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## **EPISTEMIC DEMOCRACY**

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# CHAPTER I

## INTRODUCTION

Can political decisions we make be right or wrong, or true or false? Are they just the expression of our personal interests, and consequently have no truth value? If they can be true or false, are there people who are better at getting it right or wrong? And if there are, does this imply that those who are better in making correct decisions should have political authority over others? These are some of the key questions I try to answer in this thesis.

Though democracy is highly valued and widely accepted as a collective decision-making procedure with legitimacy-generating potential, there is little clarity regarding the grounds of the value of democracy or its legitimacy-generating potential. The general idea is that the democracy is a good thing and that it should be a part of a just society. This, however, does not enable us to evaluate different democratic systems and procedures, as well as to improve the democratic decision-making process. In order to be able to do that, we need to understand what grounds the democratic legitimacy. This thesis represents an inquiry into the source of legitimacy-generating potential of democratic procedures.

In this thesis I defend the standard account of epistemic democracy, a position that grounds democracy's legitimacy-generating potential both in its moral and in its epistemic qualities. Though the very idea of an epistemic justification of democratic legitimacy might evoke very high expectations regarding its epistemic value, I argue no such thing: democracy does not have to be epistemically the best possible decision-making procedure. All it has to do is to perform better than other procedures that can meet the same moral requirements as democracy can (e.g. procedural fairness). Democracy's epistemic value is nonetheless an important part of its legitimacy-generating potential, and increasing its epistemic value is a good way to generally improve the democratic decision-making process.

Apart from some considerations in the final chapter, I do not offer an account how existing democratic practices can be improved. What I am concerned with are fundamental values that ground the legitimacy-generating potential of democratic procedures. Though this thesis represents a theoretical framework, it does not imply that the ideas presented here cannot be implemented into contemporary politics. This, however, represents a separate task, probably one more appropriate for political scientists than political philosophers.

## 1.1. POLITICAL LEGITIMACY

### 1.1.a. Introduction

This part of the chapter gives a brief clarification of the central concepts in the discussion, as well as an overview of different accounts of political legitimacy. I briefly discuss the difference between political authority and political legitimacy, as well as the difference between the descriptive and the normative account of political legitimacy. I proceed by sketching two basic (monistic) accounts of political legitimacy, and argue that we should adopt the third, non-monistic account (one that combines legitimacy-generating elements from both basic accounts). Finally, I briefly discuss and endorse the liberal criterion of legitimacy as a basic standard against which various decision-making procedures will be evaluated—in order to have legitimacy-generating potential, a decision-making procedure has to meet this standard. Furthermore, all other qualities of a procedure that could be considered as potential sources of legitimacy-generating potential have to be able to meet the liberal criterion of legitimacy.

### 1.1.b. Political Legitimacy

A discussion on political legitimacy lasts for more than 2500 years, and many prominent thinkers and philosophers have contributed with their own theories and accounts to this ongoing debate. However, an important turn in the debate took place several decades ago: John Rawls (1993, see also Peter 2011) shifted the discussion from the legitimacy of *states* and *governments* typical for the 19th and early 20th century (Weber 1964) to the legitimacy of the *decision-making process*. It is also important to emphasize that Rawls started the debate on justice in 1970s with his book *A Theory of Justice*, and he shifted the debate to legitimacy in the 1990s with his book *Political Liberalism*. Political legitimacy is nowadays one of the central topics discussed within political philosophy and political theory, so it is important to make some specifications and define what kind of political legitimacy is this thesis about.

#### (i) *Political Authority and Political Legitimacy*

Authority and legitimacy are connected by nonetheless distinct concepts. Authority is the *moral power* of one agent (e.g. the state) to morally require or forbid actions by others through commands. The state thus lacks authority if its requiring you to pay taxes has no tendency to make you *morally*

required to do so (Estlund 2008). A particular political decision is authoritative if one is morally obliged to follow it.

Legitimacy, on the other hand, is the *moral permissibility* of one agent's (e.g. the state's) issuing and enforcing its commands owing to the *process by which they were produced*. The state acts illegitimately if it puts you in jail for not paying taxes when it is morally wrong for it to do so (Estlund 2008). A particular political decision is legitimate if the one who issued and enforced it had the moral right to do so.

This thesis focuses primarily on political legitimacy since it analyzes different processes of making political decisions and tries to answer which qualities a decision-making process has to have in order to be able to make legitimate decisions.

### *(ii) Descriptive and Normative Concept of Political Legitimacy*

Like many other ideas, political legitimacy can be understood as a descriptive as well as a normative concept. Its descriptive concept focuses on people's beliefs about how the right to rule is exercised, as well as on people's beliefs about the acceptability of a certain political decision. A particular political decision is thus legitimate if people see it as legitimate, and a decision-making procedure has a legitimacy-generating potential if people tend to accept the decisions produced by that procedure as legitimate. As Max Weber (1964) puts it, political regime is legitimate when its participants have certain beliefs or faith in regard to it. Social and political scientists often use and analyze this concept of political legitimacy.

The normative concept focuses on a binding reason (or reasons) to support and not to challenge the coercive power of the state. Political decisions are seen as legitimate regardless of what other people think of them, as long as these decisions have certain legitimacy-generating qualities. When we try to assess whether a particular decision is legitimate, we do not analyze what other people think about it, but instead we analyze its moral and epistemic qualities, as well as the qualities of a decision-making procedure that has produced it.

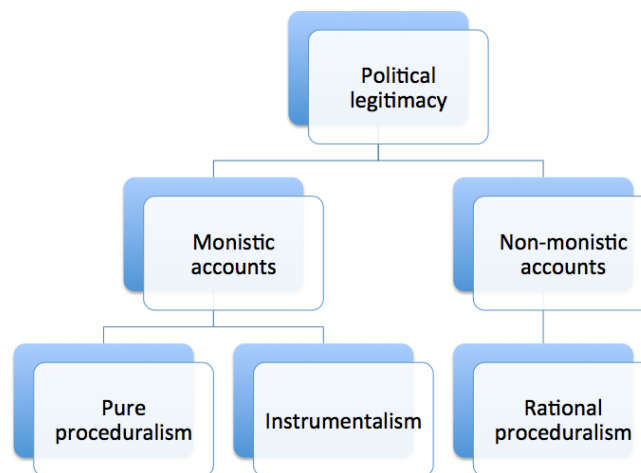
The normative concept is primarily used by political philosophers, and it is the concept I use throughout this thesis. I do not write about the legitimacy of particular states in the real world, but instead on the normative conditions a decision-making procedure has to meet in order to have legitimacy-generating potential.

### 1.1.c. Accounts of Political Legitimacy

According to the definition given earlier, in order to be legitimate a decision has to be a product of a legitimacy-generating procedure. The state can legitimately enact and enforce political decisions owing to the procedure by which these decisions were made. What are these legitimacy-generating qualities that a decision-making procedure needs in order to be able to produce legitimate decisions?

The procedure's legitimacy-generating qualities can generally be divided into two important groups: purely procedural qualities and instrumental qualities. Following these two groups of legitimacy-generating qualities, two basic positions of political legitimacy can be distinguished. These two accounts—pure proceduralism and instrumentalism—can be regarded as basic or *monistic* (Christiano 2004) positions since each appeals to only one group of legitimacy-generating qualities when determining the legitimacy-generating potential of a decision-making procedure.

Diagram 1.1.



#### (i) *Pure Proceduralism*

Pure proceduralism focuses only on purely procedural qualities of a decision-making procedure when determining its legitimacy-generating potential. These purely procedural (sometimes called intrinsic) qualities are defined regardless of the procedure's ability to produce a certain goal or outcome—a decision-making procedure has legitimacy-generating potential because it embodies some important moral (or epistemic) qualities. Procedural fairness (i.e. giving every citizen an equal chance to participate in the decision-making process) can be one such purely procedural quality. A collective decision is thus legitimate if (and only if) it was produced by a fair decision-making procedure. Positions developed by Hannah Arendt (1967), Thomas Christiano (2008), Gerald Gaus

(1996), Fabienne Peter (2011), Iris Marion Young (2000) and Robert Dahl (1989) are some examples of pure proceduralism.

*(ii) Instrumentalism*

Instrumentalism, on the other hand, focuses only on the instrumental qualities of a decision-making procedure when determining its legitimacy-generating potential. These instrumental qualities are defined by the procedure's ability to reach a desired aim or outcome—a decision-making procedure has legitimacy-generating potential because of its ability to generate decisions with some substantial, procedure-independent quality. The ability to produce correct, true or just decisions can be one such instrumental quality. A collective decision is thus legitimate if (and only if) it was produced by a decision-making procedure that has a tendency to produce correct or true decisions. Positions developed by Steven Wall (2007) and Richard Arenson (2003b), but also by Robert Talisse (2009a), Cheryl Misak (2000) and John Stuart Mill (1977a), are some examples of political instrumentalism.

Though these two basic positions use very different argumentation and appeal to completely different qualities when assessing the procedure's legitimacy-generating potential, they still have one thing in common—they both rely only on one group of the procedure's qualities. Pure proceduralists completely disregard the instrumental qualities of a decision-making procedure, while instrumentalist completely disregard the purely procedural (intrinsic) qualities of a decision-making procedure. In this thesis I argue against both monistic positions—I claim that a decision-making procedure has to have both purely procedural and instrumental qualities in order to have legitimacy-generating potential.

*(iii) Non-monistic Accounts of Political Legitimacy*

Having rejected both pure proceduralism and instrumentalism as inadequate accounts of political legitimacy, non-monists try to incorporate both the procedural fairness of the process and the procedure-independent quality of outcomes into a single account of political legitimacy. These accounts are often referred to as rational proceduralist positions in order to differentiate them from pure proceduralist positions<sup>1</sup>. Accounts developed by Kenneth Arrow (1984), John Rawls (1993),

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<sup>1</sup> The distinction between pure and rational proceduralism is similar to Rawls' distinction between pure procedural justice and perfect (and imperfect) procedural justice (Rawls 1971). While pure procedural justice does not make reference to a desirable outcome that is defined procedure-independently, perfect and imperfect procedural justice set a procedure-independent criterion for ideal or correct outcomes. More about this distinction can be found in the fifth chapter of this thesis.

Philip Pettit (1999), John Dewey (1987), Fabienne Peter (2012) and David Estlund (2008) are some examples of non-monistic approach to democratic legitimacy. Following Estlund, in this thesis I develop a non-monistic account that emphasizes both the fairness of the decision-making process and its ability to produce correct decisions.

#### **1.1.d. The Liberal Principle of Legitimacy**

The central principle of political legitimacy that I endorse and against which I evaluate all other qualities of a procedure that could be considered as potential sources of legitimacy-generating potential is the liberal principle of legitimacy.

Our exercise of political power is fully proper only when it is exercised in accordance with a constitution the essentials of which all citizens as free and equal may reasonably be expected to endorse in the light of principles and ideals acceptable to their common human reason. (Rawls 1993: 137)

The moral idea behind this principle is that no one can legitimately be coerced unless sufficient reasons can be given—reasons that do not violate his reasonable moral beliefs. There are two notable interpretations of the liberal principle of legitimacy and the idea of public reason that follows from it: the substantive and the procedural interpretation. The *substantive interpretation* applies the principle to the justification of (all) political decisions: a political decision is legitimate if it could be justified in terms of public reason, i.e. justified in accordance with ideas and principles acceptable to all citizens as free and equal (Quong 2011, Baccharini 2015, Zelić 2014). Not every reasonable citizen must agree with or be able to accept the final decision, but the premises used in the process of justification must be such that all reasonable citizens can endorse them. The *procedural* interpretation, on the other hand, applies the principle to the justification of the constitution that shapes and constrains the process of democratic decision-making (Peter 2011, Larmore 1996, Wenar 2013). Political decisions are legitimate if they are the product of a decision-making procedure that all reasonable citizens as free and equal may reasonably be expected to endorse. Particular political decisions are thus legitimate even if there are some reasonable citizens who cannot be expected to endorse them, as long as they are a product of a decision-making procedure that all reasonable citizens can endorse. In such cases, those who have no *substantial* reason to endorse a particular political decision still have a *procedural* reason to endorse it.

I follow the latter (procedural) interpretation of the liberal principle of legitimacy. However, I do not think that this plays an important role at this point in the debate since those who follow the



substantial interpretation also agree that, in order to have legitimacy-generating potential, the decision-making procedure has to be acceptable to all reasonable citizens. The liberal principle of legitimacy enables us to reject various claims for power: claims like "I can exercise political power over you because I am the King" or "We can exercise political power over you because we believe in the one true God" can easily be rejected as illegitimate since not every reasonable citizen can, in the conditions of reasonable pluralism of moral and religious doctrines, agree with their justification. Since not all reasonable citizens can be expected to endorse a decision-making procedure in which one person has absolute political power and authority, nor can they be expected to endorse a procedure in which only leaders of a particular religion have political power and authority, these (and many similar) decision-making procedures can be rejected from the start. However, many other, more sophisticated decision-making procedures, some of which base their justification in the epistemic qualities of a decision-making procedure (like Mill's scholocracy characterized by the plural voting proposal) can be disqualified on the basis of liberal principle of legitimacy.

## **1.2. PLAN OF THE THESIS**

In this part of the chapter I shall first present three tenets that are typically ascribed to epistemic accounts of political legitimacy and emphasize that various epistemic accounts of political legitimacy can acknowledge a different number of these tenets. According to the number of tenets endorsed, I differentiate between various positions of political legitimacy. In the final part of this chapter I present the plan of the thesis by briefly summarizing each chapter.

### **1.2.a. The Epistemic Account of Political Legitimacy**

The epistemic account of political legitimacy can take all three approaches described in the first part of this chapter. Epistemic pure proceduralism will thus claim that a decision-making procedure has legitimacy-generating potential if it embodies certain intrinsic epistemic virtues and qualities (Peter 2011), epistemic instrumentalism will claim that a decision-making procedure has legitimacy-generating potential if it represents the best means to have political decisions and outcomes that are true, correct or just according to some procedure-independent standard (Talissee 2009a, Misak 2000), and epistemic non-monism (e.g. the standard account of epistemic democracy) will claim that a decision-making procedure has legitimacy-generating potential if it is able to meet both purely procedural (fairness) and instrumental (epistemic quality of outcomes) requirements (Estlund

2008). All these positions, as well as several other non-epistemic accounts of political legitimacy, are discussed in detail in this thesis.

There are three tenets that are usually related to the epistemic account of political legitimacy (Estlund 2008):

Table 1.1.

1	<b>The truth tenet</b>	There are true procedure-independent normative standards for evaluating political decisions. <i>There is truth in politics.</i>
2	<b>The knowledge tenet</b>	Some (few) people know these normative standards better than others. <i>There are experts in politics.</i>
3	<b>The authority tenet</b>	Normative political knowledge of those who know better implies that they should have political authority over others. <i>Experts should rule.</i>

Three tenets presented here are connected and come in a specific order: if we reject one tenet, we are bound to reject every tenet that comes after it (e.g. if we reject the first tenet we are bound to reject the second and the third tenets as well). We cannot endorse the third (authority) tenet if we deny the first (truth) or the second (knowledge) tenet. It is also very important to emphasize that, just as epistemic account of political legitimacy can take a form of pure proceduralism, instrumentalism and rational proceduralism, so can it reject any number of these tenets. Fabienne Peter's (2011) pure epistemic proceduralism, for example, clearly rejects the truth tenet (and therefore all other tenets as well), but it still represents a clear case of the epistemic account of political legitimacy. In this thesis I try to establish an epistemic account of political legitimacy that acknowledged the first (truth) and the second (knowledge) tenet, but rejects the third (authority) tenet.

### 1.2.b. Structure of the Thesis

Democracy has epistemic value, and its legitimacy-generating potential should be established *in part* due to its ability to produce political decisions of satisfying (procedure-independent) quality. This is the central claim of this thesis. In order to properly support this claim, I reject the idea that democracy does not have epistemic value (or that this epistemic value does not establish its legitimacy-generating potential), as well as the idea that democracy's epistemic value is the only source of its legitimacy-generating potential. The former claim is a part of pure proceduralists' (monistic) argumentation, while the latter is a part of instrumentalists' (monistic) argumentation. I reject both monistic positions, arguing that a non-monistic account should be

established: democracy's legitimacy-generating potential is the result of both its moral and epistemic qualities.

When establishing the epistemic account of the procedure's legitimacy-generating potential, we should set our position according to the three tenets discussed earlier. Though it is possible to build an epistemic account of the procedure's legitimacy-generating potential without endorsing any of them, most epistemic accounts at least accept the truth tenet. In order to systematically analyze various positions that introduce procedure's epistemic qualities when constituting its legitimacy-generating potential, I set them against the three tenets and distinguish them (in part) due to the number of tenets they endorse. First, I discuss positions that reject the truth tenet (and consequently the knowledge tenet and the authority tenet as well) (second chapter), and proceed by discussing positions that accept the truth tenet but reject the knowledge tenet (and consequently the authority tenet) (third chapter). I reject these positions, arguing that both the truth tenet and the knowledge tenet should be endorsed. Since more than one account meets this requirement, I analyze and ultimately reject positions that also endorse the authority tenet (fourth chapter). Having concluded that the truth tenet and the knowledge should be granted, but the authority tenet should be rejected, I have considerably narrowed the scope of eligible accounts of political legitimacy. Finally, since there are still a few different decision-making procedures that meet the abovementioned criteria, I have narrowed the selection further by arguing that these positions should be evaluated according to their epistemic qualities, thus rejecting aggregative and establishing deliberative (epistemic) democracy as the procedure with legitimacy-generating potential (fifth chapter).

The table below systemizes the positions discussed in this thesis and sets them according to the number of tenets they endorse. Note the order of chapters in the first column—since it was my intention to first reject a number of positions in order to determine what an appropriate position on political legitimacy should look like (i.e. to narrow the set of eligible positions), I have first rejected positions that do not endorse the truth and the knowledge tenet (claiming that they are not epistemic enough or in the right way), and then I have rejected positions that accept the authority tenet (claiming that they are too epistemic) before discussing positions that reject the authority tenet but endorse the other two (which is an approach I find appropriate).

