

Democracy – Justice: How are they related?

Written by Hakan Erten

Abstract

How are democracy and justice related? Comparing the democracy model introduced by the Democracy Barometer¹ project with a simple justice model derived from the justice principles of John Rawls' Justice as Fairness², I conclude that democracy is neither a sufficient nor a necessary condition for justice. However, I conclude further, that democracy becomes a sufficient condition for justice, if the two functions Equality of Civil Rights and Duties and Fair Equality of Opportunity as well as the principle Conditional Inequality of the justice model derived, either arise by themselves in time through the democratic process or are integrated into the laws and efficiently enforced. Based on the latter conclusion, I argue that a modern stable democracy entails justice in proportion to its quality, or in other words, that democracy and justice are in a direct linear relationship with one another for such democracies.

Keywords

democracy, justice, democracy and justice, justice as fairness, democracy barometer, justice model, democracy – justice model

I. Introduction

My aim in this short paper is to explain the relationship between two of the most fundamental terms of social sciences, democracy and justice, by comparing two specific hierarchical models, one for each, with one another and by drawing conclusions from that comparison. My simple analysis owes much to the work of Prof. Dr. Wolfgang Merkel³, who has (together with Mirko Krück) shown already in 2003 a positive empirical correlation between democracy and social justice, as had been suggested by many before him, in his work *Soziale Gerechtigkeit und Demokratie: Auf der Suche nach dem Zusammenhang* based on Freedom House indices and indicators as derived from the difference principle of John Rawls' Justice as Fairness (somewhat altered by the thoughts of Amartya Sen). By using slightly extended models for democracy and justice, I try to explain the nature of the relationship at a very basic, theoretical level.

II. Democracy and the Democracy Model

As defined by Dr. Laura Valentini in her paper titled *Justice and Democracy*, democracy in broad terms means “a set of collective decision-making processes in which those who belong to a particular group (society in the case at hand) have an equal say in determining the rules that should govern them.” Throughout this paper, I shall use the term democracy in a narrow sense to mean the governing principle of a sovereign republic where free and

¹ Democracy Barometer By: Merkel, Wolfgang and Bochsler, Daniel (project leaders); Bousbah, Karima; Bühlmann, Marc; Giebler, Heiko; Hänni, Miriam; Heyne, Lea; Müller, Lisa; Ruth, Saskia; Wessels, Bernhard (2016). Democracy Barometer. Version 5. Aarau: Zentrum für Demokratie.
<http://www.democracybarometer.org/>

² Published in 1971 by John Rawls in "A Theory of Justice", Harvard University Press.

³ <https://www.wzb.eu/en/persons/wolfgang-merkel>

equal citizens of mature age collectively decide on matters that concern the government of that republic. I thereby make a distinction between the ancient Greek democratic regime where the majority ruled without constraints and the regime of a modern democratic republic where majoritarian elections determine who will hold political office but the power of everyone including any ruler(s), the majority as well as the state are constrained by the rule of law. Based on this definition, the quality of democracy is characterised by following three principles:

1. Freedom
2. Political Equality
3. Constrained Authority

The purpose of a modern democracy is to find the optimal balance between these principles, which entail all components of societal life that must be considered to arrive at a high quality system of government. I believe the model introduced by the Democracy Barometer project, developed to measure the quality of democracy of a country, describes the components of these principles as well as the balance between them best. In addition, since the Democracy Barometer reliably measures the components of the model, it is well suited for the purpose of a comparison between democracy and justice, in the sense that theoretical conclusions can be verified by quantitative results.

For the sake of simplicity, I will operate with only the two top levels (the three principles listed above and their corresponding functions) of the component model in this paper; however, the full model including the components, sub-components and the measurable indicators of each of the functions mentioned here can be found at <http://www.democracybarometer.org>. I would like to draw attention to the facts that:

- (i) I use the term “Political Equality” to mean the same thing as the simpler term “Equality” as used by Democracy Barometer, in order to distinguish between equality for democracy and equality for justice;
- (ii) I use the term “Constrained Authority” to mean the same thing as the simpler term “Control” as used by Democracy Barometer, in order to stress the role of the Executive; and
- (iii) I use “Control” and “Equality” in a reversed order than is used by Democracy Barometer in order to better present the comparison with justice.

