deliberation. So Peter's defence of an accessibility requirement doesn't seem to take anything away from the intuitiveness of political factualism. Indeed, it might seem that the necessity and possibility of accessing facts has been construed in such a way as to stack the deck against political factualism.

Concerns about stacking the deck also arise when we look closer at Peter's criticism of will-based views. Her thought is that the political will cannot be a valid source of authority if it deviates from certain standards of correctness or justification. But this requirement of non-arbitrariness ultimately rests on equating an undisciplined will with an invalid will. It imagines a dichotomy between instances of willing that meet some external standard and instances of willing that are based on nothing but pure caprice. The former are valid, supposedly, whereas the latter are not, because nothing can be said for them in the space of reasons. But a true voluntarist about legitimacy could not be blamed for thinking that this begs the question. After all, voluntarism just is the idea that decisions can be justified, at least partly, by their being consensual. Again, Peter's critique serves less to refute the position than to clear the way for her own view, one that grounds political legitimacy in 'the reasons that justify political decisions or the way in which they are made' (p. 12).

A similar ground-clearing for her preferred view happens in the discussion of belief-based views. These views come up short just when, and in so far as, they fail to deliver 'cognitive political authority', which is 'a kind of epistemic advantage that gives rise to a permission to make binding political decisions' (pp. 65–6). It takes a lot, according to Peter, for cognitive political authority to have been established: there must be a suitably robust and unified body of evidence, some public way of identifying the experts, and sufficient competence among the experts to make their contributions to deliberation uniquely valid (pp. 83–9, 177–9). The fact that cognitive political authority is absent in most situations is the chief problem for belief-based views, thereby necessitating a hybrid view of just the kind that she develops.

Throughout the first half of the book, then, Peter considers what kinds of entities can serve, and how well they can serve, as the grounds of political legitimacy. Each kind of grounding is found wanting in different ways, and on different dimensions, thereby demonstrating that a satisfactory theory of legitimacy must be made to work on multiple levels. The pay-off of this approach is not, as we might have expected, the streamlining of conceptual space after having executed a strategy of divide and conquer, where the goal is to master the whole terrain by eliminating some segments and consolidating others. The pay-off is rather that it can now be seen that none of the segments necessarily fails *on its own terms* to provide grounds for legitimacy. And this result entails, in turn, that the task of devising an adequate theory requires thinking on multiple levels at once. In other words, Peter's method succeeds not because it reveals new simplicity, but because it reveals new complexity.

This pay-off has one upshot that is crucial but easy to miss. In adjacent areas like feminism, environmental ethics, social epistemology and free speech, the discussion sometimes appeals to structures or systems that are said to lack legitimacy or legitimate authority. These claims are meant to do important work—causal, explanatory and normative—but without making any mention of what grounds these legitimacy claims have. For example, what theory of legitimacy would make it the case that offensive speech should (or should not) be penalized, that carbon emissions should (or should not) be capped, that religious exemptions should (or should not) be permitted? Sometimes the reliance on a notion of legitimacy functions as a pointer, directing the audience's attention to some background morality that has been articulated and agreed elsewhere. At other times, the author's argument rests on latent assumptions about legitimacy's grounds. Peter's book helps us see why such assumptions remain unnoticed and unarticulated. By its nature, political legitimacy operates on multiple levels at once.

2. The epistemic accountability conception of political legitimacy

Peter begins her positive proposal with a simple idea: 'Epistemic considerations matter for political legitimacy' (p. 143). And she excels at digesting and deploying the best thinking in political epistemology over the last decade, especially on the link between misinformation and mistrust of experts. A question that remains, though, is how the epistemic considerations that Peter has in mind are supposed to receive their due. Since the epistemic factors are not going to be categorically decisive as the sole basis of legitimacy, on her view, they must play a limited, conditional role. They will need to be well-placed—both in the sense of *keeping* them in their lane and in the sense of *finding* them a lane in the first place—within the larger framework that she calls the epistemic accountability conception of political legitimacy.