Table 1.2.

Chapter	Tenets endorsed	Tenets rejected	Positions discussed	Account
2nd	/	Truth Knowledge Authority	Fabienne Peter (2011 and before): <b>Pure Epistemic Proceduralism</b>	Monistic: Pure Proceduralism
			Thomas Christiano: <b>Pure Deliberative Proceduralism</b>	Monistic: Pure Proceduralism
3rd	Truth	Knowledge Authority	Robert Talisse and Cheryl Misak: <b>Pragmatist Deliberative Democracy</b>	Monistic: Instrumentalism
			Fabienne Peter (2012 and after): <b>Second-Personal Epistemic Democracy</b>	Non-monistic: Rational Proceduralism
5th	Truth Knowledge	Authority	David Estlund: <b>The standard Account of Epistemic Democracy</b>	Non-monistic: Rational Proceduralism
			Marquis De Condorcet: <b>Aggregative Epistemic Democracy</b>	Monistic: Instrumentalism
4th	Truth Knowledge Authority	/	Plato: <b>Epistocracy</b>	Monistic: Instrumentalism
			John Stuart Mill: <b>Scholocracy</b>	Monistic: Instrumentalism

### 1.2.c. The Plan of the Thesis

This thesis has three parts: in the first part (second, third and fourth chapter) I discuss which (if any) tenets should be endorsed and which (if any) should be rejected by a collective decision-making procedure with a legitimacy-generating potential. In the second part (fifth chapter) I defend Estlund's (2008) standard account of epistemic democracy and analyze which kind of democracy can have legitimacy-generating potential. In the third part of the thesis (sixth chapter) I consider what the social and economic preconditions for epistemic democracy's legitimacy-generating potential are.

In the *second chapter* I discuss two positions that reject the truth tenet. Fabienne Peter's (2011) Pure Epistemic Proceduralism states that democratic decision-making procedures have legitimacy-generating potential owing to some moral and intrinsic epistemic qualities—the epistemic quality of a procedure is not its ability to produce correct outcomes, but its tendency to enable citizens to critically engage each other in a transparent and non-authoritarian way. I reject this view and claim that instrumental epistemic value is needed in order to evaluate and to be able to improve our epistemic practices. Thomas Christiano's Pure Deliberative Proceduralism is discussed

in the second part of the chapter—Christiano (2008) thinks that we cannot have an instrumental account of democratic legitimacy because we would have to have a public agreement on the qualities of outcomes. I reject Christiano's position by claiming that he himself uses an instrumental argumentation when he argues in favor of deliberative democracy (i.e. when he claims that a state with more well-being is better than a state with less well-being). I end the second chapter by claiming that the truth tenet should be endorsed.

Positions that endorse the truth tenet but reject the knowledge tenet are discussed in the *third chapter*. Proponents of Pragmatist Deliberative Democracy thus claim that political decisions can be right or wrong, and that we should evaluate the decision-making system by its ability to produce correct decisions (Talisso 2009a, Misak 2004). However, since the relevant knowledge is distributed equally among citizens, and since public deliberation is the best means for arriving at correct decisions, we should favor deliberative democracy. I reject this position by claiming that it is successful in defending the epistemic value of public deliberation, but not necessarily the epistemic value of democracy. The second position I discuss in this chapter is Fabienne Peter's (2012) Second-Personal Epistemic Democracy. Peter now endorsed the truth tenet, but nonetheless still claims that democratic procedures have some intrinsic epistemic qualities. I find Peter's idea of epistemic peers unpersuasive and argue that the knowledge tenet should be granted. I end the third chapter by concluding that the knowledge tenet should be endorsed.

Having concluded that the truth and the knowledge tenet should be acknowledged, in the *fourth chapter* I discuss whether the authority tenet should be endorsed as well. First, I discuss epistocracy, the rule of those who know, and claim that, though this decision-making procedure might have considerable epistemic value, it cannot meet the liberal criterion of legitimacy. Namely, we cannot expect all reasonable citizens to see the same group of people as experts in politics, and therefore the rule of any group would be rejectable to at least some reasonable citizens. In the second part of this chapter I discuss Mill's (1977a) scholocracy, a decision-making procedure in which everyone has at least one vote, but those better educated have more than one. Though it presents a more sophisticated version of epistocracy, I believe that scholocracy can be rejected as well, since it is not unreasonable to think that some epistemically damaging features (biases) might be present in the group that is given greater political authority. I end this chapter by claiming that the authority tenet should be rejected.

Having narrowed the search for the procedure with legitimacy-generating potential by excluding those that reject the truth or the knowledge tenet, as well as those that accept the authority tenet, in the *fifth chapter* I claim that the proper decision-making procedure has to acknowledge that

there are correct or incorrect political decisions, as well as those who know better what should be done, but should not give greater political authority to any specific group of citizens. This can be claimed only if one adopts a non-monistic account of political legitimacy, such as Estlund's (2008) standard account of epistemic democracy, which I endorse and defend in this thesis. In the rest of this chapter I analyze how various forms of democratic decision-making meet the criteria set by Estlund, and conclude that aggregative democracy should be rejected in favor of deliberative democracy.

In the *sixth chapter* I discuss the social and economic conditions needed for deliberative democracy's epistemic value. A division of epistemic and political labor should be implemented, with citizens and their representatives setting the aims and values the society is to pursue, and experts and policy-makers devising means (laws and decisions) for the achievement of these aims. In the second part of the chapter I discuss whether political equality should go deeper than just the formal politics, rejecting Estlund's view and claiming that the informal political sphere should be more egalitarian as well.

## CHAPTER II

# THE TRUTH TENET

This chapter discusses the first tenet of the epistemic justification of decision-making procedures. According to the truth tenet, there are true (at least in minimal sense) procedure-independent normative standards for evaluating political decisions (Estlund 2008). The legitimacy-generating potential of a decision-making procedure is (at least partly) constituted by its ability to produce decisions or outcomes of substantive (procedure-independent) quality.

Positions that reject this tenet take a form of Pure Proceduralism: they claim that a decision-making procedure has its legitimacy-generating potential solely because of its intrinsic (purely procedural) qualities. The ability of a procedure to produce decisions or outcomes of substantive quality should not influence its legitimacy-generating potential. There are two ways to reject the truth tenet: one is to claim that political decisions do not have truth-value and cannot be evaluated according to some procedure-independent standard, and the other is to claim that, although political decisions have (or might have) truth-value, not every reasonable citizen can recognize and affirm this truth-value, and consequently it cannot be used in political justification nor constitute a basis for legitimacy.

In this chapter I first elaborate and then reject Pure Proceduralism—I believe that the truth tenet should be granted, i.e. I believe that political decisions and outcomes can be evaluated according to some procedure-independent standard, as well as that their quality (and the ability of a decision-making procedure to produce decisions of such quality) should play a certain role when discussing the legitimacy-generating potential of that procedure. I further support my claim by discussing and rejecting two important purely proceduralist positions: Fabienne Peter's Pure Epistemic Proceduralism and Thomas Christiano's Pure Deliberative Proceduralism<sup>2</sup>.

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<sup>2</sup> Peter explicitly named her position Pure Epistemic Proceduralism (Peter 2011), while Christiano did not use some specific term to name his position. His view is characterized as a form of Pure Deliberative Proceduralism by David Estlund (Estlund 1997) and Fabienne Peter (Peter 2014), and since Christiano's position indeed has many attributes that qualify it as a form of Pure Deliberative Proceduralism, I find it appropriate to refer to it in such a way.

## 2.1. TRUTH AND POLITICS

### 2.1.a. Introduction

Many scholars reject the idea that truth (or some other procedure-independent standard of evaluation of collective decisions) should be introduced in discussion on political legitimacy. They see truth as something antipolitical—appeals to the truth of a proposition might be appropriate in some non-political contexts (e.g. scientific inquiry, religious conference), but should not be made when we discuss public issues and make collective decisions binding on all members of the political community.

There are two different approaches that reject the idea of introducing truth in public justification. First (ontological) approach claims that truth and politics are conceptually incompatible—there is simply no such thing as truth in politics. Collective decisions reflect interests and values of citizens, but they are neither true nor untrue. There is no procedure-independent standard against which we can judge or evaluate our public decisions (Peter 2009, Young 2000, Arendt 1967, Schmitt 2007). Second (epistemic) approach does not reject the idea that there might be truth in politics, and that consequently political decisions might be true or untrue. However, it rejects the idea that we can have public agreement on reasons appealing to the truth of some political proposal. Burdens of judgment and conditions of reasonable pluralism prevent any appeal to the truth of a proposition from meeting the publicity criteria. Since we cannot agree whether a particular decision is true or whether it is supported by true reasons, we should exclude appeals to the truth from the discussion on political legitimacy. A collective decision can still be true or untrue, but in the conditions of reasonable pluralism we cannot appeal to the truth of a decision (or the ability of a procedure to produce true or correct decisions) in order to establish its legitimacy (or legitimacy-generating potential) (Rawls 1993, Christiano 2008, Gaus 1996, Bohman 2000, Elster 1983).

Though these two approaches do not have the same standing on whether a political decision can be true or untrue (according to some procedure-independent standard), they both agree that truth or procedure-independent substantial quality of a political decision (or decision-making procedure) does not play any role in determining its legitimacy (or its legitimacy-generating potential). In the rest of this part of the chapter I shall further elaborate these two approaches, as well as demonstrate why both should be rejected and why the truth tenet should be granted. After that, in the following parts of this chapter, I shall examine two sophisticated examples of these positions: the first one is pure epistemic proceduralism defended by Fabienne Peter who claims that



there are no procedure-independent standards for evaluating political decisions (Peter 2009), and the second one is pure deliberative proceduralism defended by Thomas Christiano who claims that procedure-independent standards might exist, but since we cannot agree upon them, we should not introduce them in the discussion on political legitimacy (Christiano 2008).

### **2.1.b. Political Nihilism**

Scholars who argue that there is no truth in politics generally agree that, 'from the standpoint of politics, truth has despotic character' (Arendt 1967). Politics is about dispute, disagreement and deliberation among equals, and truth forecloses this activities. Introducing truth in politics brings along a serious threat that some will be more capable of coming to this truth, and this might lead to them having not only epistemic, but also political (and moral) authority over others. In such conditions, dispute, disagreement and deliberation among equals are not possible. Therefore, politics should not begin with conclusions (Arendt 1967).

This view is supported by an additional claim, one holding that truth and politics are conceptually incompatible. Truth commits us to the realist ontology, which might be appropriate for a scientific inquiry, but is not appropriate for ethics and politics. It is one thing to say that a water molecule consists of an oxygen atom with two hydrogen atoms bound to it, and yet another to say that reverse discrimination is just or unjust. While it seems plausible to say that a claim about water molecule refers to a real object—object independent of human perspective and inquiry—it is very difficult (or at least contestable) to consider our values and moral beliefs as any kind of a real object. According to this position there are empirical truths, but there are no normative truths (Arendt 1967). Consequently, any appeal to truth in politics is void and meaningless<sup>3</sup>. Similar view is defended by Habermas who argues that there are no procedure-independent standards that loom over political process—the only normative standards are noninstrumental evaluations of the procedure. If we introduce substantive standards and start referring to procedure-independent qualities of a particular decision or procedure that has produced it, we are rejecting the dialogical

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<sup>3</sup> Similar ideas were held by Carl Schmitt, fascist legal philosopher, who argued that deliberative and democratic procedures cannot be justified. Outcomes of political procedures are not (nor can they be) true or rational, they are simply a product of a contestation of different groups, with the strongest advancing their interests and values, and the weakest disappearing. In the political arena different comprehensive doctrines and different conceptions of good compete, and population tries to attain substantive homogeneity (Schmitt 2007). Of course, Arendt and Schmitt end up disagreeing on purely procedural qualities of democracy (with Arendt claiming that there are purely procedural normative standards, and Schmitt denying that), but they agree that there is no procedure-independent standard against which *outcomes* of political decisions can be judged.

basis that constitutes political normativity<sup>4</sup> (Habermas 1996). If there is truth in politics and if there are experts, we will end up privileging the experts' perspective (Habermas 1999). Rejecting truth in politics is one way of combating epistocracy, a rule of experts, and defending democracy. Both Arendt and Habermas thus claim that political decisions and procedures that have produced them should not be evaluated by appeal to truth or good consequences (or other procedure-independent standards), but solely by appeal to purely procedural values.

I believe that these ideas should be rejected. However, before I can start arguing that truth is compatible with deliberation and disagreement (even more so, that truth is essential for deliberation and disagreement), I have to briefly explain what 'truth' is. In order to avoid complex discussions within epistemology that try to answer the question at hand, but nonetheless offer different contestable solutions, epistemic democracy should take a minimalist approach that is compatible with other prominent epistemic positions (Estlund 2008, Misak 2009, Talisse 2009b). Therefore, instead of claiming that 'p is true' when p corresponds with things and relations in the world, or that 'p is true' when it is in coherence with our other beliefs, or even that 'p' is true when it works satisfactorily or improves our performance in the world, we should simply claim that 'p is true' when p<sup>5</sup>. This deflationary account, first introduced by Gottlob Frege, is not incompatible with other epistemic positions on truth. When we argue in favor of the claim that 'p is true' we are simultaneously arguing in favor of 'p'. When we combine this minimalist account with some aspects of pragmatist epistemology, we can conclude that true belief is one that is best supported by reasons, arguments and evidence. This does not imply, of course, that the truth of a belief consists in

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<sup>4</sup> Habermas' view rejects truth and any other procedure-independent standard for evaluating decision-making procedures and decisions produced by them. He explicitly argues that we need not confront reason as an alien authority residing somewhere beyond political communication (Habermas 1996). A political decision is thus legitimate iff it is a product of a proper decision-making procedure, and a decision-making procedure has this legitimacy-generating potential because of its intrinsic, purely procedural qualities. Habermas does not, on the other hand, think that we can legitimately limit or deny certain basic individual rights and liberties, not even when laws and policies that deny them are produced through a proper legitimacy-generating procedure. It seems that there is some way of evaluating the outcomes of a decision-making procedure after all. Actual decision-making procedure can make different outcomes, but they become legitimate only when they could have been produced by an ideal deliberative procedure (Habermas 1999). Actual decision-making procedures have their legitimacy-generating potential because they mirror (to a certain degree) the ideal deliberative procedure. Therefore, there is a substantive, actual-procedure-independent standard for evaluating political decisions. In this sense Habermas defends a form of rational (and not pure) proceduralism because he introduces certain procedure-independent standard for evaluating political decisions produced by actual decision-making procedures. David Estlund and Fabienne Peter elaborate and defend this interpretation of Habermas' work (Estlund 1997, 2008, Peter 2011).

<sup>5</sup> One might claim that Rawls or Habermas would not reject this minimalist concept of truth. When they argue against truth in politics, they are primarily referring to the strong metaphysical concept of truth, one that is also rejected (or at least not endorsed) by Estlund, Talisse, Misak and other proponents of the minimalist concept of truth. I thank Nebojša Zelić for pointing this out. However, even minimalist truth represents a kind of procedure-independent standard, so the argument against pure proceduralism still stands. What might be brought in question is whether Rawls and Habermas represent pure proceduralism, or should their views be seen as a form of rational proceduralism. Both Estlund (1997, 2008) and Peter (2011) claim that Rawls' and Habermas' views can be interpreted as a form of rational proceduralism, but it seems that these authors themselves (especially Habermas) side up with pure proceduralism.

it being supported by reasons and evidence. Pragmatism does not say what it means for a belief to be true, it only points out the method we can use to find out whether it is true (Misak 2009). Therefore, when epistemic democrats speak of truth in politics, they are not referring to some contested metaphysical attribute of a belief (correspondence, coherence...), but simply to the claim that 'p is true' when p. Contrary to Arendt's claim that truth forecloses dispute and deliberation, this concept of truth is not only compatible with the idea of deliberation and disagreement among equals, but also a precondition for such practices.

Without the concept of truth politics would, just like any other public deliberation (or even any belief or assertion), make no sense (Price 2003, Misak 2009). The concept of truth is not foreclosing public deliberation, as Hannah Arendt claims, but just the opposite—the concept of truth is essential for any disagreement and deliberation. Imagine a community of citizens who accept the norms of sincerity and personal justification, but nonetheless do not hold that there is truth about public matters. They use language to express their preferences and values, but do not think that disagreement among them indicates that one or the other is mistaken. If we do not think that our own beliefs are somehow better supported by arguments and reasons than the beliefs held by someone else, why should we deliberate or discuss with others (Price 2003)? We distinguish phrases "It seems to me that p" and "I assert / believe that p", and we use the first one to distance ourselves from the obligations which come with the second. When we say that we believe that p, we are saying that we believe that p is true, or that p is supported by the best reasons and evidence. Therefore, truth and responsiveness to reasons and evidence are constitutive norms of a belief (Misak 2009).

Similar ideas are put forward by Robert Talisse, who introduces truth in the first of the five principles of folk epistemology (Talisse 2009a, 2009b). He claims not only that truth in politics is a necessary precondition for public deliberation, but also that appeal to the notion of truth in politics is the best way of justifying and supporting public deliberation. Talisse's argumentation is very valuable when rejecting Arendt's view, and I want to use the next few paragraphs to explain his view and demonstrate how it can be used to undermine the political nihilist's idea that truth forecloses deliberation and disagreement.