With these changes (which do not affect any of the democracy values), the functions of democracy can be written as follows:

D1. Freedom

D1.1. Individual Liberties: Right to physical integrity and free conduct of life

D1.2. Rule of Law: Equality before the law and quality of the legal system

D1.3. Public Sphere: Freedom to associate and freedom of opinion

D2. Political Equality

D2.1. Transparency: Lack of secrecy and provisions for transparent political process

D2.2. Participation: Equality of and effective participation

D2.3. Representation: Substantive and descriptive representation

D3. Constrained Authority

D3.1. Competition: Vulnerability and contestability

D3.2. Mutual Constraints: Horizontal and vertical checks of power

D3.3. Governmental Capability: Resources and conditions for efficient implementation

III. Justice and the Justice Model

As it is difficult to find a generally accepted definition of justice, I make following assumptions:

- a) In analogy to and to be able to compare with above definition of democracy, I consider the term justice as it applies to the government of a modern democratic republic only and disregard its meanings as it may apply to religious thought in the sense of divine justice, to individuals in the sense of just behaviour or to other societies or organisations, including international organisations.
- b) I adopt the Aristotelian notion that, without loss of meaning or generality, justice can be considered to consist of:
 - (i) distributive justice and
 - (ii) corrective justice, whereby corrective justice itself can be subdivided into:
 - (ii.i) substantive justice (meaning fairness of punishment, regarding retribution and restoration) and
 - (ii.ii) procedural justice (meaning application of the law according to equality and impartiality).
- c) I define distributive justice, in partial agreement with the definition of Dr. Laura Valentini as presented in her paper titled *Justice and Democracy*, to mean a set of principles whose function is to distribute entitlements to valuable resources of society – including liberties, opportunities, income and wealth – as well as the societal burden – including civil duties – among the citizens of a country.
- d) In considering different theories of distributive justice for the purpose of the current analysis, I submit that social contract theories are better suited than conservatist, Marxist or utilitarian theories and that among social contract theories John Rawls' Justice as Fairness is better suited than Nozick's Entitlement Theory or Steiner-Vallentyne's Left Libertarianism or Dworkin's Equality of Resources Theory. My arguments for the choice of Justice as Fairness as the model for justice is based on the facts that:
 - (i) it is libertarian and egalitarian,
 - (ii) yet applicable at a theoretical level without having to take into consideration specifics of any country or economical regime,
 - (iii) while at the same time it enables the derivation of practical components that can be calculated based on measurable indicators.

The two principles of justice according to John Rawls' Justice as Fairness are as follows:

1st Principle: Each person has the same inalienable claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme of liberties for all;

2nd Principle: Social and economic inequalities are to satisfy two conditions:

- A. They are to be attached to offices and positions open to all under conditions of fair equality of opportunity;
- B. They are to be to the greatest benefit of the least-advantaged members of society (the difference principle).

The first principle accords the familiar basic human rights and liberties to all citizens equally. These include:

- (i) the right to physical integrity and free conduct of life;
- (ii) the freedom to associate and the freedom of opinion;
- (iii) the right to be treated equally before the law; and
- (iv) basic political rights.

The second principle specifies that:

- (i) except for the two circumstances listed below, rights and duties in society should be distributed equally;
- (ii) the first exception being that inequalities should be allowed in the case of opportunities, which should be offered under conditions of fair equality; and
- (iii) the second exception being that inequalities should be allowed, if such inequalities benefit the least-advantaged members of society the most.

Therefore, justice can be said to be characterised by following three principles:

1. Freedom
2. Equality as the Norm
3. Conditional Inequality

Considering the above, we recognise that item (i) of the first principle specifies the D1.1. Individual Liberties function of Democracy Barometer and that item (ii) of the first principle specifies the D1.3. Public Sphere function of Democracy Barometer. Furthermore, remembering that there is a second principle component of justice in addition to distributive justice, namely corrective justice, we recognise that, the procedural justice component of corrective justice, together with item (iii) of the first principle specifies the D1.2. Rule of Law function of Democracy Barometer. I further postulate at this point that quality of the legal system implies fairness regarding retribution and restoration of punishment and that therefore the substantive justice component of corrective justice is implicitly included in the D1.2. Rule of Law function of Democracy Barometer as well. Finally, we recognise that item (iv) of the first principle specifies the D2. Political Equality principle of Democracy Barometer as a function of justice.