Peter's proposal operates with a trio of epistemic concepts: justification, validity and norms. These converge in an ideal: 'Political deliberation that responds adequately to all valid contributions is legitimacy-conferring because it facilitates the justification of political decisions'. According to Peter, 'A valid contribution is one that has the potential to add to the justification of a particular political decision, or to undermine an existing justification' (p. 136). It is not clear, however, whether the deliberative norms are to be derived from validity criteria or vice versa. At one point she says, 'I interpret valid contributions to political deliberation as those that satisfy appropriate norms of political deliberation' (p. 136). Later, however, she deems a certain norm to be inappropriate because it would eliminate 'too many potentially valid contributions', appearing to utilize an independent idea of what is valid (p. 156).

This interlocking of definitions is understandable. There is, after all, a single justificatory ideal: 'Political deliberation that satisfies appropriate norms is

well-ordered. Well-ordered deliberation is pushed forward by and adequately responds to all valid contributions' (p. 136). Assuming the ideal is not too idealistic, however, it must balance what is desirable with what is feasible. But we hear too little about the principled balancing test used to rule out an epistemic norm as being too demanding. For example, to require a certain level of responsiveness to new evidence or testimony arising during a deliberation—one of Peter's proposals (pp. 176–7)—would not necessarily improve justification. This is true not only because less is more when it comes to certain kinds of evidence and testimony, but also because of the interaction between actors in a competitive context that rewards strategic communication. The responsiveness norm, in other words, can be manipulated. Peter admits that politics makes it difficult to 'separate out what one should believe about a particular policy issue' from 'what one should believe about different contributors' abilities to assess the issue' (p. 160). Why doesn't this call into question the appropriateness, once all has been balanced, of a norm demanding responsiveness?

A similar question arises for inputs. Establishing the epistemic credentials of the inputs through the imposition of norms need not contribute to establishing the epistemic credentials of a decision. There simply may not be regularities in the input–output relation that are lawlike enough to yoke together the illegitimacy of the result with the failure of some inputs to satisfy a norm. Sometimes Peter's logic seems to be 'clean in, clean out', as if applying epistemic norms to the inputs resembles a practice of good hygiene aimed at reducing the risk of contaminants in the food we eat. But some hygienic practices are not beneficial enough to bear the corresponding costs, especially when food is scarce. Moreover, not every health problem has a medical solution. Instead it might call for friendship, coaching or education—the political equivalents being solidarity, advocacy and institutional reform.

Still, Peter is insistent that the application of epistemic norms will improve the justification of political decisions, just as the application of practical norms does. This brings us to the most important claim of the book. As Peter sees it, there is more than one source of valid political claims that bear on legitimacy. It is this plurality of valid sources, in fact, that prompts her to develop a hybrid view. Recall that in the clear cases of cognitive political authority, legitimacy is to be sourced in beliefs. In the cloudier cases, the ones exhibiting underdetermination, legitimacy is to be sourced in the will (that is, the democratic will), provided that the deliberation upholds certain norms. She constructs, accordingly, a notion of 'epistemic accountability' broad enough to cover both the clear and the cloudy cases. Her hybrid view raises a series of questions.

First, it is striking that the will-based grounding ends up dominating in practice because 'robust expertise is not usually available' (p. 7). But why does underdetermination open the door so wide to the political will's conferring legitimacy directly? As far as I can see, the answer is that political will can step into the breach just when, and because, it satisfies the new epistemic norms that she has laid out. But if the heightened standards are sufficient in

cloudy cases to allay the worry about arbitrariness, why are they not also sufficient in the clear ones? At the very least, since there would now be two valid sources, wouldn't that mean that the claims sourced in the will are 'on a par with' the claims that are sourced in beliefs? Peter's position is that will-based claims are *always* subordinate, which is reflected in a duty of political deference (p. 172). She says, 'If the epistemic circumstances allow for decisive epistemic authority with regard to a particular decision, then the epistemic norms of political deliberation imply that conflicting political claims are not valid and deference is required' (p. 180). But this strategy of relying on norms to deem conflicting claims invalid, as opposed to outweighed, would seem to return us to the earlier concern about whether the standard of validity determines what norms are appropriate or vice versa.