Talisse starts his argumentation with a claim that he considers a truism: '*To believe that p is to hold that p is true*'. If I believe that Munich is north of Trieste, I hold that it is true that Munich is north of Trieste. Similarly, if I believe that abortion should be legalized, I hold that it is true that abortion should be legalized. Talisse then introduces a pragmatic but still uncontested idea that to say that p is true is to hold that p is supported by best arguments, reasons and evidence. If I believe

that it is true that Munich is north of Trieste, I hold that the proposition 'Munich is north of Trieste' is supported by best reasons and evidence (e.g. various maps and writings support this claim, experts in geography claim that it is true, if one travels north of Trieste he or she will eventually get to Munich, etc.). Similarly, if I believe that it is true that abortion should be legalized, I hold that the proposition 'Abortion should be legalized' is supported by best reasons and evidence (e.g. the idea of women as equal citizens entails certain rights for control over one's own body, there are studies showing that in countries where abortion is illegal it is still conducted, but in much worse conditions and with greater risks for women, etc.). Talisse thus claims that, when one believes that *p*, one takes oneself to have sufficient reasons for *p*'s truth (Talisse 2009a, 2009b). Hence the second claim of folk epistemology: *'To hold that p is true is to hold that it is supported by best reasons, arguments and evidence'*. Furthermore, when we assert or claim that *p*, we present ourselves as having reasons (that can be articulated) for believing *p*. By publicly claiming that we believe that *p*, we are opening the logical space for the exchange of reasons. Third claim of folk epistemology thus follows: *'To hold that p is supported by best reasons and evidence is to incur the obligation to articulate one's reasons and evidence when called upon to do so'*. However, our reasons can fail if others can show that they are inconsistent or ill-supported or if others can find and defend better reasons for the claim opposite to the one we are asserting. When we articulate our reasons and evidence, we are entering a dialectical space in which we have to evaluate the reasons given by others and answer the objections others have presented against our view. Consequently, the fourth claim of folk epistemology follows: *'To articulate one's reasons is to enter into a social process of reason exchange'*. This process, however, has to be ordered in some way to best promote its epistemic qualities—some cognitive and dispositional norms have to be taken into account. Thus arises the fifth claim of folk epistemology: *'To engage in social process of reason exchange is to at least implicitly adopt certain cognitive and dispositional norms related to one's epistemic character'* (Talisse 2009a, 2009b). Democracy is seen as the best institutional arrangement for upholding good epistemic practices, and is thus considered a legitimacy-generating decision-making procedure. Democratic decisions are legitimate because they are the product of collective decision-making procedure that promotes epistemic values and supports good epistemic practices. Talisse's argument for democracy will be discussed in detail (and rejected) in the next chapter since he acknowledges the truth tenet, but rejects the knowledge tenet. However, Talisse's argumentation is precious here because he holds both the idea that there is truth in democratic decisions, and the idea that truth is compatible with political deliberation and disagreement. Contrary to Arendt and Habermas, Talisse points out that the concept of truth is not only compatible, but also necessary for any disagreement

or deliberation. Concept of truth does not foreclose deliberation—quite the contrary, it enables deliberation and disagreement.

I find the argumentation presented by Misak, Talisse and Price very convincing. People who disagree tend to believe that they are right, and that those who hold the opposite views are wrong. Though political decisions can be right or wrong according to some procedure-independent standard, this does not imply that there are those who know better (the knowledge tenet) nor that those who know better should rule (the authority tenet). Fear expressed by Arendt and partially by Habermas thus seems unnecessary—even if we acknowledge the truth tenet, there are other ways to block epistocracy. Furthermore, the claim that the introduction of truth in politics will block deliberation and disagreement also seems unfounded—people will nonetheless disagree on what the truth is and how to implement it through laws and public policies. Political nihilist's claim should thus be rejected, and those who want to block the truth tenet should search for an alternative approach. Admitting that there is (or there might be) truth in politics (i.e. that political decisions can be right or wrong, true or false, according to some procedure-independent standard), but also that truth of political decisions is always contested and cannot be publicly recognized and accepted in the conditions of reasonable pluralism, and thus cannot be introduced as a criterion for legitimacy, looks like a promising approach.

### **2.1.c. Epistemic Abstinence**

Political nihilism expresses worry that introducing truth in politics might foreclose deliberation and disagreement, disqualifying some views and privileging the position of experts or those who are best at knowing the truth. Defenders of the idea of epistemic abstinence<sup>6</sup> fear that introducing truth in politics might provoke too much deliberation and disagreement, eventually leading to division and instability. Rawls emphasizes that appeals to the truth introduce certain 'zeal' and 'the relentless struggle to win the world for the whole truth' (Rawls 1993, 2001). Consequently, truth should be omitted from political discourse: political decisions might be true or untrue, but since reasonable people deliberating in good faith cannot agree which decisions are true or untrue, the substantive quality of decisions (or the ability of decision-making procedures to produce decisions of certain substantive quality) should not play any role when discussing the legitimacy of these political decisions (or the legitimacy-generating potential of the procedures that have produced them).

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<sup>6</sup> This expression is introduced (and as an idea rejected) by Joseph Raz. Epistemic abstinence characterizes positions that claim that reasonableness (or some other procedural ideal), and not truth, is what we are looking for in a political doctrine (Raz 1994).

Instead of aiming for the truth, we should aim for the overlapping consensus in which people affirm the same freestanding conception of justice but hold different versions of the good (Rawls 1993). Rawls' political liberalism is thus 'political, not metaphysical'—it does not assert itself as true, but only as the most reasonable doctrine, i.e. the best doctrine to arrange our political life as free and equal.

Similar views are held and advanced by other proponents of epistemic abstinence. Gerald Gaus claims that, in conditions of reasonable pluralism, we cannot agree on whether some political decision is true, nor can we agree whether it is supported by the best reasons, arguments and evidence. Consequently, substantive (procedure-independent) qualities of a political decision or a decision-making procedure that has produced it cannot be included in discussion on legitimacy since some of us would then be unable to recognize this legitimacy. Gaus claims that deliberative democracy cannot realize *Ideal of Reason* (i.e. ideal that political decisions should be supported by best reasons and evidence, and these reasons should be exchanged with other members of the political community), *Ideal of Public Justification* (i.e. ideal that policy is justifiable only if it can be embraced by all members of the public) and *Ideal of Real Political Consensus* (i.e. ideal that political institutions should generate wide, though, of course, not complete, actual consensus on political outcomes) simultaneously (Gaus 1997). His answer to this problem is rejecting the consensus view and embracing the convergence view: a political decision is legitimate iff it is substantively acceptable to all qualified citizens. Citizens do not have to share reasons that support particular political decision: if citizen C1 accepts a particular decision D on the basis of reason R1, and C2 accepts D on the basis of R2, D represents a legitimate decision since it is justifiable from the viewpoints of both C1 and C2. As we have seen, D does not have to have some definite substantive quality all citizens can recognize and affirm (Gaus 1996). Democracy comes in as a mechanism for selecting among decisions that are already acceptable to all citizens, as its legitimacy-generating qualities are purely procedural—no decision is considered legitimate because it represents substantively better outcome than the other, and democracy is not considered to be legitimacy-generating because it produces substantively correct or true outcomes. It is a fair decision-making procedure, one that treats all citizens as free and equal.

Another proponent of this view is Thomas Christiano, who argues that democracy cannot be instrumentally justified by appealing to the procedure-independent quality or desirability of the results and end states it produces, simply because we cannot have a public agreement on which results are better and which end states are more desirable. Since we cannot publicly agree on the substantive quality of the end state that is the result of a certain decision-making procedure, we

cannot publicly agree on the instrumental qualities of that procedure, i.e. on its ability to produce valuable or desirable end states. Decision-making procedure can thus be justified only by appealing to its purely procedural qualities (e.g. whether it treats everyone's interests as equally important) (Christiano 2008). Even if some decision-making procedure is better than the other in achieving this truly desirable result or end state (or truth), this cannot be considered a valid argument for its legitimacy since not all qualified citizens can see this (such procedure would be rejected by the principle of public equality).

There is a common way of answering the objections put forward by the proponents of epistemic abstinence. These scholars argue that, even if political decisions might be true or correct, this substantive and procedure-independent quality of political decisions does not influence their legitimacy. Furthermore, even if various decision-making procedures can have tendency of producing more or less correct or true decisions, this substantive quality of these decision-making procedures does not influence their legitimacy-generating potential. Procedures have their legitimacy-generating potential solely because of their purely procedural qualities—their ability to produce outcomes of a certain substantive quality plays no role in determining their legitimacy-generating potential. David Estlund invites us to imagine two (or more) decision-making procedures that have the same purely procedural qualities, but nonetheless (because of some other qualities) produce outcomes of different substantive quality (Estlund 1997, 2008, 2009). Since these procedures have the same purely procedural qualities, they should (according to pure proceduralism) have equal legitimacy-generating potential. One such decision-making procedure might be coin-flipping: when we have two alternatives and cannot agree what should be done, we could simply flip a coin and let it decide for us. This is a fair decision-making procedure, since every citizen has an equal chance to participate in decision-making and to influence the final decision—no chance at all. Coin-flipping might seem as a bad decision-making procedure, but it cannot be said to be unfair. Similarly, when two (equally-deserving) persons have to distribute some resources, they can agree to flip a coin and to accept the outcome—winner will get all the resources, and loser will get none. Though this might seem as a bad model of distribution, it is not unfair, since all involved parties have been treated equally. Fair decision-making procedure, as we have seen, guarantees that the decision will be produced in a fair way (or in a fair state), but does not guarantee that the decision itself (or the end state) will be fair, moral or correct. Coin-flipping, though it might be a fair decision-making procedure, does not yield strong moral reasons for accepting and promoting (or even subduing others to) decision produced in such a way. Fairness of a procedure is a necessary, but not a sufficient condition for the procedure's legitimacy-generating potential. There

must be something other than its fairness that constitutes democracy's legitimacy-generating potential.

One (purely proceduralist) way of answering this objection is by introducing intrinsic moral (Habermas 1990) or intrinsic epistemic (Peter 2011) qualities of public deliberation. Unlike coin-flipping, democracy has its legitimacy-generating potential because it enables citizens to discuss their views and to compare and evaluate reasons and arguments through a public deliberation, which is itself a valuable purely procedural moral (or epistemic) standard. The result of such democratic procedure will be legitimate regardless of its tendency to be true or to have some procedure-independent quality—it will be legitimate because it was produced by a fair decision-making procedure that embodies the procedural moral (or epistemic) value of public deliberation. Engaging others in public deliberation might be considered valuable for numerous purely procedural reasons: it might be seen as an essential part of the good life for an individual (Arendt 1963), or as a realization of mutual respect and concern among citizens (Gutmann and Thompson 2004)<sup>7</sup>, or even as realization of epistemic accountability among equals (Peter 2011). However, if public deliberation has only purely procedural (moral or epistemic) value, then the quality of the results of the decision-making procedure should not influence the legitimacy-generating potential of that procedure. If we have a procedure that embodies public deliberation (one that represents an essential part of a good life, or one that realizes equal respect among citizens), but after the deliberation we flip a coin in order to make the final decision, we should (according to purely procedural standards) conclude that this procedure has legitimacy-generating potential. After all, it is a fair procedure since it gives everyone an equal chance to influence the final outcome, and it respects the purely procedural value of public deliberation. However, we are not ready to claim that deliberative procedure with coin-flipping at the end represents a good way of arriving at legitimate decisions. When we favor democratic deliberation, we do so because we believe that deliberation has some instrumental epistemic value—decisions made through public deliberation should generally have greater epistemic value than those produced by coin-flipping. This is not to say that epistemic value of public deliberation can be only instrumental (Estlund 1997, 2008); it can have both the intrinsic and the instrumental epistemic value (Marti 2006). However, this implies that

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<sup>7</sup> Though Gutmann and Thompson claim that public deliberation has an intrinsic value for realizing the mutual respect and concern among citizens, they do not claim that this is the only value of deliberation. It also has an instrumental (procedure-independent) value since it represents an epistemically good way of arriving at correct or just outcomes. Though Gutmann and Thompson claim that deliberation has an intrinsic (purely procedural) value, they embrace non-monistic view typical for rational proceduralism.



instrumental epistemic value of public deliberation is a necessary (though not sufficient) requirement for the legitimacy-generating potential of any decision-making procedure.

Though we do not agree on the value of the desired end state nor do we have equal standards for evaluating the quality of the outcomes of political procedures we should, acknowledging the conditions of reasonable pluralism, still be able to reasonably agree that the results produced by deliberative democratic procedure should, in reasonably favorable conditions, be better (according to some procedure-independent standards) than the results produced by coin-flipping. We do not have to share the same conception of the good in order to recognize that democratic deliberation yields better decisions than coin-flipping. Therefore, though it seems that we still cannot appeal to the truth (or some other procedure-independent standard) of a particular decision to establish its legitimacy, we can appeal to the truth-tracking qualities (or some other procedure-independent standard) of a decision-making procedure to establish its legitimacy-generating potential.

#### **2.1.d. Conclusion**

This chapter started with a difficult question: is the truth of political decisions relevant for establishing their legitimacy? Is the ability of a decision-making procedure to produce outcomes of certain substantive (procedure-independent) quality a necessary component of this procedure's legitimacy-generating potential? There are two ways to reject this idea. One is to claim that political decisions have no truth-value (consequently cannot be neither true nor false) and thus the ability of decision-making procedures to produce true or correct decisions is null. The other way is to claim that, though political decisions might have truth-value, we cannot have a public agreement on their truth-value, and thus cannot agree that any decision-making procedure is better or worse at producing true or correct decisions (since we cannot publicly agree which decisions are true or correct).

I have sketched two possible replies to the abovementioned objections. The first objection is rejected by the appeal to general psychology and folk epistemology—when we disagree about important political issues, we implicitly hold that we are right and the other side is wrong. However, the fact that we consider ourselves to be right (to have the true belief) does not prevent us from engaging with others in public deliberation—it is precisely because we think that we are right, and the others are wrong, that we enter the process of deliberation and reason-exchange. The second objection is rejected by using the coin-flipping example—though both (deliberative) democracy and coin-flipping represent fair decision-making procedures, we do not think that coin-flipping is a good

decision-making procedure, nor that decisions produced by coin-flipping should be legitimate. We are (at least partly) concerned about the quality of the decisions and think that the ability of a procedure to produce substantively good outcomes should constitute a part of procedure's legitimacy-generating potential. Though we cannot publicly agree on the substantive quality of any particular decision, we can publicly agree that there are some decision-making procedures that are better in producing substantively good outcomes than the others. We cannot publicly agree on the substantive (procedure-independent) quality of any particular democratic decision, but we can publicly agree that democracy is generally better than coin-flipping in producing decisions of good substantive (procedure-independent) quality.

In the next two parts of this chapter I discuss two important examples of the abovementioned objections. Pure Epistemic Proceduralism, a position defended by Fabienne Peter, can be seen as a very sophisticated version of political nihilism. However, unlike Hannah Arendt, Peter believes that epistemic quality of decision-making procedures is a central part of their legitimacy-generating potential (Peter 2011). It is important to emphasize that this epistemic quality is intrinsic and not instrumental—decision-making procedures have epistemic quality because they realize and respect some purely procedural epistemic values, and not because they have a tendency of producing some (procedurally-independent) good outcomes. She embraces proceduralist and hybrid epistemology, and claims that there are no procedure-independent standards, not even procedure-independent truth. Peter's position is thus a form of pure proceduralism—no procedure-independent standard is involved in the evaluation of the legitimacy-generating potential of the procedure. Thomas Christiano's Pure Deliberative Proceduralism can be seen as an example of the epistemic abstinence view. He justifies and defends democracy from the standpoint of public equality, and argues that we cannot ground democratic legitimacy in its ability to produce outcomes or end states of substantive (procedure-independent) quality (Christiano 2008). This type of justification would violate the publicity requirement since not everyone would be able to see that the results or end states treat everyone as an equal, and consequently not everyone could accept the instrumental justification of democratic procedure.

I reject both Peter's and Christiano's view. The first one embraces very controversial and contested epistemology and cannot be used as a stable conception of democratic legitimacy<sup>8</sup>, while the other puts significant emphasis on the outcomes of a democratic process, and thus ends up as a form of rational (and not pure) proceduralism.

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<sup>8</sup> Fabienne Peter arrived at the same conclusion and abandoned this position in 2012. Her new position, one focusing on the idea of epistemic peers, is discussed in the third chapter.

## 2.2. PURE EPISTEMIC PROCEDURALISM

Pure Proceduralism generally focuses on intrinsic moral qualities of decision-making procedures when evaluating their legitimacy-generating potential. A collective decision-making procedure has legitimacy-generating potential if it embodies certain moral value (or values). Many positions discussed in the first part of this chapter (Rawls 1993, Habermas 1990, Arendt 1967, Gutmann and Thompson 2002) use some variation of this argumentative strategy. Introducing epistemology into discussions on legitimacy usually leads towards some form of Rational Proceduralism, one that (at least partially) uses the instrumentalist approach and emphasizes the importance of the quality of outcomes for evaluation of the legitimacy-generating potential of decision-making procedures. Position presented by Fabienne Peter is an important exception (Peter 2011). She claims that there are some important epistemic values that are intrinsically justified and concludes that, in order to produce legitimate decisions, a collective decision-making procedure has to embody these epistemic values. This is a unique form of Pure Proceduralism because it introduces epistemology into discussion on political legitimacy, but nonetheless does not take an instrumentalist approach, one that would lead towards Rational Proceduralism. My goal in this part of the chapter is to reject this form of Pure Proceduralism.

### 2.2.a. Introduction

Authors that perceive epistemic qualities of a democratic process as a necessary (though not sufficient) requirement for its legitimacy-generating potential disagree when discussing what represents this epistemic value, as well as what is the best institutional arrangement for achieving it. Most authors believe that the best way for the development of epistemic qualities of democracy can be found in the context of deliberative democracy. However, they disagree on the epistemic value of collective deliberation. For some authors (Estlund 2008, Talisse 2009), epistemically valuable procedures are those that have a high probability of producing correct outcomes. The epistemic quality of a procedure is determined by its ability to ‘track the truth’ (consequentialist epistemology), and it is this ability that gives legitimacy-generating potential to already fair procedures. On the other hand, some authors (Peter 2009) have argued that collective deliberation has both instrumental and procedural value; however, they emphasized procedural value as the source of legitimacy-generating potential.

This part of the chapter addresses the debate on instrumental and procedural *epistemic* value of collective deliberation. It takes as a starting point the epistemic value of a democratic process and

deliberative democracy as a proper institutional arrangement for the realization of this epistemic value. I will not discuss these theories in the rest of this part of the chapter, focusing instead on Fabienne Peter’s proceduralist approach to epistemic democracy (a form of Pure Proceduralism), as well as to objections Peter rises against standard account of epistemic democracy (a form of Rational Proceduralism).