I submit at this point that a clear distinction must be made between civil rights, duties and opportunities as well as between equality, inequality and discrimination. As civil rights I refer to those rights, which are afforded by the government of a country (either directly or as guarantor) to all citizens, as citizens, simultaneously (e.g. right to marry, to own a gun, to social insurance, to rest from work, to a clean environment, ...). These are categorically different from basic liberties (like the universal human right to physical integrity, to property, ...) in that they can change in scope and degree from country to country. Civil rights are complemented by civil duties (e.g. the duty to pay taxes). On the other hand, those rights, that cannot be afforded to all citizens at the same time (because there aren't sufficient positions or resources), I refer to as opportunities (e.g. the right to serve at a government or private sector position, to sell certain goods or services to the government, to attend certain schools or courses, to have treatment at a certain hospital, ...). Equality means treatment or consideration of a person same as her/his equals, i.e. not arbitrarily (e.g. maternity leave is not inequality). Discrimination is treatment or consideration of a person based on a group, class, or category to which that person belongs, rather than on individual merit. I refer to conditional positive discrimination as conditional inequality.

With these explanations we recognise that item (i) of the second principle specifies equality of civil rights and duties, while item (ii) of the second principle specifies fair equality of opportunity. In order to avoid misunderstandings, I mean the following when I refer to fair equality of opportunity: As a prerequisite, I assume that there is a minimal level of stability (e.g. no war) in the country and that citizens enjoy a minimal standard of living (e.g. availability of shelter, basic hygiene, electricity, ...), such that citizens can make a basic plan for their future. Formal equality of opportunity means that opportunities are open to all and laws prohibit discrimination in basic characteristics (sex, sexual orientation, race/colour/ethnicity, religion, disability and age). Meritocratic equality of opportunity means, that in addition, opportunities are made available through non-discriminatory and non-arbitrary procedures (e.g. through impartial testing). Fair equality of opportunity means, that in addition, measures are provided to level the field of competition as regards economic means and class (e.g. free courses for the financially disadvantaged).

Finally, the difference principle of Rawls' Justice as Fairness, which makes up the redistribution part of the theory, specifies what is referred to as social justice or as social inclusion or as positive discrimination. For this third principle of justice, namely Conditional Inequality, I use the model of the European Union, the Social Inclusion Monitor Europe⁴ by Daniel Schraad-Tischler (based in part on the work of Prof. Dr. Wolfgang Merkel) published by the Bertelsmann Stiftung. In contrast to all other functions of the model, the functions of the Conditional Inequality principle have different weights, as stated below.

With these explanations, my justice model is as follows:

- J1. Freedom (= D1.)
 - J1.1. Individual Liberties (= D1.1.)
 - J1.2. Rule of Law (= D1.2.)
 - J1.3. Public Sphere (= D1.3.)
- J2. Equality as the Norm
 - J2.1. Political Equality (= D2.)
 - J2.2. Equality of Civil Rights and Duties
 - J2.3. Fair Equality of Opportunity
- J3. Conditional Inequality
 - J3.1. Poverty Prevention (weight 3x)
 - J3.2. Labor Market Access (weight 2x)
 - J3.3. Equitable Education (weight 2x)
 - J3.4. Health (weight 1x)
 - J3.5. Social Cohesion (weight 1x)
 - J3.6. Intergenerational Justice (weight 1x)

For brevity, components, sub-components and the measurable indicators of above functions are not included in this paper. For the functions J2.2. and J2.3. these can be found at <http://www.democracy-justice.com> and for J3.1. to J3.6. they can be found at <http://www.social-inclusion-monitor.eu>. In order to arrive at a meaningful result regarding numerical values of democracy and justice, two conditions must be true regarding the lowest level indicators:

⁴ <http://www.social-inclusion-monitor.eu/>

- a) No indicator should be used to measure more than one component of democracy or justice.
- b) All indicators used to measure the components of democracy or justice should be independent of all the others.