At a deeper level we might ask how a hybrid view can allow categorical priority at all. She says, when the 'circumstances are sufficiently favourable, our epistemic accountability implies that cognitive political authority trumps the political will as a ground of political legitimacy' because 'epistemic accountability is a state of being answerable for our actions—to ourselves and to others—that depends on our epistemic circumstances' (p. 8). In other words, epistemic accountability has been defined so that, in certain circumstances, the cognitivist element trumps any claims arising from the voluntarist element (p. 108). Those circumstances, however, turn out to be just those cases where the kind of thing with trumping status is present to do the trumping—a category that exists, arguably, by stipulation. Do we have independent reason to consider the clear cases, where cognitivism is supposed to rule, separately from the cloudy ones, where voluntarism is supposed to rule? If not, there would seem to be nothing wrong with concluding instead that, when we look at the whole universe of possible political decision-making, the different kinds of valid claims are bound to interact differently case by case.

A final query probes the assumption of plurality itself. The puzzle here is not about how to prioritize one element without crowding out the other. Rather, it's about what explains the plurality to begin with. Peter thinks that voluntarism cannot be the sole source because of arbitrariness, and cognitivism cannot be the sole source because of underdetermination. However persuasive this may be, the plurality remains unexplained. What is it about political legitimacy, we might ask Peter, that makes it the case that valid political claims have *two different kinds* of sources? This claim is hard to defend. It's hard to even know the *level* on which it should be defended. However, shouldn't an investigation of political legitimacy that aims to show us its 'grounds' offer us an answer to this? What is the point of investigating the 'grounds' unless you reach the very bottom?

One strategy for addressing this would be to point to the versatile nature of justification itself, admitting, as it does, of many kinds and many levels. Indeed one aim of the book, she says, 'is to explain what sort of justification is at the heart of political legitimacy' (p. 13), since 'the property of political

legitimacy is a property of justification of sorts' (p. 12). This would be one way to support the claim that a hybrid structure is necessitated by the plurality of valid sources. What would bring coherence to the two parts, then, is a concern for justification. But then her favouring of this hybrid view would seem to rest on a prior commitment to a justificationist approach. Peter often contends that factors undisciplined by epistemic standards—such as the mere absence of actual consent, apart from whether its absence is justified—should not make a difference when it comes to the justification of political decisions. It is hard to know, however, whether this contention is a premiss or a conclusion (p. 53). Perhaps the whole book rests on the supposed superiority or inescapability of a justificationist approach.

Be that as it may, Peter is right to be realistic about political justification. Her ideal of well-ordered political deliberation reflects a realistic utopia, as Rawls would call it. As such, it faces an old dilemma. If the pressure to be realistic comes from the concepts themselves, then the degree of realism adopted would seem to be self-ratifying. But if the pressure to be realistic derives from the circumstances, then the concept's applicability will be limited to a certain historical time and place. This conundrum arises with many practical concepts, but it's especially perplexing when it comes to political legitimacy, where context is crucial (Cozzaglio 2025). This is one reason why the concept of 'justification' rarely works as an arbiter between the rival views of legitimacy.

Nevertheless, Peter's realism about the epistemic circumstances of politics leads her to devise a genuinely new account of democratic legitimacy (pp. 204–6). On her view, the legitimating force of democratic deliberation comes not from its upholding equal participation or delivering good outcomes, but from its affording the sort of justification that can encompass both of these aims. For this reason, the view elegantly brings to life the political cognitivism sketched all too briefly by Susan Hurley (Hurley 1989, p. 326).

The big picture here is that Peter, like many of us, feels the force of the two competing standards of legitimacy, cognitivism and voluntarism. Shall we judge a political system to be legitimate because its rule is knowledgeable or because it is consensual? These competing grounds have been with us since Plato pulled them apart in the *Statesman* and brought them together in the *Laws* (Laks 2022; Lane 2023). When it comes to legitimate political decisions, are we looking for solid ground or common ground? It seems that, as soon as we arrive at a compelling argument for the importance of either of these, cognitivism or voluntarism, that argument itself threatens to swallow up the whole field, leaving little room for the other standard to matter (Greene 2026). Peter deserves praise for her drive to harmonize the two standards in such a way that one can yield to the other some of the time, but not all of the time. And she deserves credit for achieving this amid the rapid reconfiguration of the relationship between expertise and power in the twenty-first century. As a result, she does far more justice to our latest political perplexities than others do—and that is, in itself, a notable contribution to our thinking on political legitimacy.

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