### 2.2.b. Pure Epistemic Proceduralism

Peter builds her position on proceduralist epistemology that focuses exclusively on intrinsic qualities of procedures to judge their epistemic worth. She rejects the idea that the procedure-independent standard is necessary to assess the quality of knowledge-producing procedures. Her position rests on Helen Longino's hybrid epistemology that combines usually descriptive proceduralist epistemology with normative elements. Longino holds that cognition is an inherently social process, rooted in a set of knowledge producing practices to which certain normative criteria apply. She starts from proceduralist epistemology, one that uses very different concepts and standards than the mainstream consequentialist epistemology. Knowledge is thus defined as a belief accepted by an individual, when both the belief in question and the fact that the subject accepts that belief are acceptable in the relevant community. Proceduralist epistemology is a form of descriptive epistemology, one that describes existing cognitive and social practices, without evaluating them according to any standard. Longino develops a hybrid view and argues that it is possible to locate normativity in the social practices themselves (Longino 2002a). The result is some kind of a normative account, but one that does not evaluate epistemic practices according to their ability to produce some (procedurally independent) true or correct beliefs, but according to their coherence with some intrinsically valuable epistemic practices. It is important to notice, however, that these normative elements are not procedure-independent (and outcome-oriented), but reside in the process itself.

Table 2.1.

<b>Epistemology</b>	DESCRIPTIVE	NORMATIVE	OUTCOME-ORIENTED
CONSEQUENTIALIST	NO	YES	YES
PROCEDURALIST	YES	NO	NO
HYBRID	YES	YES	NO

Longino holds that justification is not just in testing the hypothesis against data, but also in subjecting hypothesis, data, reasoning and background assumptions to criticisms from a variety of perspectives (Longino 2002a). This clearly represents some kind of deliberative or discursive procedure. However, not every deliberative procedure is justified; in order to be considered as an intrinsically good epistemic procedure (and thus a procedure that has legitimacy-generating qualities), there are several normative conditions that the knowledge-producing process ought to satisfy. As I have emphasized earlier, these conditions are purely procedural, and they do not depend on the ability of the procedure to generate true or correct outcomes (that would be a form of consequentialist epistemology, which Peter rejects). (i) Publicly recognized forum for the criticism of evidence, methods, assumptions and reasoning should be formed, thus creating space for the critical discourse. (ii) Deliberation should have transformative potential and people should be responsive to one another's arguments. (iii) Publicly recognized standards should be made by reference to which theories and observational practices should be evaluated, thus securing that critical discourse is orderly and constructive. (iv) Finally, tempered equality of intellectual authority should be established, thus enabling all citizens to actively participate in public deliberation (Longino 2002a, Peter 2011). Only if deliberative procedure can satisfy these four normative conditions it can be considered fair and epistemically valuable, regardless of the epistemic quality of the outcomes it produces. Epistemic values are irreducibly procedural—there is nothing beyond critically engaging with one another in a transparent and non-authoritarian way.

Peter believes that pure epistemic proceduralism gives us good reasons for rejecting coin-flipping and some other fair decision-making procedures: beside moral requirement for equal participation of each citizen in decision-making process (procedural moral fairness), pure epistemic proceduralism requires from the procedure to include public deliberation among equal citizens (procedural epistemic fairness) in order to have legitimacy-generating potential. Peter holds that moral and epistemic fairness are inseparable, and her account (being monistic, but still recognizing epistemic values) is thus superior to other monistic positions that do not recognize epistemic values (e.g. Christiano's account of democratic legitimacy) and non-monistic positions that clearly separate moral and epistemic qualities of a procedure (e.g. Estlund's Rational Epistemic Proceduralism).

### **2.2.c. Rejecting Pure Epistemic Proceduralism**

There are several objections that can be raised against Pure Epistemic Proceduralism. Cheryl Misak emphasizes the problem of distinction between deliberating well and deliberating badly. No account of deliberative democracy can ignore the call to make this distinction. The trouble is that, *in saying*

*what good, as opposed to poor, deliberation amounts to, one finds oneself facing a justificatory problem: how can we specify what a good deliberation is without simply assuming that our current standards of deliberation and inquiry are the gold standards* (Misak 2009: 35)? Consequentialist epistemology (and accounts of democratic legitimacy built on it) won't have a problem with this distinction; deliberative procedures are justified because they lead us to more accurate beliefs. Misak and Talisse walk the same path; *virtues are justified because they lead to true belief. Listening to others is not merely the polite thing to do, but it is also good because we might learn something. The virtues are justified because they have epistemic value—they will tend to lead us to the right answer to our questions* (Misak 2009, Talisse 2005).

The problem for Peter is how to defend four normative conditions set up by Longino if she cannot refer to a procedure-independent standard, the correctness of outcomes? It may be possible to try to deduce them from the idea of political fairness, following the idea that political and epistemic fairness are just two sides of the same coin. This does not seem as a move Peter would do, considering her intentions to do just the opposite, i.e. to deduce political fairness from epistemic fairness. However, both this argumentation and the (epistemic) defense of Longino's normative conditions are not presented in the book, though they seem necessary for Peter's argument.

There are reasons for one to believe that constructing purely procedural justification can be very difficult, if not impossible. Misak warns us that any substantive account of our epistemic virtues will rest rather heavily on what we currently take to be rational or virtuous. *We may be simply confirming our prejudices or digging ourselves deeper in the same epistemic rut* (Misak 2009: 37). We thus must not take for granted our epistemic values, we need some procedure-independent standard to evaluate them.

It would be wrong to see Peter's position as simply giving us the list of epistemic values and social conditions necessary for their development. On the contrary, great value of her account is the requirement asking us to constantly evaluate our epistemic practices. She sees justification not just as subjecting data and hypothesis to criticism from a variety of perspectives—our reasoning and background assumptions are also constantly subjected to criticism, and it seems that conditions that constitute good epistemic procedure can also be modified in the light of good reasons and arguments. This is why Peter writes that discursive practices are both constructive and justificatory (Peter 2011). They are not fixed and unchangeable, but are themselves subject to deliberation.

It seems that, according to Peter's view, our epistemic practices can be improved, and that is precisely one of the tasks of democratic deliberation—to evaluate and improve the epistemic quality of deliberation itself. However, it is very difficult to talk about improvement without knowing the

good toward which the practice aims<sup>9</sup>. Unless we can identify the ends that epistemic utility promotes, our demand for justification may be futile (Elgin 1999; 99).

Rational Epistemic Proceduralism has no problem with this objection; since its veritistic consequentialist epistemology has a procedure-independent standard for assessing the quality of epistemic procedures (namely, whether they lead to correct outcomes), we can easily say what represents an improvement for a certain epistemic procedure. It also seems very easy to defend normative conditions necessary for good deliberation; they are epistemically good because they improve the quality of outcomes the procedure produces, while some other conditions may be epistemically bad because they reduce the quality of outcomes. If we want to introduce a convincing epistemic dimension into discussions on political legitimacy, we should abandon proceduralist and hybrid epistemology and take consequentialist epistemology as a starting point. This view is held by many scholars who defend epistemic democracy, including Festenstein, who writes that we need to think of epistemic virtues as requirements of truth-seeking (Festenstein 2009), Talisse, who puts forward a pragmatist account and argues that the virtues are justified because they lead to true beliefs (Talisse 2009a, 2009b), and similar position is taken by Misak, who claims that epistemic virtue is justified if it is part of reliable method—one that is likely to lead to a true belief (Misak 2009). Pure epistemic proceduralism, however, fails to give a plausible account of improvement of our deliberative practices. Consequently, it fails to give a plausible account of democratic legitimacy and should be rejected.

#### **2.2.d. Defending Rational Proceduralism**

Standard account of epistemic democracy is characterized by three main features (Cohen 1986): first, it presupposes an independent standard of correct decisions, insisting that a correct outcome exists prior to and outside of actual democratic process. Second, it establishes a cognitive account of voting by making voters express beliefs about what correct policies are, not merely personal preferences for policies. Finally, it perceives an account of decision-making as a process of adjustment of beliefs, requiring from individuals to adjust their beliefs in light of the available evidence. We can clearly see that the Standard account of democratic legitimacy represents a form of Rational Proceduralism, one emphasizing both the fairness of the procedure and the quality of

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<sup>9</sup> Imagine you have a car and want to improve it—you want to have a better car than the one you have now. You come to a mechanic and say that you want the car to be improved. The first thing the mechanic will ask you is how you want it improved. Do you want it to go faster? To be safer? To be more comfortable from the inside? To be more economic and consume less fuel? All of the above? You need to have a certain independent standard according to which you can evaluate and improve your car, and similarly, you need some procedure-independent standard according to which you can evaluate and improve your epistemic practices.

outcomes. Peter (following Longino) clearly rejects the first feature (one that makes it a form of Rational Proceduralism), the idea that there is an independent standard of correct decisions and that this standard should be relevant when we evaluate the legitimacy-generating potential of a collective decision-making procedure.

In the rest of this part of the chapter I want to defend the standard account of epistemic democracy (as defined by Joshua Cohen (Cohen 1986), and further developed by David Estlund (Estlund 2008, 2009)) from the critics from Pure Epistemic Proceduralism. The standard account holds that there exists, independently of an actual decision-making process, a correct decision and that legitimacy of democratic decisions depends, at least in part, on the ability of decision-making process to generate the correct outcome. It invokes veritistic consequentialist epistemology, according to which we evaluate the epistemic value of a certain cognitive practice by evaluating its ability to track the truth, i.e. to produce a correct outcome.

Standard account of epistemic democracy emphasizes that the first condition for the legitimacy of a particular decision is the fairness of the process that produced it. Even if correct, a decision cannot be legitimate unless it is produced by a fair procedure. However, alternative institutionalizations of fair democratic process will differ in their truth-tracking potential (Estlund 2008). I defend the idea that a decision is legitimate if (and only if) it is a product of epistemically the best procedure among those that fall within the set of fair procedures. This is clearly a non-monistic account; in order to be legitimacy-generating, a procedure must have both political and epistemic qualities.

Unlike democratic instrumentalists, I believe that democracy has an intrinsic value (for being a fair procedure), but hold that fairness can be satisfied in various forms of democracy. We are to discriminate among different forms of democracy according to their ability to produce correct outcomes. Therefore, follow Estlund in defending deliberative over aggregative democracy, but the justification of deliberative procedures is instrumental; deliberation is seen as the best means to achieve the desired end—to have correct outcomes in most cases.

Fabienne Peter rises a series of objections against the standard account of epistemic democracy, targeting its truth-tracking requirement for democratic legitimacy and instrumentalist approach to the value of public deliberation (Peter 2009). I will now briefly present three main arguments Peter raises against the standard account of epistemic democracy, as well as potential replies in favor of the standard account.



*Objection 1: Standard Account of Epistemic Democracy is not a practicable conception of legitimacy*

Peter objects that a standard account of epistemic democracy is not a practicable conception of democratic legitimacy (Peter 2009: 133). Correctness is difficult, if not impossible, to determine. After all, Estlund has rejected democratic instrumentalism by arguing that in the conditions of reasonable pluralism interests and perspectives of the members of the democratic constituency inevitably diverge. When different people consider different outcomes as correct (and consequently legitimate), it is impossible to have a political decision that can be reasonably accepted by all community members. How can we expect that in the conditions of reasonable pluralism the members of the democratic constituency will agree upon a single procedure that all will see as epistemically the best, i.e. see it as the procedure that tracks the truth better than all others? If we cannot agree what the truth is and what propositions are correct (or at least justified), it is very unlikely that we can agree upon a single procedure that leads us towards truth. Consequently, we should not try to justify democratic deliberation by relying on the quality of its outcomes (since we cannot have a public agreement on this quality of outcomes), but by relying on the intrinsic (procedural) value of deliberation.

Recent work of both Robert Talisse and Cheryl Misak can be used to answer this objection. Though they use slightly different approaches and starting points (Talisse argues using folk epistemology while Misak adopts Peirce's pragmatist epistemology), both follow argumentative strategies typical for American pragmatism and want to show that there is a reason for anyone to accept deliberative democracy as the best procedure for coming to correct answers. Epistemic pragmatism does not answer when a proposition is true or false, but which method we should use in order to determine the truth value of a proposition. The method we should use is a form of deliberation in which we examine all the relevant reasons, arguments and evidence for and against a certain belief—we accept it as true if it is well-supported with arguments and evidence, and we reject it as false if it is not adequately supported, or if there are strong arguments and evidence pointing towards its negation. This is clearly very similar to a scientific method we can all see as a reliable truth-seeker—we do not doubt in the truth of the results of mainstream science, and we are ready to accept and use its products and outcomes (e.g. a GPS device, medicines that cure serious diseases) (Kitcher 2011). Therefore, when we want to check whether (descriptive) proposition 'Trieste is south of Munich' is true, we examine the relevant arguments, reasons and evidence for this claim. We look at maps, use compass or GPS, drive south of Munich to see whether we will end up near Trieste... The same holds for checking the truth value of (normative) proposition 'UN should

stop the genocide in Syria<sup>1</sup>—we examine the relevant arguments, reasons and evidence (e.g. the legal documents and declarations of UN, the situation in Syria, alternative options and their results...) (Misak 2009). We can publicly evaluate the quality of end states produced by a decision-making procedure and agree whether a decision was a good or a bad one<sup>10</sup>. A decision that improves the economic situation in the country, improves health or education of citizens, or ensures the environmental sustainability, is a good decision and all qualified citizens should be able to recognize it as such<sup>11</sup>. Of course, this recognition need not happen immediately after the decision has been made—sometimes it can take several years, or even several decades, for the people to have a public agreement on the quality of a particular political decision. However, this does not represent a problem for its legitimacy, since the decision is justified on the basis of procedural, and not on the basis of substantive reasons. The recognition of the quality of decisions is needed for the justification of instrumental qualities of a procedure (and not of a particular decision). Peter claims that no political decision can be publicly accepted as correct or just on the basis of substantive reasons. This is why she rejects the idea that procedure has certain instrumental qualities (e.g. ability to produce substantively correct or just decisions), and argues that the procedure should be justified on the basis of its intrinsic (procedural) qualities instead. However, it seems that we can, even in the conditions of reasonable pluralism, recognize some political decisions as correct or just, and some decisions as wrong or unjust. Sometimes we will need years or decades to reach such an agreement, but the quality of most decisions can eventually be evaluated, and this implies that the instrumental qualities of the procedures that have produced them can be evaluated as well.

Furthermore, there are serious implications this objection may have on Peter's new theory of democratic legitimacy (Peter 2012). Shortly after publishing *Democratic Legitimacy*, Peter abandoned pure epistemic proceduralism and hybrid epistemology of Helen Longino, and started using recent debate on peer disagreement as a new starting point in her argumentation. However, by taking Elga's definition of epistemic peers as people who take each other as equally likely to make a mistake (Elga 2007), Peter reintroduced correctness in the debate on political legitimacy. Similar objection can thus be raised against her as well; if correctness is difficult to determine, and we cannot agree on a single decision-making procedure as the right one (epistemically the best among the set of fair procedures), how can we determine the common criteria for whether someone should

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<sup>10</sup> A detailed argumentation on this positions can be found in Talisse (2009) and Misak (2009).

<sup>11</sup> These are some of the relevant dimensions recognized and measured by Democracy Ranking Association. This association shares the idea that the quality of political decisions can be measured and that there are dimensions whose importance no qualified person would deny (Campbell and Sükösd 2002).

be classified as our epistemic peer or not? And if we cannot have common criteria for determining epistemic peerhood, we cannot have a practicable conception of legitimacy. It seems that, along with her theory based on hybrid epistemology, Peter should also withdraw the first objection raised against the standard account of epistemic democracy.

*Objection 2: The Standard Account of Epistemic Democracy Makes Unnecessary Demands*

Peter raises a second objection by asserting that the standard account of epistemic democracy makes unnecessary demands (Peter 2009: 133). I claimed earlier that two fair decision-making procedures can have different outcomes; one can usually lead to correct outcomes, while the other can usually lead to biased decisions. The conclusion was that the fair procedure that tends to give correct outcomes will be legitimate, while fair procedure that tends to give biased outcomes will not be legitimate. However, since a fair procedure should ensure that everyone is able to participate in the process as an equal, it should also enable all those opposed to certain bias (racism, sexism) to efficiently challenge these premises. If a procedure is fair, one would not expect a biased proposal to go through. Peter thus claims that only unfair procedures can lead to biased outcomes. She concludes that the assumption of a procedure-independent standard of correctness is unnecessary since biased outcome can only be attributed to unfair procedures. We do not need rational epistemic proceduralism; pure epistemic version will suffice.

There are several ways to answer this objection from the standpoint of rational epistemic proceduralism. I will first present a reply by Jose Marti (2013) and argue against it, claiming that it does not have a sufficient strength to bring down Peter's objection. I will then refer to Estlund work and try to show that this objection can be answered by carefully going through his articles.