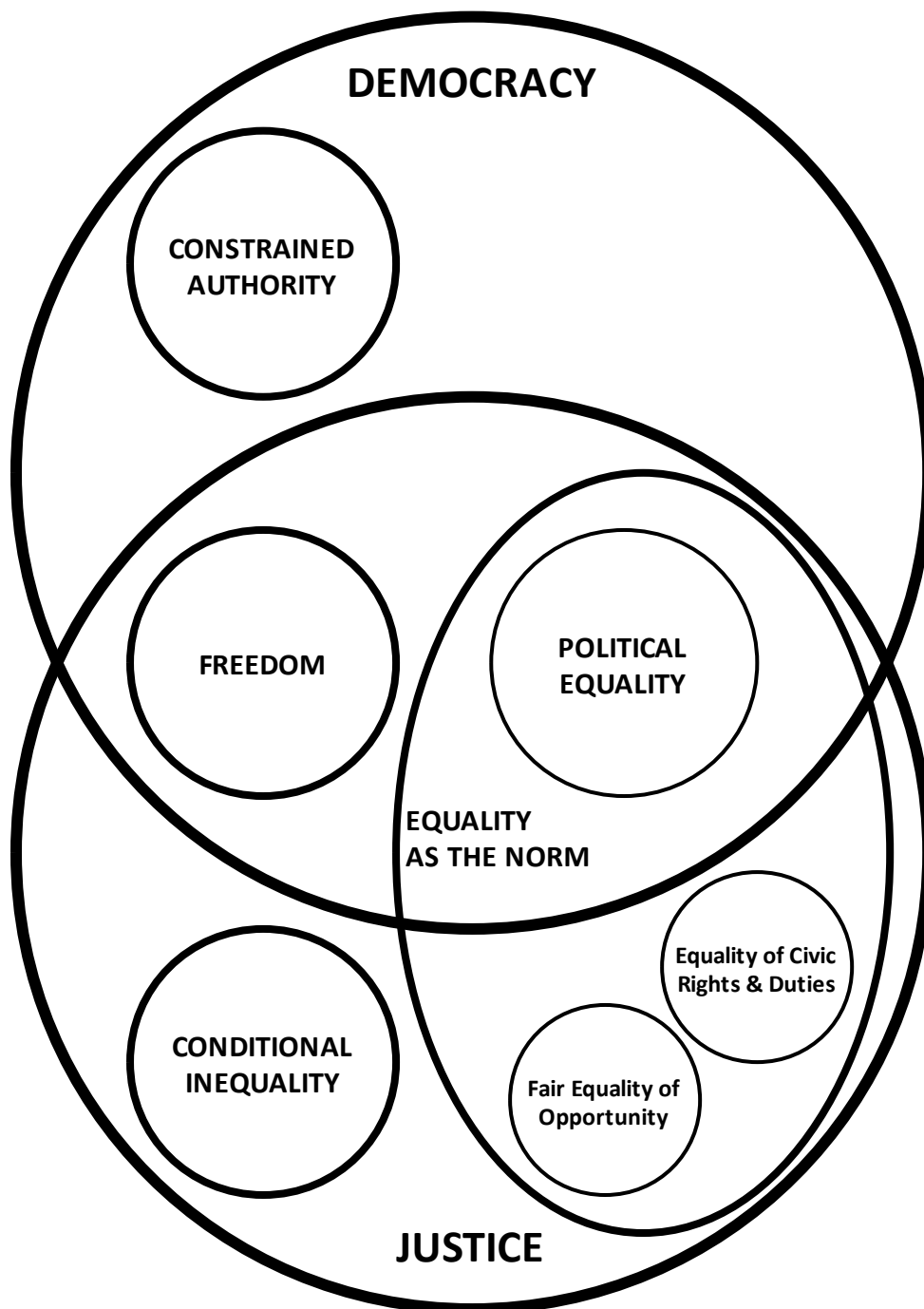
IV. Democracy – Justice Model and Theoretical Discussion

Comparing above models for democracy and justice I arrive at following statements, in theory:

1. Freedom, defined with the exact same functions and components, is a common principle of both democracy and justice.
2. Political Equality, which is the second principle of democracy, is a function of justice under the principle Equality as the Norm. Thus, equality entails more under justice than under democracy.
3. Political Equality aside, the two remaining functions of Equality as the Norm principle of justice, namely Equality of Civil Rights and Duties and Fair Equality of Opportunity are not necessarily required for democracy. This is easy to understand: People can participate in the democratic process equally even if they pay taxes at unfairly unequal levels or if some governor appoints his brother to a position that should be open to all. However, if a democracy does not correct these and does not lead to Equality of Civil Rights and Duties and Fair Equality of Opportunity, then, injustice results. In a high quality democracy, we expect a just outcome regarding the Equality as the Norm principle and in most modern Western democracies this is guaranteed by laws.
4. Something similar can be said about the third principle of justice, namely Conditional Inequality: Its presence is not a necessary condition for democracy; however, if it does not result from democratic processes, we can say there is injustice, at least according to my basic premise, that Justice as Fairness is the norm to measure justice. According to this model, the main difference between the two mainstream political ideologies is this: While social democrats (or social liberals for that matter) want to see the Conditional Inequality principle of justice considered in legislation, liberals expect democracy to produce it automatically.
5. On the other hand, the Constrained Authority principle of democracy is not necessary for justice. In other words, from the perspective of justice, it does not matter, if there is fair competition between parties, if there are sufficient checks and balances or if the government is efficient or not. This is not surprising as justice can arise even without any political parties or even a government, as it did in ancient Greece or it does in societies where the people are mature enough to accept to rule for a while and then be ruled for a while in an Aristotelian way. That on the other hand means, that justice can be observed in societies that are not fully democratic, so long as people are free and equal. If the governing system is a democracy in the modern Western sense however, it cannot survive for long without competition, checks and balances and an efficient government, which is why Constrained Authority is required, to guarantee the stability.

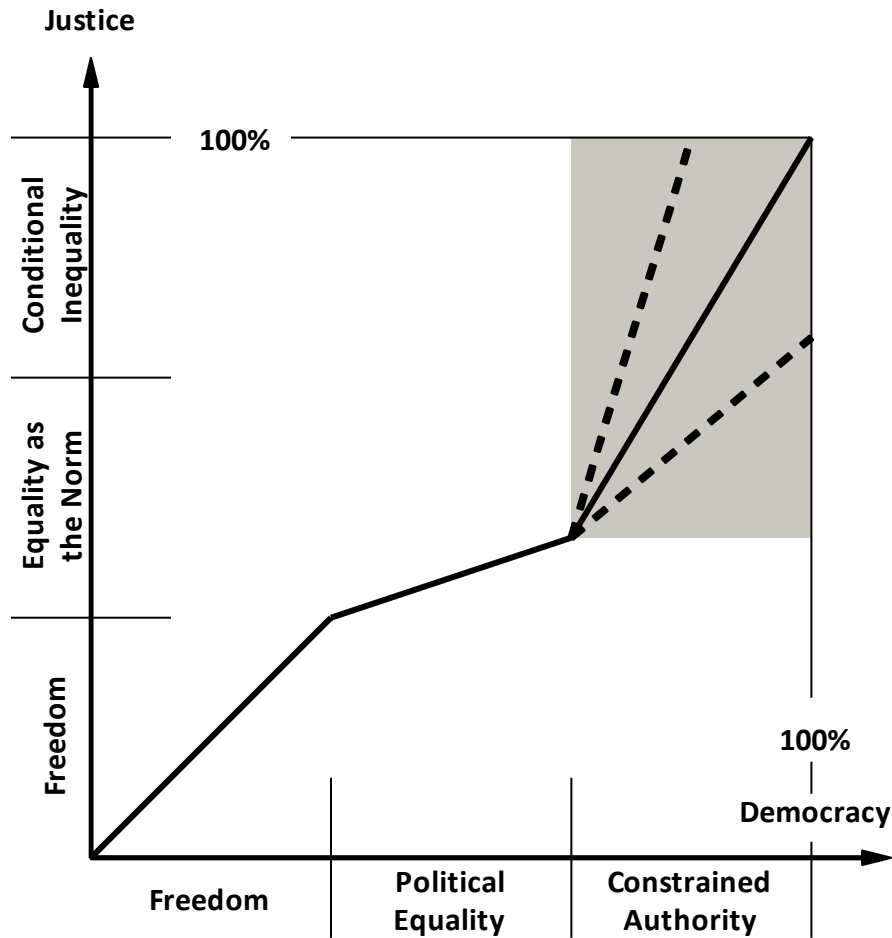
Below graphic depicts above statements in a simple venn diagram.