Cass Sunstein's recent work on the statistical regularity known as group polarization can seem like a good answer to Peter's objection. Group polarization means that "[...] *members of a deliberating group predictably move toward a more extreme point in the direction indicated by the members' predeliberation tendencies.*" (Sunstein 2003: 81) Like-minded people, after discussing with their peers, tend to end up thinking a more extreme version of what they thought before they started to talk. When the group polarizes, the members adopt more extreme versions of their former positions, and this movement is not driven by new or better arguments. Following Sunstein, Marti wants to show that deliberative bodies of like-minded persons are epistemically unstable. Consequently, it seems that it is possible to have a fair and simultaneously biased procedure, what indicates that Estlund's procedure-independent standard of correctness is necessary after all. I find this answer problematic not because of Sunstein's work, but because of the conditions Peter

(following Longino) imposes on deliberation in order to call it fair and ascribe it procedural epistemic value. Namely, four procedural conditions that the knowledge producing process ought to satisfy seem rigorous enough to exclude any form of group polarization (Longino 2002). First condition is the existence of *publicly recognized* forums for criticism of evidence, methods, assumptions and reasoning. Group polarization usually occurs in deliberative enclaves and they are rarely either public or publicly recognized. Longino's second condition requires *people being responsive to one another's arguments*. In the case of group polarization, as we have seen earlier, the movement is not driven by new or better arguments. Peter can thus reject Marti's answer by simply asserting that no procedure-independent criterion is necessary since Longino's second procedural condition alone can eliminate the case of group polarization by describing it as epistemically unfair. Finally, Longino's fourth condition asks for tempered equality of intellectual authority. This means that every person should have an equal (effective) ability to participate in deliberative process. Since we are discussing public deliberation, and in the context of reasonable pluralism there is a variety of propositions, theories and perspectives that can be asserted, it seems impossible to have a *public* deliberation of completely like-minded persons. While comparing it with his position, Estlund himself writes that in fair deliberative proceduralism " [...] *inputs are not merely to be tallied: they are first to be considered and accommodated by other participants, and, likewise, revised in view of the arguments of others.*" (Estlund 1997: 178) It seems that even according to Estlund's version of fair deliberative proceduralism group polarization is not a good answer to Peter's objection, since his version of fair deliberative proceduralism is immune to Marti's answer as well. Group polarization is a problem that targets the third feature of what Joshua Cohen calls the standard account of epistemic democracy—the requirement that individuals should adjust their beliefs in the light of the available evidence. Since the movement toward the extreme in group polarization is not driven by new or better arguments (evidence), it fails to satisfy this requirement. However, the debate between Estlund and Peter is not about the third, but about the first feature of the standard account of epistemic democracy—the question is whether an independent standard of correct decision exists and whether the approximation of correctness is necessary for legitimacy. This is why Marti's argument fails to answer Peter's objection; group polarization can be an argument against some forms of deliberation, but it fails when confronted with legitimacy-generating *procedural* requirements imposed by Peter and Longino. We can have a procedure without procedure-independent standard of correctness that can nonetheless resist the argument of group polarization. It can resist group polarization by asserting that it represents an unfair state in which decision-making process takes places, and the procedure therefore does not

have legitimacy-generating potential, not because of the bad quality of its results, but because of unfair (purely procedural) conditions in which the decision-making took place.

I believe there can be an alternative response to Peter's second objection. Her argument stresses that the standard account of epistemic democracy makes unnecessary demands; it is unnecessary to make a distinction between fair (or pure) deliberative proceduralism and (rational) epistemic deliberative proceduralism since it is quite clear that both positions will have potential to bring about correct (or at least unbiased) outcomes. It is almost inconceivable to think of a fair deliberative procedure that, as its result, will have a biased outcome. However, I believe this cannot be a serious objection since scholars arguing for the standard account of epistemic democracy emphasize the same idea. Estlund thus writes that "[...] *post-deliberative voting probably has considerable (instrumental<sup>12</sup>) epistemic value*", however the problem is that "[...] *fair deliberative proceduralism must be indifferent between it and a coin flip*." (Estlund 1997: 179) The idea that every deliberative procedure that incorporates the third feature of Cohen's epistemic democracy (i.e. represents a process of adjustment of beliefs, requiring from individuals to adjust their beliefs in light of the available evidence) has an instrumental epistemic value seems uncontested. The question remains whether this epistemic feature of public deliberation should play a role when determining legitimacy of decisions produced by it. Following fair deliberative proceduralism, instrumental epistemic value of the procedure should be of no importance when evaluating its legitimacy-generating potential. The problem is that fair deliberative proceduralism must then be indifferent between post-deliberative voting and post-deliberative coin flip<sup>13</sup>. If we take into consideration only intrinsic epistemic value of public deliberation when discussing political legitimacy (i.e. if we claim that public deliberation has instrumental epistemic value, but that this instrumental epistemic value is not important for political legitimacy of a procedure), then it makes no difference for us between post-deliberative voting and post-deliberative coin flip. If we prefer post-deliberative voting to post-deliberative coin-flip, it cannot be because of the intrinsic (procedural) value of public deliberation (both decision-making procedures have this intrinsic value

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<sup>12</sup> Fabienne Peter makes a useful distinction between instrumental and procedural epistemic value (Peter 2012). Instrumental epistemic value of a procedure regards its ability to increase or decrease the accuracy of the beliefs of the participants. When he writes about epistemic value of a procedure, Estlund thinks exclusively on its instrumental qualities. On the other hand, procedural epistemic value is typically captured in terms of mutual accountability, equal respect and relationship of reciprocity. In *Democratic Legitimacy*, Peter wants to constitute political legitimacy on procedural epistemic value.

<sup>13</sup> Estlund uses the coin flip argument because he takes it for a fair decision-making procedure with no epistemic value (Estlund 2009: 18). There is a reason to believe that Peter would not consider coin flip as a fair procedure. However, no additional argumentation supporting this idea can be found in her book (Peter 2009). It seems, nonetheless, that she has to include it in her second argument against Estlund in order to adequately challenge his position.

to the same extent), but because of its instrumental value (we believe that post-deliberative voting will produce better outcomes than coin-flip). Fair deliberative proceduralism is a bad position not because it involves deliberation with no instrumental epistemic value (Peter clearly states that public deliberation has an instrumental value), but because it places insufficient emphasis on its instrumental epistemic value when determining legitimacy conditions. Procedure-independent standard of correctness can be a good reason for arguing against coin flip and for public deliberation as a legitimate decision-making procedure.

*Objection 3: Standard Account of Epistemic Democracy is Normatively Misleading*

The third and final objection emphasizes that the standard account of epistemic democracy is normatively misleading (Peter 2009: 135). While proponents of the standard account treat democratic process as having knowledge-producing potential, they do not have a convincing account of what the epistemic value of sustained democratic deliberation is. Their position relies on the constructive function of democratic decision-making, but does not have a good account of this function. Standard account of epistemic democracy reduces deliberation to a process of selecting a particular outcome—it does not acknowledge the learning process that deliberative democracy enables. Deliberation contributes to how participants form their preferences and how the political agenda is determined, but defenders of the standard account of epistemic democracy see it only as means for coming to a correct decision. They fail to acknowledge the intrinsic (moral and epistemic) value of public deliberation.

This argument makes two related points against the standard account of epistemic democracy. First, it emphasizes the lack of adequate account of constructive function of democratic decision-making. Second, it claims that the standard account overstates the epistemic function of deliberation as a selection device, simultaneously neglecting the learning process that collective deliberation enables. Both can be summarized in the following way: if we could find a semiperfect coin, one that brings about correct decisions in vast majority of cases (not always, yet still more often than deliberative democratic procedure), following the standard account of epistemic democracy we would have to characterize it as a valid legitimacy-generating procedure. It is fair, after all, since all the members of a political constituency have an equal chance to influence the final outcome (i.e. no chance at all), and it is epistemically superior to a deliberative democratic procedure. Peter wants to challenge the latter idea; semiperfect coin may have a greater instrumental epistemic value than collective deliberation, but it does not have a superior procedural epistemic value. This is a very plausible idea and one has to acknowledge this as a flaw in the

standard account of epistemic democracy. However, I believe that there is a reason why this 'flaw' was included in the account.

In a world characterized by reasonable pluralism deep commitments and values of the members of a democratic community are in a constant moral conflict. When their values and moral commitments are challenged or threatened, citizens want a good reason why they should acknowledge the legitimacy of a certain policy, law or political decision. Both rational and pure epistemic proceduralism agree that no substantive reason can do this task; deep pluralism renders the consensus on substantive reasons impossible. Furthermore, both positions agree that only procedural reasons can be used when arguing for the legitimacy of a certain decision. A decision is legitimate because it is produced by a legitimacy-generating procedure, not because of the substantive qualities of the decision itself. The distinction between their accounts comes in when we have to decide what are the features of a legitimacy-generating procedure; the standard account claims that such a procedure should be evaluated due to a procedure-independent standard, the (substantive) quality of outcomes it produces, while Peter defines the legitimacy-generating procedure as a procedure that satisfies certain purely procedural standards (one of such standards can be knowledge-producing potential of a procedure).

When facing a law or political decision that regards their deep commitments and values, citizens want it to be correct. Since these issues play an important role in their moral lives, they don't want them to be regulated by a law that itself has no substantive epistemic value. However, they cannot agree upon a law that all will have a substantive reason to accept. The best they can get is a procedural reason to acknowledge the legitimacy of a law regulating these important issues; however, in order to be acceptable, this procedural reason will have to guarantee some kind of substantive epistemic quality of the outcome<sup>14</sup>. It seems that, when facing a moral dilemma of great importance (affirmative action, abortion, LGBT rights etc.), citizens would rather embrace and consider as a source of legitimate decisions a fair procedure that has a significant chance of producing correct answer than a procedure that emphasizes the learning process<sup>15</sup> while neglecting the (substantive) epistemic value of its outcomes.

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<sup>14</sup> Detailed argumentation on the importance of truth when considering important moral issues can be found in Robert Talisse's *Democracy and Moral Conflict* (Talisse 2009)

<sup>15</sup> Furthermore, 'learning process' emphasized by Peter and Longino has nothing to do with consequentialist epistemology. This implies that the learning process is not a process of improving our beliefs and making them more true or correct, but a process of making them better related to normative epistemic practices in our community (Peter 2009, Longino 2002).

### **2.2.e. Conclusion**

Epistemic democracy still represents a contested position, with arguments raised both against its normative content and its utopian form. This part of the chapter, set deep inside the debate on epistemic democracy, differentiates between two important conceptions of epistemic proceduralism, trying to detect the one better supported by reasons and arguments. Pure Epistemic Proceduralism locates the legitimacy-generating potential of a decision-making procedure in its intrinsic (procedural) epistemic qualities, while Rational Epistemic Proceduralism (the standard account of epistemic democracy) locates this potential in the procedure's instrumental (outcome-oriented) epistemic qualities. Building on proceduralist and hybrid epistemology that rejects the idea of procedure-independent truth, pure epistemic proceduralism fails to give sufficient foundations for the epistemic evaluation of democratic practices, making epistemic practices arbitrary. The standard account of epistemic democracy is, on the other hand, capable of answering this objection, thus representing the stronger version of epistemic proceduralism.

### **2.3. PURE DELIBERATIVE PROCEDURALISM**

One way of defending Pure Proceduralism is by referring to some political ideal whose content and implementation will be contested in the conditions of reasonable pluralism. Since we cannot reasonably agree on whether certain result or end state represents an adequate realization of this ideal, we should conclude that the quality of results or end states should not influence the legitimacy-generating potential of procedures that produced them. This ideal end state is often a certain ideal distribution of resources, one on which we will certainly not be able to agree in the conditions of reasonable pluralism. Since we cannot agree on whether a certain end state represents an adequate realization of some ideal, we can try to find public agreement in a certain collective decision-making procedure that realizes this ideal. Consequently, all decisions produced by this collective decision-making procedure will be legitimate because all can reasonably see that the procedure is an adequate realization of the desired ideal. This is a form of Pure Proceduralism—political decisions are legitimate because (and only because) they are the product of a procedure that represents a realization of a certain political ideal. There is nothing outside the procedure that we use to evaluate the legitimacy of decisions or the legitimacy-generating potential of the procedure (no appeal to the quality of results or end states).

Thomas Christiano's position is probably one of the best examples of this argumentative strategy: he uses an egalitarian argument based on the principle of public equality to demonstrate



that, since we cannot have public agreement on desirable end states, we should focus on the internal qualities of decision-making procedures in order to establish their legitimacy-generating potential. In this part of the chapter I shall use Christiano's position to demonstrate that this is not a good argumentative strategy—the principle of public equality will, at least to a certain degree, incorporate the quality of results or end states produced by collective decision-making procedures in order to evaluate their legitimacy-generating potential. Consequently, arguments based on the principle of public equality and other similar principles will not support Pure Proceduralism, but instead some version of Rational Proceduralism.

### **2.3.a. Introduction**

What makes a collective decision (i.e. a decision that affects and is binding on all members of a political community) legitimate? We usually try to answer this question by referring to certain qualities a decision has. Some claim that substantive qualities of a decision constitute its legitimacy (Arneson 2003a 2003b, Wall 2007). According to this instrumentalist position, if a decision is true, correct or just (or represents a realization of a true, correct or just ideal), it is legitimate. Even more so, such a decision is legitimate because it is true, correct or just. A more compelling version of this position might introduce a procedure as a legitimizing element, but the procedure itself will be justified solely on its ability to produce true or just decisions, or to bring about a desired end state (one that is perceived as good or just). Faced with conditions of reasonable pluralism where people can, acting in good faith and employing their epistemic capabilities to the best of their abilities, reasonably hold different decisions to be correct or just, and different end states to be good or desirable, many scholars have rejected the idea that the substantive qualities of a decision can constitute its legitimacy. They decided to focus on procedural (and not substantive) qualities of the decision in question—we can say whether a decision is legitimate or not by examining the process by which it was made (proceduralism). They do not evaluate a decision-making procedure by its ability to produce some desired (just or true) end state, but instead by it being run in a certain desired (fair or epistemically favorable) state. It is no longer what the procedure will produce as an outcome, but how will this outcome be produced. Consequently, substantively untrue, incorrect or unjust decision can be legitimate if it is produced by a legitimacy-generating decision-making process, one that focuses on the fairness (or some other intrinsic quality) of the procedure, and not on the substantive qualities of the outcomes it produces.

Many will see this move as a retreat from substance—by disregarding the substantive qualities of a collective decision, we neglect the outcomes of a political process and focus only on

its intrinsic value. According to pure proceduralism, there are no procedure-independent criteria for evaluating legitimacy of collective decisions or the legitimacy-generating potential of procedures creating them. David Estlund rejected this idea by claiming that we can have a form of non-pure proceduralism that takes into consideration both the fairness of the procedure and the quality of the decisions produced by a decision-making process when assessing its legitimacy-generating potential. He named this position epistemic proceduralism (Estlund 1997: 174), and distinguished it from other purely procedural (monistic) positions, including fair proceduralism and fair deliberative proceduralism<sup>16</sup>.

Table 2.2.

		<b>When assessing the legitimacy-generating potential of a procedure, we focus on:</b>	
		State in which a decision-making procedure takes place	State that is the result of a decision-making procedure
<b>MONISTIC POSITIONS</b>	Instrumentalism	No	Yes
	Pure (Fair) Proceduralism	Yes	No
<b>NON-MONISTIC POSITIONS</b>	Rational Proceduralism	Yes	Yes

In discussions on democratic legitimacy, Christiano's position is often characterized as a monistic position, i.e. a strong and persuasive version of fair deliberative proceduralism (Estlund 1997, 2009, Peter 2005, 2010). Developing very complex, but, nonetheless, well-structured argument, Christiano finds both the authority of democracy and its limits in the principle of public equality. This principle, together with the demands of social justice, requires a collective decision-making process for the whole society, one in which each person has by right an equal say in the collective decision-making (Christiano 2008). Democracy is thus seen as a realization of public equality in

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<sup>16</sup> A further distinction between rational and pure epistemic proceduralism is introduced by Fabienne Peter. She calls Estlund's position Rational Epistemic Proceduralism, and describes it as a non-monistic position that relies on both fairness of the procedure and the procedure-independent quality of outcomes when establishing political legitimacy. Peter calls her own position Pure Epistemic Proceduralism—she claims that a procedure can have epistemic qualities that are not procedure-independent and outcome-oriented (e.g. epistemic fairness), and that these qualities are sufficient for establishing the procedure's legitimacy-generating feature. Though this is a form of epistemic democracy, it is claimed to be purely procedural (monistic) since no procedure-independent standards have been introduced (Peter 2009).

collective decision-making. The presented case for democracy is non-instrumental, and the quality of outcomes produced by a democratic decision-making process does not constitute or in any way influence the legitimacy-generating features of that decision-making process.

I have some doubts regarding the abovementioned characterization of Christiano's position. Namely, I argue that the quality of political decisions produced by a democratic decision-making process should play an important (though not decisive) role in Christiano's argument. Consequently, it seems to me that his case for democracy should be (at least somewhat) instrumental, i.e. that he should reject Pure Proceduralism and accept some form of Rational Proceduralism. In order to elaborate this claim, in the first part I present some of the important premises of Christiano's argument. I also relate the original text with notable interpretations by Estlund and Peter, pointing out the parts that indicate that Christiano's position is a form of fair deliberative proceduralism. In the second part, I consider four cases from Christiano's *The Constitution of Equality* that show how outcomes of democratic procedures are very important to Christiano. Furthermore, I argue that these outcomes are so important that, when deciding between two or more fair decision-making procedures, one that produces the best outcomes should be considered legitimate. This is closely related to Christiano's idea of the fundamental value of well-being, as well as to the principle of public equality. I end by concluding that Christiano should reject Pure Proceduralism and characterize his position as a form of Rational Proceduralism. One cannot use argumentative strategy employed by Christiano and try to defend Pure Proceduralism.

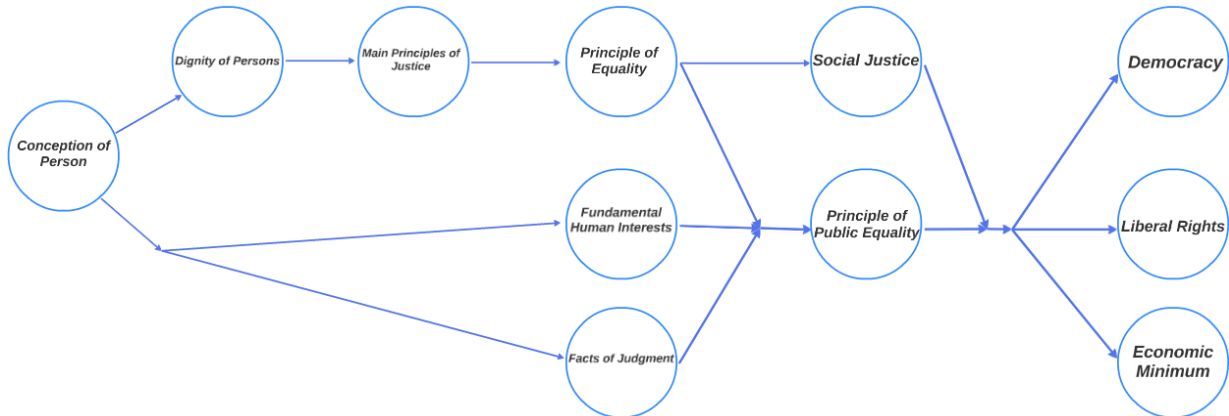
### **2.3.b. Christiano's Argument for Democracy**

Christiano offers a very detailed argumentation and any attempt to summarize it unavoidably risks omitting some of the important parts of the argument. I will nonetheless try to summarize some key concepts relevant for further discussion, emphasizing once more that many important ideas will unfortunately be omitted.

Christiano starts his argument by defining human beings as authorities in the realm of value, and well-being as a happy exercise of this distinctive authority. We honor this authority by promoting the well-being of human beings, and since every person represents an authority in the realm of value, well-being is due each person. Christiano then introduces two basic ideas about justice: the principle of propriety (each person should receive his or her due) and the generic principle of justice (relevantly alike cases should be treated alike, and relatively unlike cases unlike). Since human beings all have essentially the same basic capabilities to be authorities in the realm of value (there is no morally relevant difference), well-being should be distributed and

promoted equally by the institutions of society (principle of equality). Furthermore, since well-being should be cherished and promoted, we should favor those states of equality with more well-being, and even states of inequality where everyone's well-being is promoted better than in some other state of equality (though this does not imply that such state of inequality is just).

Diagram 2.1.



The principle of equality, furthermore, grounds the idea that equality should be publicly recognized by all human beings—everyone must be able to see that he or she is treated as equal. However, there are certain facts about citizens and society that make this very difficult. We have diverse interests and often cannot perceive or understand interests of others, we are often cognitively biased and more sensitive to our own interests than those of others, and finally, we even tend to differently interpret the idea or the demands of equality. We thus cannot agree whether some political decision substantively respects the demands of the principle of equality, i.e. whether it equally promotes the well-being of all persons. If someone still tries to impose the conception of equality he believes to be a correct one, he or she will, because of the abovementioned facts about citizens and society, set back the interests and well-being of those who are imposed upon. From this Christiano concludes that it is impossible to achieve equality without equal participation of all citizens in a public decision-making process. Democracy is seen as an essential component of public realization of equality (other essential components are liberal rights and decent economic minimum), and is therefore intrinsically just. They are public realization of equality because we can (despite the abovementioned facts about citizens and society) reach agreement on democracy, liberal rights and decent economic minimum from the egalitarian standpoint, and we cannot do the same for justice of the outcomes of the democratic decision-making or the goodness of the exercise of our liberal rights (Christiano 2008). We thus have public substantive reasons for accepting democracy, liberal rights

and economic minimum, and we have public procedural reasons for accepting the authority of a particular democratic decision and particular exercise of liberal rights. Since substantive reasons for democratic procedures do not regard some ideal end state (ideal equality cannot be a desired end state since we cannot agree upon what ideal equality is) or the quality of the outcomes of a decision-making process (we cannot agree on the quality of the outcomes either), democracy is non-instrumentally justified.

This line of argumentation has led many scholars to interpret Christiano's position as a form of Fair Deliberative Proceduralism. Estlund classifies Christiano's position this way in more than one occasion (Estlund 1997: 200; 2009: 244), sometimes referring to it as Publicly Equal Proceduralism. Peter supports this classification, further stressing that, according to Christiano, substantive quality of outcomes of political decisions does not play any role in legitimizing the decision-making procedure or the decisions themselves.

According to Pure Deliberative Proceduralism, legitimacy is ensured as long as the demands of procedural fairness are satisfied. In analogy to Pure Aggregative Proceduralism, outcomes do not matter for political legitimacy under the regime of Pure Deliberative Proceduralism. All that matters for democratic legitimacy in such a regime is that collective decision-making proceeds through public deliberation among all those affected under conditions of political equality. This view is defended by Thomas Christiano [...] (Peter 2007: 340-341)

Some scholars disagree with the presented classification: Marti argues that Christiano's view is an easy case of a mixed position that combines intrinsic with instrumental values (Marti 2006: 37), and Rostbøll points out that, by relying on a kind of instrumentalism about democratic institutions, Christiano's argument for democracy cannot avoid invoking procedure-independent epistemic standards (Rostbøll 2015: 272-274). I fully agree with Marti and Rostbøll, and in the rest of the chapter I shall try to further support this interpretation of Christiano's work. His position, I believe, should give at least some weight to the substantive quality of decisions produced by a collective decision-making process when discussing the legitimacy of political decisions and legitimacy-generating features of collective decision-making procedures.

### **2.3.c. Why Should Outcomes Be Important for Christiano's Position?**

Though the importance of the quality of outcomes of political decisions can partly be assumed from the first parts of Christiano's argument, it is later in the argument that we can more clearly see how outcomes can be important for the legitimacy of political decisions. In this part of the chapter I shall

discuss four separate cases taken from Christiano's argument that, when properly understood, point out why the outcomes of a collective decision-making procedure are important for its legitimacy-generating potential. Before that, however, we should focus on the reason why Christiano, in the first part of his argument, claims that democracy is (solely) non-instrumentally justified, and consequently, why outcomes and end states should not play any role in its justification (Christiano 1996, 2008).

Democracy, as a public realization of equality, is intrinsically just. It is important to note, however, that this does not exclude that democracy can be instrumentally justified as well. Estlund's view is a clear example of such position; democracy is intrinsically justified because it is a fair procedure, and it is instrumentally justified because of its epistemic qualities (to be more precise, its truth-tracking potential) (Estlund 2008). Christiano's position rests to a great extent on the intrinsic justification of democracy—however, claiming that Christiano should include instrumental justification of democracy does not, in any way, undermine its intrinsic justification.

Christiano is, however, not willing to include the instrumental qualities of democracy in its justification. Namely, by introducing instrumental qualities in the process of justification, the justification will no longer be public because some of the reasonable citizens will not be able to recognize or approve these instrumental qualities. To say that a decision-making procedure is instrumentally justified implies that there is some intrinsically valuable end state that the use of this procedure helps bring about (Christiano 2008). Consequently, when we say that a decision-making procedure is instrumentally justified, we are implying that we know what this intrinsically valuable end state (one that the procedures helps us achieve) is. However, because of facts of judgment, we do not agree and cannot agree on what this intrinsically valuable end state is. Instrumental justification of democracy (one that rests on a certain end state that democracy helps achieve) cannot therefore be public since there is no public agreement on such valuable end state. Instrumentalist accounts of Richard Arneson and Steven Wall are what Christiano has in mind when he rejects the instrumental justification of democracy. Both Arneson and Wall refer to some ideal egalitarian distribution as a desirable (intrinsically valuable) end state. The legitimacy-generating potential of decision-making procedures and the legitimacy of decisions made by them depend on how closely these decisions approximate the ideal egalitarian distribution (Arneson 2003, Arneson 2003b, Wall 2007). Since there is no public agreement on this ideal egalitarian distribution (not everyone can see that he or she is treated as equal), by imposing this conception of equality we will set back the interests and well-being of those who are imposed upon. We cannot have a public instrumental justification of democracy when we do not have a public agreement on the intrinsic

value of the desired end state that democracy is supposed to achieve (Christiano 2008).

I think Christiano is right when he rejects instrumentalist positions of Arneson and Wall. However, I claim that there can be public agreement on the value of some end states, and furthermore, that Christiano's argument presupposes this agreement at several important points. In the rest of this part of the chapter I discuss four such examples.

*(i) Leveling-down Objection*

Equality is, as we have seen, very important for Christiano. This makes his position (as well as any other egalitarian position) vulnerable to a famous leveling-down objection. This intuitive objection shows that the principle of equality can have extremely implausible implications. The objection invites us to imagine two alternative states: S1 and S2. In S1, everyone is equally well-off, while in S2 everyone is better than in S1, but some are better-off than others. According to some, the fact that the principle of equality would favor S1 represents a departure from equality. It would, then, imply that we should make everyone worse-off. Proponents of leveling-down objection then conclude that there must be something wrong with the principle of equality.

Table 2.3.

	<b>S1</b>	<b>S2</b>	<b>S3</b>
<b>A</b>	2	3	5
<b>B</b>	2	7	5

Furthermore, if we introduce an alternative state S3, in which everyone is equally well-off, and everyone is better-off than in S1, it might seem that the principle of equality should be indifferent towards S1 and S3. They both represent states of equal distribution of well-being, and from the standpoint of equality there is no relevant difference between them. Christiano disagrees with this conclusion, pointing out that egalitarians should prefer S3 to S1. He rightfully claims that there is an internal connection between rationale for equality and the value of relevant fundamental good that is equalized. People are indifferent to quantitative distribution of letters in their names, mostly because a necessary condition for equality mattering is that it is better to have more than less of the thing being equalized (Christiano 2008). Importance of well-being is thus built in the principle of equality, and so egalitarians should differentiate between S1 and S3 (i.e. egalitarians should favor

S3). Christiano continues his argumentation by claiming that egalitarians must acknowledge that S2 fails justice, though this does not imply that they should prefer S1 to S2. Namely, S1 also fails justice (even more than S2, though S1 is a state of equality) by failing to address the principle of well-being, an essential component of the principle of equality. Of course, S3 is superior to both S1 and S2, and if S3 is not feasible, then we must favor state of inequality in which everyone is better-off than in the state of best feasible equality (Christiano 2008).

Though Christiano introduces very detailed and valuable argumentation for the discussions on equality, the key point for the purpose of this chapter is that S3 is better than S1 (and this follows from the principle of equality). We can, at least at this abstract level, say that one state of affairs is better (or more just) than the other.

Now consider two alternative decision-making procedures: P1 and P3 are egalitarian procedures that give every person equal chance to participate in a decision-making process. They are both fair procedures, and it might even seem that they are both intrinsically justified as public realizations of equality (everyone can see that he or she is treated as an equal). However, the well-being produced by P1 is considerably lesser than well-being produced by P3. This can be for many reasons, but let us say that this is because P3 is better in organizing the existing virtues and good qualities of the people in a way that promotes their well-being<sup>17</sup>. Since S3, end state produced by P3, is better in improving the well-being of each citizen, it should be favored by the principle of well-being over S1 (produced by P1), and consequently favored by the principle of equality. It seems that, considering the principle of equality, P3 should be favored over P1, though they are both fair and both give each citizen an equal chance to participate in the decision-making process and influence the final decision. However, P1 and P3 have the same *purely procedural* qualities<sup>18</sup>—what differentiates them is their ability to produce a state that improves the well-being of citizens, i.e. the difference between P1 and P3 is not in the procedural fairness, but in the substantive quality

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<sup>17</sup> This is a variation of Mill's second criteria for legitimacy of any form of government (Mill 1977).

<sup>18</sup> This does not imply that all qualities the two procedures have are the same. If that were the case, it would not be possible to explain why the results they have produced are different. The two procedures have the same relevant *purely procedural* qualities (e.g. they give everyone an equal chance to participate in decision-making process). We refer to these qualities as purely procedural since they are intrinsically justified. The difference can be in other qualities (e.g. whether the procedure incorporates the division of labor, whether decisions are made by pre-deliberation or post-deliberation voting), but these qualities are not intrinsically, but instrumentally justified. There is nothing 'good in itself' in division of labor or public deliberation—these qualities are considered good because of the good outcomes they produce. The problem with fair proceduralism is that it must remain indifferent towards these qualities, since it attributes legitimacy-generating potential only to intrinsically justified qualities. So the problem is that it focuses only on intrinsic qualities of a procedure (e.g. those in the square on the sketch below), and not on other relevant (instrumentally justified) qualities of a procedure (e.g. those outside of the square on the sketch below). For a fair proceduralist there is no relevant difference between procedures P1 and P3 because a fair proceduralists characterize only certain intrinsic qualities as 'relevant'.



of the outcomes they produce. It seems that the outcomes of political decisions should play a certain role in constituting the legitimacy-generating potential of the procedures that have produced them, and it also seems that this claim is supported by the principle of equality.

One way of answering this objection is claiming that S1 and S3 are very abstract states: society is not divided in two well-distinguished groups and the well-being of individuals is not possible to measure that easily. If we try to put these states in political practice, specifying them by various laws, policies and resources that are distributed, the idea that S3 is better than S1 would fail the publicity test. Because of the facts of judgment, not everyone would think of S3 as better in improving the well-being than S1, and referring to end states S1 and S3 could not be a public justification of P1 or P3. Christiano's answer to leveling-down objection should then be seen as a theoretical project without any direct consequences on real-life laws and policies<sup>19</sup>. It seems to me, however, that that would not be a correct interpretation. When Christiano discusses the quality of decisions produced by equal lotteries or coin-flipping, or when he argues in favor of deliberative and representative democracy, he seems to be endorsing the idea that these practices are somehow better in increasing the well-being of citizens, and this seems to follow from the public principle of equality. Let us then discuss the remaining three cases to support this claim.

### *(ii) Christiano Rejects Equal Lotteries*

If procedural fairness is the only criterion for the legitimacy-generating potential of a decision-making procedure (i.e. if the only relevant state is one in which decision-making process takes place, and not the one that is an outcome of such a decision-making process), there is more than one procedure that can satisfy it. Coin-flipping can be one such procedure: if we flip a coin every time we have to make a political decision, we seem to be using a fair decision-making procedure, since

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<sup>19</sup> Though I agree that, because of facts of judgment, we cannot have public agreement on *some* important moral issues and issues regarding our well-being, I believe there can be an important difference between S1 and S3 that everyone should (despite facts of judgment) be able to perceive. In order to elaborate this difference, we can use results gathered by Democracy Ranking Association which produces an annual global ranking of democracies. According to the ranking, democracy consists of six dimensions (one political, five non-political), with different weights for the overall quality of democracy. Their weights are distributed accordingly: politics (or the political system) 50%; gender (gender equality in socioeconomic and educational terms) 10%; economy (or the economic system) 10%; knowledge (knowledge society, research and education) 10%; health (or the health system and health status) 10%; and environment (environmental sustainability) 10% (Campbell and Sükösd 2002). The first dimension (politics) focuses on procedural fairness of a democratic system (whether everyone has a right to participate in decision-making process, whether there are discriminated individuals or groups of people), while other five focus on results or outcomes of the political process (these results, like economy, knowledge, health and environment, are very important for the well-being of persons). We can imagine situations when two countries have the same score for politics, but differ significantly regarding other five dimensions. This is exactly the situation with S1 and S3: they both respect procedural fairness and give every citizen equal chance to participate in decision-making, but the results that affect the well-being of people (economy, health, education, environment) are different because of some other qualities of decision-making procedures (e.g. whether they implement division of labor and encourage public deliberation). I believe Christiano acknowledges this when he discusses and rejects direct and aggregative democracy.

everyone has an equal chance to influence the final decision, i.e. no chance at all (Nelson 1980, Estlund 2008). We can also randomly select one person who will make a political decision that will be binding on all of us, or we can have a voting system where a single vote is randomly selected to be decisive. In all of these cases, everyone has an equal chance to influence the final decision (equal chance to be selected as a 'queen for a day', or equal chance that his or her vote will be selected as decisive) (Estlund 2008). It seems that all these procedures stand in accordance with the principle of public equality; everyone is treated as an equal, and everyone can see and accept that.

Democracy is a fair decision-making procedure as well—but why should we favor democracy over coin-flipping, queen for a day or equal lotteries? Christiano is convinced there is a relevant difference between these procedures: fair but non-democratic decision-making procedures represent a very thin form of equality that does not go beyond initial distribution. They all fail to realize equality adequately (Christiano 2008). Christiano introduces an analogous case of substituting equal distribution of chance for material resources for equal distribution of resources (Christiano 2008: 108-112). This is a very useful analogy that points out that, when we can publicly determine what an equal distribution is (as we can with wages), results and end states are very important. Furthermore, principle of public equality directs us to use a distributing mechanism that will produce a desired outcome or end state, and it directs us to use a decision-making procedure that will produce the same desired outcome or end state. Democracy will be better in achieving this desired end state (equality of well-being) than equal lotteries or coin-flipping, just like equal distribution of resources will be better in achieving the same end state than equal chance for material resources. In democracy, Christiano claims, equality does reach beyond initial distribution because people have capacities to negotiate, deliberate and exchange political power, 'and these are activities that are highly advantageous to all the participants' (Christiano 2008: 110). The main problem with lotteries is that they do not enable us to engage in deliberation, negotiation and exchange, i.e. in activities that help us improve our interests and our well-being. One could argue that deliberation, negotiation and exchange are advantageous from the standpoint of procedural equality (Peter 2011, Gutmann and Thompson 1996, 2000), but Christiano rejects this idea, first when he rejects tradable equal chances at wages (Christiano 2008: 109), and then when he argues that public deliberation is instrumentally justified (Christiano 2008: 192). Finally, Christiano admits the importance of outcomes when he rejects equal lotteries:

In an egalitarian system of decision-making one would want the agenda for decision-making to be determined in an egalitarian way as well *since this is crucial to the outcome of decision-making.*

(Christiano 2008: 111, [emphasis added])

It seems that the argument against equal lotteries and other fair but non-democratic decision making procedures is (at least partly) outcome based—even if they give every person equal chance to influence the final decision, they do not produce outcomes as good as democracy.

*(iii) Christiano Rejects Direct Democracy*

As we have seen in the earlier case, Christiano rejects coin-flipping, equal lotteries and other fair but non-democratic decision-making procedures. He claims that democracy is the only adequate public realization of equality. However, democracy is not a single, precisely defined decision-making procedure; there are many forms of democracy and many different decision-making procedures can be referred to as democratic. Is there (and can there be) any relevant difference between these democratic decision-making procedures? How are we to decide which democratic decision-making procedure is the one that creates legitimate decisions?

Christiano accepts a form of representative democracy, and argues that direct democracy should be rejected on the grounds of principle of equality. Some might find this very problematic. If equality is the basis for democracy, then a more equal but far less effective system of collective decision-making would be superior to an unequal system that was more effective at advancing everyone's interests. Christiano indirectly accepts the idea that direct democracy is more equal than representative democracy, but argues that the latter should be accepted because of its efficiency (Christiano 2008: 104-105). This efficiency is the product of the division of (epistemic) labor in modern states—citizens are thus to define the aims the society is to pursue, while legislators (political representatives and experts) are charged with a task of implementing and devising the means for those aims through legislation. Of course, requirement of political equality is met if (and only if) legislative assembly proportionately represents the aims citizens have chosen.