Graphic 1: Common / not-common principles / functions of democracy and justice



I conclude from the above that democracy is neither sufficient nor necessary for justice. However, democracy is a way of creating a just society due to the common components of democracy and justice and it becomes sufficient for justice if the functions Equality of Civil Rights and Duties and Fair Equality of Opportunity as well as the principle Conditional Inequality (or social justice) either arise through the democratic process or are integrated into the laws and efficiently enforced (as in Scandinavian countries). Then, and only then, does democracy encompass justice and a perfect democracy will lead to a perfectly just society. Furthermore, because Constrained Authority affects the stability of democracy in time, a long lasting democracy with high quality entails the same components as a highly just society and we can expect a linear relationship between democracy and justice.

Graphic 2: Perfect democracy versus perfect justice



V. Numerical Comparison

I present below a very limited numerical application of the Democracy – Justice Model. The choice of countries selected for calculation is explained below:

- a) Turkey as an example of a flawed parliamentary democracy;
- b) France as an example of a flawed semi-presidential democracy;
- c) United States as an example of a presidential democracy;
- d) Switzerland as an example of direct democracy;
- e) Scandinavian countries (averaged over the values of Norway, Sweden, Finland and Denmark) as an example of the Nordic social system.

I calculated the values for the year 2014, as this is the most recent year, for which indicators are reliably available.

The calculation results are first presented in a table for democracy values and in a table for justice values.

The x-y chart that follows shows the relationship found with a trendline.

Table 1: Calculated democracy values⁵ for the year 2014:

	Scand.	Switzerl.	USA	France	Turkey
D1.1. Individual Liberties	92	83	55	25	11
D1.2. Rule of Law	85	70	74	48	37
D1.3. Public Sphere	51	65	55	24	8
D1. Freedom	76	73	61	32	19
D2.1. Transparency	82	61	65	66	30
D2.2. Participation	55	55	43	53	35
D2.3. Representation	67	72	46	61	34
D2. Political Equality	68	62	51	60	33
D3.1. Competition	73	71	30	56	49
D3.2. Mutual Constraints	48	74	71	46	35
D3.3. Governmental Capability	73	80	28	35	31
D3. Constrained Authority	65	75	43	46	38
Democracy	70	70	52	46	30

Table 2: Calculated justice values⁶ for the year 2014⁷:

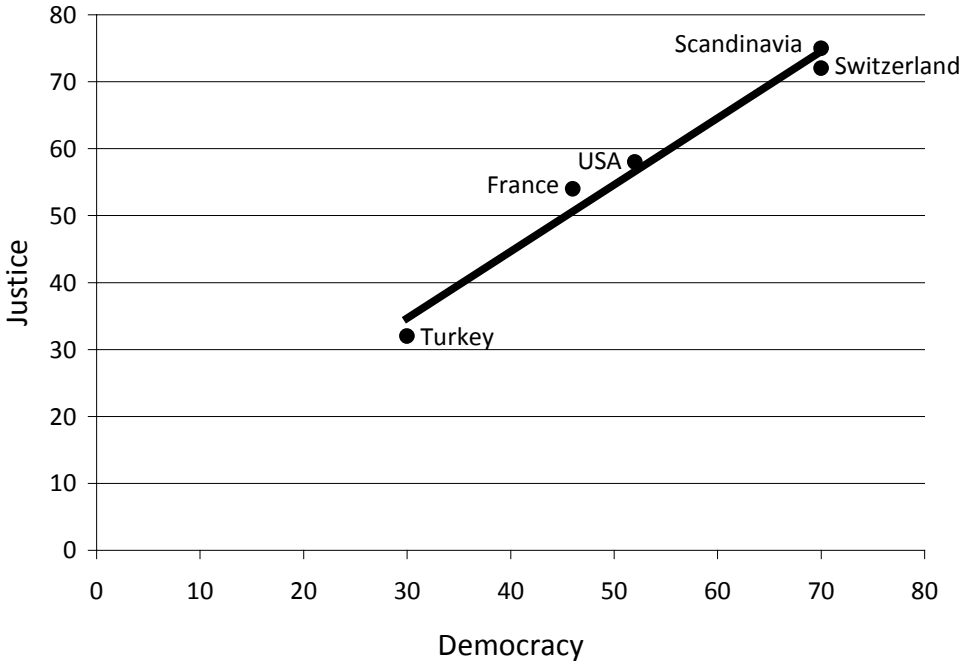
	Scand.	Switzerl.	USA	France	Turkey
J1.1. Individual Liberties	92	83	55	25	11
J1.2. Rule of Law	85	70	74	48	37
J1.3. Public Sphere	51	65	55	24	8
J1. Freedom	76	73	61	32	19
J2.1. Political Equality	68	62	51	60	33
J2.2. Eq. of Civil Rights & Duties	77	78	50	69	37
J2.3. Fair Equality of Opportunity	86	80	72	74	58
J2. Equality as the Norm	77	73	58	68	43
J3.1. Poverty Prevention (3x)	69	66	53	64	20
J3.2. Labor Market Access (2x)	71	72	57	61	31
J3.3. Equitable Education (2x)	72	69	52	54	46
J3.4. Health	74	81	70	73	59
J3.5. Social Cohesion	77	74	52	60	32
J3.6. Intergenerational Justice	74	69	46	56	39
J3. Conditional Inequality	72	70	55	61	34
Justice	75	72	58	54	32