Even if there is some inequality under representative democracy (and more inequality than in direct democracy), it is still preferable on the principle of equality. Because of the division of labor, representative democracy will constitute a Pareto improvement over direct democracy. Consequently, representative democracy would be more just even if direct democracy would be more equal. The advantages of the division of labor are so clear that this can qualify as a publicly clear improvement (Christiano 2008: 105).

When we evaluate the legitimacy-generating potential of representative and direct democracy, Christiano claims that we should, at least partly, focus on their ability to increase the

well-being of citizens (this follows from the principle of well-being, and consequently from the principle of equality). And this implies that we should focus on the procedure's ability to produce certain desirable outcomes and end states, and it is this ability that (at least to a certain degree) gives a decision-making procedure legitimacy-generating qualities. Representative democracy is thus (at least partly) instrumentally justified—it is better than direct democracy because of its ability to produce certain intrinsically valuable end state<sup>20</sup>.

*(iv) Christiano Rejects Aggregative Democracy*

In the previous case we have seen that, according to Christiano, representative democracy can be publicly justified and preferred from the standpoint of equality over direct democracy. However, we are faced with the same problem once again: there are various forms of representative democracy and, though we have narrowed the list of legitimacy-generating democratic procedures, we still have to select over different alternatives. It seems that interests of every person can be publicly treated equally in both aggregative and deliberative democracy. Do then both aggregative and deliberative model, as long as they are both representative and democratic, produce a legitimate decision?

Christiano disagrees—though it might seem that both procedures publicly treat everyone's interests equally, there are strong reasons for rejecting aggregative democracy. However, Christiano explicitly argues that these reasons are instrumental (Christiano 2008: 190-197). Deliberation is instrumentally justified because it improves the understanding of the interests of the members of community, it enables us to root out policies based on prejudices and it enhances certain desirable qualities in citizens (e.g. autonomy, morality and rationality). Furthermore, it helps us to promote some of our fundamental interests (e.g. correcting for cognitive biases in others and acquiring true

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<sup>20</sup> This chapter tries to demonstrate why Christiano should accept the idea that, from the standpoint of equality, democracy is at least partly instrumentally justified. As I have noted earlier, I do not want to claim that democracy is solely instrumentally justified. However, Christiano's preference towards efficiency in improving the well-being of citizens can even lead some to argue that his view is actually an instrumentalist position. If the procedure's ability to produce a desirable end state is more important than its purely procedural fairness (its ability to treat everyone as an equal and give everyone an equal chance to influence the final decision), then Christiano can give a procedure this legitimacy-generating potential solely on the basis of its ability to produce good outcomes. This might be a view very similar to J.S. Mill's instrumentalist position—a form of government is justified only on the basis of its ability to improve the well-being of citizens, and democracy (or scholocracy) is thus better than monarchy (or epistocracy) because it is better in detecting and satisfying interests and the well-being of the people (it is partly better in satisfying the interests of people because it improves moral and intellectual capabilities of people, but this improvement is again instrumentally justified because it helps us to produce better decisions and better improve our well-being). There is no doubt, however, that democracy is instrumentally justified. Furthermore, Mill also introduces the publicity requirement, especially when suggesting the plural voting proposal (Mill 1977). I do not want to press this analogy further in this chapter, though I believe that it could be expanded and might even lead us to conclude that Christiano is suggesting an instrumentalist position, something very different from fair deliberative proceduralism, as his position was characterized by Estlund and Peter.

and justified beliefs) that are used in the justification of democracy. This implies that we cannot consider these cases separately and argue that democracy is solely intrinsically, and deliberation solely instrumentally justified (as far as I can see, this is exactly what Christiano does) (Christiano 2008: 71, 193), since the same argument is used to justify both of them, and deep down it is an instrumental argument (correcting for cognitive biases in others and acquiring true and justified beliefs are not, as far as I understand Christiano's argument, self-standing epistemic virtues<sup>21</sup>, but instead good means to achieve a desired end state, one with the greatest level of well-being for everyone).

Let us then summarize the second part of this chapter. Christiano argues that democracy is solely intrinsically justified since it is a public realization of equality, and argues that it cannot be instrumentally justified since that would include calling some end state intrinsically valuable, and we cannot have a public agreement on how that end state should look like (Christiano 2008: 71-74). He defends representative deliberative democracy and claims it is, from the standpoint of equality, superior to other fair decision-making procedures, including coin-flipping, queen for a day, equal lotteries, direct democracy and aggregative democracy. Representative deliberative democracy is superior because of its ability to produce desirable outcomes and end states, those with more well-being for everyone. Furthermore, Christiano claims that this follows from the principle of public equality, since everyone can see not only that he or she is being treated as an equal, but also that representative deliberative democracy will be better in producing the desired end state (more well-being for everyone) than other fair decision-making procedures. This is clearly a form of instrumental justification. It seems that, from the egalitarian standpoint and the principle of public equality, democracy is (at least partly) instrumentally justified. Consequently, democratic decisions are legitimate because of democracy's legitimacy-generating qualities, and these qualities include both its procedural fairness and its ability to produce good outcomes (to best improve the well-being of all citizens).

### **2.3.d. Conclusion**

This part of the chapter tries to show that Christiano's view should not be regarded as a monistic position in discussions on political legitimacy. Though many have described his position as a form of pure (fair) deliberative proceduralism, and though Christiano himself emphasizes that the results

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<sup>21</sup> Fabienne Peter would probably argue something like this. She calls her position Pure Epistemic Proceduralism since she justifies deliberative democracy on the basis of its self-standing (purely procedural) epistemic values, and not on the basis of consequentialist epistemology (like Estlund and Christiano). (Peter 2011)

or end states of decision-making procedures should not play any role in constituting their legitimacy-generating potential, it seems to me that a form of non-monism follows from the principle of public equality. Namely, the principle of well-being (which is an important element of the principle of public equality) asks us to evaluate the ability of decision-making procedures to improve the well-being of human beings. If there is more than one procedure that treats everyone as an equal, we should differentiate between them on the basis of their ability to improve our well-being, as well as well-being of other human beings. I believe this is why Christiano rejects coin-flipping, equal lotteries, direct and aggregative democracy (though they are all fair decision-making procedures) in favor of representative deliberative democracy. Quality of the outcomes (or end states) of political decisions thus seems to play an important role in constructing the legitimacy-generating potential of a decision-making procedure, and this seems to follow from the principle of public equality. We thus cannot use Christiano's argument founded on the principle of public equality in order to defend Pure Proceduralism—the abovementioned principle supports Rational, and not Pure Proceduralism.

### CHAPTER III

## THE KNOWLEDGE TENET

This chapter discusses the second tenet of the epistemic justification of decision-making procedures. More precisely, unlike the second chapter, the third one discusses positions that acknowledge the truth tenet and claim that political decisions can be correct or incorrect, true or false. Furthermore, these positions claim that the ability of a procedure to produce decisions and beliefs that have some procedure-independent (substantial) quality should play an important role in determining its legitimacy-generating potential. Some will take a monistic (instrumentalist) approach and claim that it is only the quality of the result that matters (pragmatist deliberative democracy here represented by Robert Talisse and Cheryl Misak), and some will take non-monistic approach and argue that both intrinsic (purely procedural) and instrumental (substantive) qualities of a procedure matter (Fabienne Peter's new account of democratic legitimacy). However, all positions discussed in this chapter accept the idea that substantive quality of outcomes represents a necessary (though not always sufficient) condition for legitimacy-generating potential of procedures that have produced them.

Positions that acknowledge the truth tenet but reject the knowledge tenet generally claim that, though there are procedure-independent standards (truths) in politics, there is no group of people who are better in producing decisions and beliefs that satisfy these procedure-independent standards. In other words, though political decisions might be right or wrong, no individual or group of people is better in making right decisions. There are no experts in politics. These positions endorse the idea of epistemic equality of all citizens, claiming that citizens should be regarded as epistemic peers (Talisse 2009a, Peter 2012). Some embrace the stronger interpretation of epistemic peerhood, according to which epistemic peers represent people who are equally likely to make a mistake (Elga 2007, Peter 2012), and some follow the weaker interpretation according to which epistemic peers represent people who owe reasons to each other (Talisse 2009a). Nonetheless, all positions discussed in this chapter embrace the idea of epistemic equality of citizens, as well as some form of epistemic peerhood that follows from it.

In the first part of this chapter I discuss pragmatist deliberative democracy, an instrumentalist position that perceives democracy as the best means to achieve the desired end, i.e. to honor our epistemic commitments and help us have true (or justified) beliefs. This position is discussed through the work of Robert Talisse and Cheryl Misak, American pragmatist philosophers

who argue that democracy can be justified solely by the appeal to our epistemic values and principles (Misak 2000, 2009, Talisse 2007, 2009a, 2009b). They claim that there are some basic epistemic principles that everyone can endorse, and one of these central principles is the idea that "a belief, in order to be a belief, is such that it is responsive to or answerable to reasons and evidence" (Misak 2004: 12), or the idea that "to believe p is to hold that p is supported by best arguments, reasons and evidence." (Talisse 2009a: 91) In other words, by having a belief we are committing ourselves to certain epistemic duties, like the duty to articulate the reasons and evidence that support our belief when someone asks us to do so, and the duty to enter the social process of reason-exchange. Pragmatist idea of epistemic peerhood implies that no one can avoid deliberation and refuse to present his or her reasons and evidence: we are epistemic peers we owe reasons to each other. Finally, these epistemic duties can only be performed under favorable political conditions, and since democracy (together with liberal rights of freedom of thought, speech, press and assembly) represents the best political arrangement for improving and upholding our epistemic duties and practices, it is instrumentally justified.

Though I recognize and acknowledge many advantages of this view, I do not think that it represents a convincing case for democratic legitimacy. First of all, I do not follow the pragmatist idea that, in order to be proper believers, we should constantly and actively search for and strive to listen to all arguments, reasons and evidence for and against some proposition. This commitment is too demanding: someone can be a proper believer and still (at least sometimes) refuse to deliberate with some individuals or groups. If these strong epistemic commitments do not follow from our basic epistemic principles (or at least not everyone can see that they follow), the pragmatist argument for democracy is seriously crippled. However, I think that the pragmatist account faces an even greater problem—namely, I do not think that these strong epistemic commitments (even if we grant them) can adequately justify democratic decision-making procedures. The pragmatist account presents a convincing argument for public deliberation, but not necessarily for democracy—some non-democratic procedures, such as Mill's scholocracy or consultative epistocracy that allow (or even encourage) deliberation, can follow from our strong epistemic commitments. In order to justify deliberative democracy and establish its legitimacy-generating potential we have to reject pragmatist instrumentalism and adopt some non-monistic position, one that acknowledges both the intrinsic (purely procedural) and instrumental (substantive) qualities of a decision-making procedure. Fabienne Peter's second-personal epistemic democracy, discussed in the second part of this chapter, is one such non-monistic position (Peter 2012, 2013).



The second part of this chapter analyses Fabienne Peter's new account, here referred to as the second-personal epistemic democracy. This is a non-monistic position that emphasizes both the intrinsic (purely procedural) qualities of decision-making procedures and their instrumental (substantive) qualities. Unlike her earlier view, Peter now holds that the quality of the results is important for the legitimacy-generating potential of the decision-making procedure (Peter 2012, 2013). However, just like her earlier view (and unlike the standard account of epistemic democracy), Peter claims that relevant purely procedural qualities of decision-making procedures are epistemic, and not moral in nature. Following Adam Elga, she introduces the strong interpretation of epistemic peerhood, claiming that epistemic peers are people who are equally likely to make a mistake (or to have a true or correct belief) (Elga 2007, Peter 2012). This introduces a strong version of epistemic equality: just like in the case of morality, epistemic authority of our peers becomes second-personal. We recognize our epistemic peers as sources of valid epistemic claims, and democracy is thus intrinsically (purely procedurally) justified since it represents a decision-making procedure that embodies epistemic equality (of course, it is justified instrumentally as well, since it helps us produce correct or true decisions).

I reject Peter's view, first by arguing that her introduction of second-personal authority is not appropriate for epistemology (epistemic authority is necessarily third-personal), and then by criticizing her strong version of epistemic peerhood. Namely, I claim that such a strong interpretation of epistemic peerhood might be appropriate for the academic, but is not appropriate for the political community. Our background and education at least partly define our ability to produce good (correct or true) beliefs. Since we have different backgrounds and education, we should expect people to more or less capable of producing good decisions. This does not imply that those who perform better should rule (that would be the authority tenet, and not the knowledge tenet). All that the knowledge tenet claims is that there are some individuals and groups that are better at producing correct decisions than other individuals or groups. In the final part of this chapter I argue that the knowledge tenet should be granted and that strong interpretation of epistemic peerhood should be rejected. We can make a convincing case for democracy by acknowledging the truth tenet and the knowledge tenet—all we have to do is to reject the authority tenet.

### 3.1. PRAGMATIST DELIBERATIVE DEMOCRACY

The pragmatic account of deliberative democracy<sup>22</sup> represents an innovative approach to the discussion on justification of democracy. This account generally takes instrumentalist form by claiming that political decisions are legitimate solely because they are the product of a truth-tracking decision-making procedure. There are no relevant purely procedural qualities of democracy—it has its legitimacy-generating potential because it represents the best means for achieving a desired end (i.e. having outcomes of considerate substantial and procedure-independent quality). The pragmatic account recognizes the truth tenet, but generally rejects the knowledge tenet. The argument is based on three central claims: (i) there are some fundamental epistemic principles that can be publicly recognized and endorsed by all reasonable citizens<sup>23</sup>, (ii) there are some epistemic duties and commitments that follow from these fundamental epistemic principles, and finally (iii) these epistemic duties and commitments introduce and justify deliberative and democratic decision-making procedures.

Though I recognize and affirm the importance of the pragmatic account of deliberative democracy (and I used part of Talisse's argumentation to criticize Arendt's position in the second chapter), I reject part of the second and most of the third claim of the pragmatic deliberative democracy. I believe that knowledge tenet should be granted, and therefore that deliberative democracy cannot be justified solely on epistemic (instrumental) grounds.

#### 3.1.a. Introduction

We live in a world characterized by the plurality of reasonable moral and religious comprehensive doctrines and conceptions of the good. That world is, at least partly, made possible by the democratic and liberal rights that guarantee every citizen certain liberties, including freedom of thought and conscience as well as freedom of speech, press and assembly. These liberties (and the absence of inquisition or some other coercive organization or mechanism that would limit them) support and facilitate the creation of pluralist societies, but also introduce the liberal criterion of

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<sup>22</sup> Matthew Festenstein introduced this common name for numerous accounts of democratic legitimacy that draw upon pragmatist epistemology (Festenstein 2007, 2010).

<sup>23</sup> A possible objection to the pragmatist view might bring into question whether there are such fundamental, publicly-recognized epistemic principles. If one can demonstrate that there are no epistemic principles and values that everyone (or at least every reasonable citizen, when "reasonable" is defined in an epistemic way) can affirm, the entire pragmatist argument can be rejected from the start. I generally agree with the defenders of the pragmatist deliberative democracy regarding the publicity of some epistemic principles, so I shall not use this argumentative strategy to reject the pragmatist view. Instead, I shall focus on the second and the third claim of the pragmatist deliberative democracy.

legitimacy (which is often seen as an extension of freedom of conscience<sup>24</sup>): in order to be legitimate, a form of government (or a decision-making procedure) has to be justifiable to all reasonable citizens. The problem is that, since in the conditions of reasonable pluralism we embrace numerous different and incompatible, but still reasonable comprehensive moral doctrines, we cannot agree on what represents a good moral justification of democracy. It seems that the same freedoms and liberties that constitute a democratic regime simultaneously prevent us from achieving a public justification of democracy. This problem is sometimes called *the paradox of democratic legitimacy* (Talisso 2009a, 2009b) and is used as a starting point for rejecting the idea that democracy should be justified on moral grounds.

In most cases Pure Proceduralism takes a form of moral justification of democracy (with Fabienne Peter's Pure Epistemic Proceduralism being an important exception): we should all embrace the results of democratic procedures (regardless of their substantive quality) because they are produced by a decision-making procedure that treats interests of each and every citizen as equally important, and gives every citizen an equal chance to participate in the decision-making process. We thus have a clear moral case for (deliberative) democracy: it is a procedure with legitimacy-generating potential because it embodies certain moral value(s)—it publicly treats everyone's interests as equally important (Christiano 2008), it represents an essential part of the good life for an individual (Arendt 1963), or it realizes mutual respect and concern among citizens (Gutmann and Thompson 2004). Democracy cannot guarantee that everyone will agree about the substantial quality of the outcome, but it can guarantee procedural justice, peace and social stability.

We have already seen a possible argument that can be raised against this view—David Estlund introduces alternative fair decision-making procedures (e.g. coin-flipping, equal lotteries, queen for a day) and argues that Pure Proceduralism lacks a method to differentiate between democracy and other fair procedures (Estlund 1997, 2008, 2009). Scholars who defend pragmatic deliberative democracy believe that there is a further objection to Pure Proceduralism—it presupposes that citizens view their deepest moral and religious commitments as desires, interests

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<sup>24</sup> This is pointed out by David Estlund, who argues that political liberalism extends liberal concern for some basic rights into the realm of political justification. Freedom of conscience thus entails the idea that no one can legitimately be coerced unless sufficient reasons that do not violate his reasonable moral beliefs can be given. Hence the liberal principle of legitimacy—in order to be legitimate, a form of government has to be justifiable to all reasonable citizens (Estlund 2008).

and preferences that can be traded and exchanged in the democratic process<sup>25</sup>. However, many (reasonable) citizens do not see their moral commitments as simple interests or preferences, but as categorical duties or God's commandments. Such reasonable citizens see their moral or religious duties as non-negotiable and non-quantifiable. They might even conclude that truth or religion are more important than procedural fairness, social stability and peace (Talisse 2009a). For many citizens, their moral duties and their understanding of freedom, equality, justice, dignity and the good precede their democratic duties in a way that derives democratic legitimacy from their other moral duties. As a result, when democratic procedure results with a decision that one finds incompatible with one's moral beliefs and values, we cannot justify such a decision simply by appealing to the procedural fairness of the procedure that produced it. Namely, the procedure is justified on the basis of some moral values one has, and if the procedure (or its results) undermines one's moral values, it undermines its own justification (Talisse 2009a, 2009b). In the end, citizens start believing that the government has to promote their moral or religious values (or at least enact laws and policies that are compatible with their moral values)—if it fails to do so, the government loses its legitimacy.