⁵ Source: <http://www.democracybarometer.org>

⁶ Based on the full justice model presented in <http://www.democracy-justice.org>

⁷ With exceptions as explained in <http://www.democracy-justice.org>

Chart 1: Relationship between democracy and justice



As can be seen in Chart 1, there is an almost perfectly linear relationship between the values for democracy and the values for justice, at least for the limited number of countries considered and the year 2014.

VI. Discussion of the Results

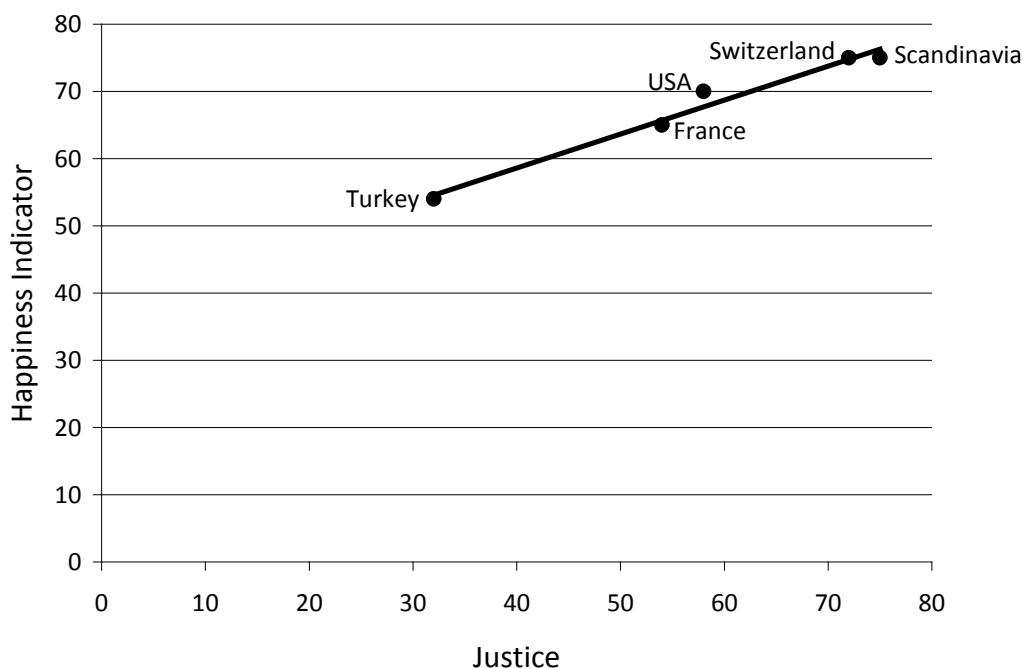
While the calculated relationship is very limited in scope, it does correspond very well with the theoretical prediction and it shows that there is a direct, linear relationship between democracy and justice: The more democracy, the more justice and the more justice, the more democracy.

This result is clearly nothing new; it repeats what has been known for centuries by philosophers and social scientists alike. Nevertheless, I do think that the introduced model can be a useful tool, which I justify as follows:

1. The model presents a simplified, easy to understand view regarding the relationship between democracy and justice, within the framework of my assumptions.
2. The model can be utilised to investigate the deeper relationship between democracy and justice: Even when the underlying components are independent, is there maybe some concept, that influences both democracy and justice at the same time, like impartiality, as suggested by Prof. Dr. Ian Shapiro, or like education, as suggested by John Dewey? Or to answer the contradiction posed by Brian Barry, who suggested that there was nothing inherent in democracy that made it just? The model can serve to answer these and other questions by comparison of components and sub-components of the model; again, at least within the framework of my assumptions.

- I believe that this simple analysis shows that the difference of positions of liberal and social democratic thinkers are exaggerated. If more democracy by itself leads to a system where higher justice is the result, maybe we are concentrating on the wrong things. A linear relationship means, that when one variable increases, so should the other in proportion; however this relationship has a time component and is dynamic; therefore it must be read from the opposite side as well: If the dependent variable encounters resistance and cannot change, neither will the independent variable. In other words, just as Prof. Dr. Ian Shapiro suggests, democracy and justice must be pursued in parallel. The model can be a tool to determine which components of one variable must follow an incremental increase in the components of the other. In that sense, democracy and justice each determine the equilibrium point of the other: The equilibrium between Freedom, Political Equality and Constrained Authority is determined by the quality of justice and the equilibrium between Freedom, Equality as a Norm and Conditional Inequality is determined by the quality of democracy.

In order to verify the justice model against an unrelated variable, I charted the calculated justice values against the happiness values of the corresponding countries as published by the United Nations Sustainable Development Solutions Network. The result, which is shown below, corresponds very well with the statement of Plato, who stated in his book *The Republic* that “just societies are happier”.



VII. Conclusions

In this paper, I have presented a hierarchical model for justice based on Justice as Fairness and compared it with the model for democracy developed by the Democracy Barometer project. I have concluded from that comparison that democracy is neither sufficient nor necessary for justice. I have further concluded, that democracy is a way of creating a just society due to the common components of democracy and justice and that it becomes sufficient for justice if the functions Equality of Civil Rights and Duties and Fair

Equality of Opportunity as well as the principle Conditional Inequality (or social justice) either arise through the democratic process or are integrated into the laws and efficiently enforced. Then, and only then, would democracy encompass justice and a perfect democracy would lead to a perfectly just society.

Furthermore, I have predicted, that because Constrained Authority affects the stability of democracy in time, a long lasting democracy with high quality would entail the same components as a highly just society and that we should expect a linear relationship between democracy and justice. Numerical calculations, albeit encompassing values for a very limited number of countries, nevertheless showed no contradiction between prediction and reality.

References

- Bühlmann, M.; Merkel, W.; Weßels, B.; Giebler, H.; Müller, L. "Demokratiebarometer - ein neues Instrument zur Messung von Demokratiequalität". Zeitschrift für Vergleichende Politikwissenschaft, 2012.
- Merkel, Wolfgang; Krück, Mirko. "Soziale Gerechtigkeit und Demokratie: Auf der Suche nach dem Zusammenhang", Electronic ed., FES Library, 2003.
- Valentini, Laura. "Justice and Democracy". The Queen's College, Oxford, CSSJ Working Papers Series, SJ012, 2010.
- Rawls, John. "A Theory of Justice", Harvard University Press, Revised Edition, 1999.
- Shapiro, Ian. "Democratic Justice". Yale University Press, 1999.
- Dowding, Keith. Goodin, Robert E. Pateman, Carol. "Justice and Democracy: Essays for Brian Barry". Cambridge University Press, 2004.
- Barry, Brian. "Theories of Justice: A Treatise on Social Justice". Vol. 1, University of California, New York, 1991.
- Plato. "Republic" (translated by G.M.A. Grube). Hackett Classics, 1992.
- Roemer, John E. "Equality Of Opportunity". Harvard University Press, 1998.
- Gould, Carol. "Globalizing Democracy and Human Rights". Cambridge University Press, 2004.
- Christiano, Thomas. "The Constitution of Equality". Oxford University Press, 2008.
- Dahl, Robert A. "Procedural Democracy", in Philosophy, Politics and Society, 5th series, Blackwell, 1979, pp. 97-133.