A possible solution of the paradox of democratic legitimacy is to refrain from introducing moral values in discussion on legitimacy. Since we live in a society characterized by the pluralism of reasonable comprehensive moral doctrines, we cannot have a public moral justification of democratic legitimacy<sup>26</sup>. Defenders of pragmatic deliberative democracy argue that we should instead turn to our epistemic values—since we cannot have public justification of democracy on the basis of common moral values, we should instead try to justify it by appealing to our common epistemic values (Talisse 2009a, 2009b, Misak 2009, Festenstein 2009). They argue that there are such epistemic values and principles that can simultaneously satisfy the requirement of publicity

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<sup>25</sup> Talisse argues that, according to Pure Proceduralism, democracy guarantees that in most cases most people will get roughly what they want. This can hardly be acceptable to some (reasonable) religious people who hold their duties as non-negotiable and non-quantifiable (Talisse 2009a). Though this is a good point, I do not think that it targets only Pure Proceduralist (after all, if one is concerned about the outcome of a procedure, he or she is no longer a pure proceduralist), but some Rational Proceduralists as well. I shall further discuss this point later in the chapter.

<sup>26</sup> Rawls' political liberalism, which introduces the idea of public reason to constrain the type of reasons that can be used in public deliberation, aspires to exclude controversial moral reasons from the debate on political legitimacy (Rawls 1993). It is not completely successful because some moral values are nonetheless introduced—liberal values of freedom and equality precede the debate on political legitimacy. Rawls' theory is devoted to those who already accept these values—it gives suggestions on how people (who want to continue conversation on some public issue they disagree upon) should deliberate. Those who do not accept these values will not be persuaded by Rawls' argument. Though we can characterize such people as unreasonable, we cannot deny that political liberalism lies on some moral values and ideas (Talisse 2009a). Cheryl Misak shares the same thought when she writes that 'Rawls does not provide us with an independent or neutral justification of the liberal or democratic virtues; he just assumes those virtues' (Misak 2000).

(all citizens share and accept these values and principles) and ground the justification of a democratic procedure.

### **3.1.b. Pragmatist Epistemology**

Talisse, Misak and other proponents of pragmatist deliberative democracy found their argumentation on some key elements of pragmatist epistemology (Talisse 2007, 2009a, 2009b, Misak 2000, 2009, Festenstein 2009). They want to find some basic, pre-theoretical epistemic values that can be accepted by all reasonable citizens<sup>27</sup> in a society characterized by moral and religious pluralism. Pragmatist deliberative democrats want to avoid the complex metaphysical issues regarding the nature of knowledge and truth, and focus instead on what constitutes a good epistemic justification of a belief. Pragmatists thus do not want to specify what makes a belief true or untrue (whether it is a correspondence to the states and relations in the world, or the coherence among our beliefs, or something else)—they just want to specify which method we should use to find out whether it is true. If a belief cannot be refuted by good reasons, arguments and evidence, and if it satisfies the requirements of good inquiry (empirical adequacy, coherence with other beliefs, simplicity, explanatory power, fruitfulness for other research etc.), then it should be considered true or correct. This can be said for both empirical and political claims. We verify whether the claim 'Trieste is south of Munich' is true by checking the available evidence, reasons and arguments for and against that claim (e.g. we consult maps and a compass, we travel south of Munich and check whether we have arrived near Trieste, etc.). Similarly, we check whether the claim 'UN should stop the genocide in Syria' by checking the available evidence, reasons and arguments for and against that claim (e.g. we access and evaluate the situation in Syria, examine the arguments claiming that genocide is something morally wrong and impermissible, we check whether the UN has adequate means to stop the genocide, etc.). Entering the deliberation and reason exchange with others thus represents the best way of having true and justified beliefs, since only in the process of reason exchange can we adequately evaluate our own reasons and arguments. Therefore, if we want to have true and justified beliefs, we should enter public deliberation and reason exchange, as well as argue that some basic liberties (freedom of thought and speech,

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<sup>27</sup> Unlike Rawls, who defines reasonable citizens in moral terms, as those who accept the idea of persons as free and equal and the idea of society as a fair system of social cooperation (Rawls 2001), defenders of pragmatist deliberative democracy define reasonable citizens in epistemic terms, as those who are responsive to reasons, arguments and evidence (Talisse 2009b). Therefore, unlike Rawls, who defines reasonable people by referring to the content of their beliefs and views, pragmatist deliberative democrats define reasonable people by referring to the process of reasoning and argumentation people use to justify their beliefs and views.

freedom of association) should be protected. Since there are no moral experts<sup>28</sup> and everyone's view can be refuted by better reasons, arguments and evidence, deliberative democracy is the best institutional arrangement for having true beliefs (Misak 2000, 2009). This is why it has legitimacy-generating potential: deliberative democracy is the best decision-making procedure for making correct or true decisions. This is not a purely procedural justification of democracy—in fact, it is not even non-monistic justification (like rational proceduralism), but instead a monistic, purely instrumental justification. Democracy represents the best decision-making procedure for having good outcomes, and it is only the quality of outcomes that matters—there are no purely procedural qualities of a democratic procedure. Finally, this view clearly accepts the truth tenet (political decisions can be right or wrong, correct or incorrect), but rejects the knowledge tenet (there are no experts in moral and political issues).

Robert Talisse's argumentation grounded in folk epistemology (and partly discussed in the second chapter) represents a sophisticated version of pragmatist deliberative democracy<sup>29</sup>. Folk epistemology represents pre-theoretical and intuitive epistemic practices and commitments of the man-on-the-street that are deeply embedded in our cognitive lives (Talisse 2009b). In fact, these epistemic commitments are so intuitive and widespread that they can, unlike our moral or religious commitments, be used as a public foundation for the justification and legitimacy-generating potential of decision-making procedures. Talisse starts his argumentation with a claim that he considers a truism: (i) *'To believe that p is to hold that p is true'*. To point out that this claim goes in accordance with our common sense, he invites us to imagine how the negation of the previous claim would look like. It would make little sense to say that we believe that p, but we do not hold that p is true (or even hold that p is untrue). Talisse then introduces a pragmatic claim: (ii) *'To hold that p is true is to hold that p is supported by best arguments, reasons and evidence'*. Let us again imagine how the negation of this claim would look like—it is very strange to say that we hold that p is true, but we do not think that p is supported by the best reasons, arguments and evidence. Even those people who we generally do not see as good epistemic agents (e.g. religious fanatics, conspiracy theorists) behave in accordance with this claim. It is not that they hold that best arguments and

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<sup>28</sup> Misak's argument against experts in politics has two main claims: the first one asserts that there are no experts in politics, and the second one asserts that, even if there were such experts, it would not be possible to publicly identify them. Both claims point in the direction of deliberative democracy, but the first one also denies the knowledge tenet (Misak 2009). Even clearer rejection of the knowledge tenet can be seen in Talisse's argumentation (Talisse 2009).

<sup>29</sup> Talisse calls his view 'discursive democracy' in order to differentiate it from democracy in which public deliberation is justified purely procedurally, which he calls 'deliberative democracy'. I shall refer to his account as a form of epistemic or pragmatist deliberative democracy, in order to emphasize that public deliberation is instrumentally justified.

evidence point against their beliefs, and they hold these beliefs nonetheless—on the contrary, they believe that their beliefs are supported by best reasons and evidence (e.g. direct communion with God or claims by some (pseudo) scientists), and simultaneously hold that the reasons and evidence others have are weak or misleading (e.g. fake evidence produced by non-believers or even planted by the Devil himself, news in the mainstream media controlled by secret organizations and lodges). Though we might disagree what reasons and evidence are the best, and consequently disagree on which political decisions are correct, and which are incorrect, we all hold (at least to a certain degree) that solutions and decisions we propose are supported by best reasons and evidence. Further support for the second claim can be seen in the absence of epistemic volitionism. Although we may strongly desire that some proposition is true, we cannot simply decide to believe it because our belief is responsive to reasons<sup>30</sup>. This inability to choose is not an indication of weakness, but the conceptual requirement that, since beliefs aim at truth, they must be reason-responsive (Talisse 2009a). Furthermore, Talisse claims that (iii) '*To hold that p is supported by best reasons and evidence is to hold that p is assertable*'. To assert that p is to express the belief that p. As a consequence, asserting and believing are both ways of committing to the truth of p. However, when we assert that p, we are publicly expressing our belief that p, and we are committing ourselves not only to having reasons and evidence that support p, but also to having reasons and evidence that can be publicly articulated and defended against criticism. To assert that p is to hold that one's reasons can withstand the scrutiny of one's audience. Therefore, asserting that p but refusing scrutiny of intelligent critics represents an epistemic failure. Next claim of folk epistemology follows: (iv) '*To articulate one's reasons is to enter into a social process of reason exchange*'. When we commit ourselves to having good reasons and evidence for beliefs we have asserted, we are also committing ourselves to answering the objections and criticism raised by others. Though it is not strictly untenable, to say that we believe that p, but have insulated ourselves from all possible critics of p, represents an epistemic failure and indicates a kind of epistemic bad faith (Talisse 2009a). The final claim of folk epistemology is that this process of reason exchange has to be ordered to best promote epistemic qualities: (v) '*To engage in social process of reason exchange is to at least implicitly*

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<sup>30</sup> Even in typical cases of self-deception, one does not simply believe some (false) proposition simply because he or she wants to, against all reasons and evidence. One actually tries to find adequate reasons for believing a false proposition, and self-deception is precisely this process of reasoning to support a false proposition. When a bald man arranges his (remaining) hair to cover the bald parts, and ends up looking in mirror and believing that he is not that bald, he is self-deceiving himself, but he is not believing with no reason at all. He has an (epistemically flawed) reason to believe that he is not bald (since his hair is arranged in such a way to cover bald parts), and he is clearly responsive to reasons. If he were not responsive to reasons, he would not arrange his (remaining) hair to cover the bald parts (Davidson 1985).

*adopt certain cognitive and dispositional norms related to one's epistemic character'* (Talisso 2009a, 2009b).

### **3.1.c. Pragmatist Deliberative Democracy**

In the previous section some basic claims of folk epistemology (and more generally, pragmatist epistemology) have been elaborated. Supporters of pragmatist deliberative democracy proceed by claiming that good epistemic practices can only take place in a democratic system. Our epistemic values can be improved and our good epistemic practices can be maintained only when some basic rights and liberties are guaranteed.

In order to engage in activities of reason exchange and argument, not only must individuals be afforded the protections and liberties associated with freedom of thought and expression, they must also have access to a variety of reliable sources of information. Accordingly, a political order under which information is strictly controlled and the exchange of arguments and reasons is suppressed is incompatible with proper believing (Talisso 2009a: 122).

It makes little sense to claim that we believe that *p*, but that our belief is the result of propaganda, or the result of epistemically corrupt reasons, or the result of unreliable sources of information. We want our beliefs to be formed under epistemically favorable conditions. Since liberal democracy represents a form of government that gives us favorable conditions for our epistemic activities, we all have good (epistemic) reason to embrace democratic system.

In short, proper believing requires a social context in which reasons can be freely exchanged, compared, criticized, and challenged; this in turn requires a political order in which individuals can be confident that they have access to reliable sources of information. Minimally this suggests that proper believing requires that familiar democratic institutions should be in place (Talisso 2009a: 123).

Pragmatists find this argumentation superior to the one offered by Rawls, since they ground the justification of democracy on epistemic, and Rawls on moral grounds. While radical anti-democrats could argue that they do not see how democracy can be justified on moral grounds since they do not embrace moral values of freedom and equality, as long as they hold that their beliefs are true (first claim of folk epistemology), and as long as they want to have true beliefs, they should end up thinking that epistemic practices that lead us towards true beliefs can be exercised only in democratic society. This is clearly a form of instrumental justification of democracy: unlike rational proceduralism, where (instrumental) epistemic qualities of a procedure are combined with its



(procedural) moral qualities (Estlund 2008, 2009), supporters of pragmatist deliberative democracy hold that only (instrumental) epistemic qualities should be considered (Talisso 2009a, 2009b, Misak 2000, 2009)<sup>31</sup>.

In order to defend democracy on purely instrumental grounds, without introducing moral values and any procedural qualities, supporters of pragmatist deliberative democracy have to answer the challenge of epistocracy. Why should we deliberate with others, consider their objections and evaluate their reasons, if we consider ourselves epistemically superior? Rational proceduralists can easily answer this question: there is a moral value of equality and we should treat all citizens equally even if we think that we are epistemically superior. The mere notion of epistemic superiority does not give us greater political power. Rational proceduralists reject the authority tenet, and this move is available to them because they are willing to acknowledge some moral (procedural and non-instrumental) values that contribute to democracy's legitimacy-generating potential. Pragmatists cannot use the same argumentative strategy since they want to justify democracy on purely epistemic grounds (without any appeal to moral values, like moral equality of all citizens), so they have to embrace some form of epistemic equality of citizens. This is why they have to reject the knowledge tenet—they have to claim that there are no relevant differences in epistemic capacities of citizens, at least no such differences that could undermine democratic accountability of all citizens. They introduce the idea of epistemic peerhood:

The activities of believing and asserting require us to acknowledge each other as *equal participants* in the epistemic enterprise of justification. To be clear: the requirement that we acknowledge each other as equal participants in the enterprise of justification does not entail that we must view each other as equally informed, or as equally informed in our judgments. Rather, it requires that we treat each other as *epistemic peers*. Epistemic peers recognize that they owe to each other reasons, and acknowledge that cogent criticism may come from anyone (Talisso 2009a: 124)

Proponents of pragmatic deliberative democracy thus reject the knowledge tenet and introduce the idea of epistemic (and not moral) equality of all citizens. Democracy is justified by appeal to our epistemic commitments and the idea of epistemic peerhood. In the rest of this part of the chapter I want to argue that the idea of epistemic peerhood can be rejected, as well as to show that there is a gap between basic epistemic principles and our epistemic commitments, as well as between our

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<sup>31</sup> In their recent paper, Misak and Talisso argue that moral qualities of a procedure (along with epistemic qualities) might influence the legitimacy-generating potential of a procedure (Misak and Talisso 2014). This idea was not introduced in their earlier work, and most scholars agree that their earlier work represents a clear case of Democratic Instrumentalism (Erman and Möller 2016).

epistemic commitments and deliberative and democratic decision-making procedures. Though pragmatist deliberative democracy introduced many useful arguments in favor of epistemic democracy, it does not represent a convincing account of democratic legitimacy. Many of these arguments can, however, be used to support a form of rational (epistemic) proceduralism I am advocating.

### **3.1.d. Rejecting the Pragmatic View**

Pragmatic account of deliberative democracy asserts that we cannot have public justification of democracy by relying on moral values—in the conditions of reasonable pluralism of moral and religious doctrines, we cannot establish a freestanding justification of democracy that will be acceptable to all citizens. In order to achieve a public justification of democratic practices, we should focus on our epistemic (and not moral) values and commitments. These epistemic positions start from the idea that beliefs should be supported by reasons, arguments and evidence, and continue to the idea that good epistemic agents are those who are willing to submit their beliefs (as well as reasons, arguments and evidence they think support these beliefs) to the scrutiny of their epistemic peers. Finally, those institutional arrangements and decision-making procedures that support these epistemic values and practices should be adopted, since they are the best guarantee for us having true or justified beliefs (this is clearly an instrumentalist position).

There are (at least) two argumentative strategies that can be used to reject the central claims of pragmatist deliberative democracy. Granted that we can all publicly accept some basic epistemic principles, a question remains whether epistemic duties and commitments presented by Misak and Talisse follow from these epistemic principles. Therefore, the first worry is that the epistemic commitments introduced by the defenders of pragmatist deliberative democracy simply do not follow from the epistemic principles we can all publicly endorse. The pragmatist account is too demanding, invoking excessive and sometimes unnecessary epistemic commitments. However, even if we agree that the epistemic commitments portrayed by Misak and Talisse follow from basic epistemic principles, another worry remains—does democratic decision-making procedure follow from these epistemic commitments? Is the idea of epistemic peerhood and the commitment to enter the process of public reason-exchange with others enough to justify democratic decision-making procedures and give them legitimacy-generating potential?

(i) *Pragmatist Epistemic Commitments Are Too Demanding*

Standard (non-monistic) account of epistemic democracy claims that democracy is epistemically the best procedure among fair decision-making procedures (Estlund 2008, 2009). Weak epistemic value is sufficient for democratic legitimacy since epistocracy and other (possibly very epistemically reliable) decision-making procedures are eliminated from the eligible set for being unfair (i.e. for not giving everyone an equal say or an equal chance to participate in the decision-making process). Therefore, according to the standard account of epistemic democracy, democracy has to show that it is more epistemically reliable than other fair decision-making procedures, like coin-flipping, equal lotteries or queen for a day. This does not seem as a difficult task since the real epistemic challenges (e.g. epistocracy) are eliminated for not having some moral quality (i.e. for not being fair procedures).

Pragmatist deliberative democracy rejects the idea that moral qualities of a procedure could give it legitimacy-generating potential—reasonable pluralism of moral and religious doctrines prevents public agreement on some moral values that could be endorsed and accepted by all citizens (Talisie 2009a, 2009b). Since there are no moral values (e.g. fairness) that can be used for justification of collective decision-making procedures, epistocracy and other (unfair but epistemically reliable) procedures are not excluded from the eligible set. Democracy has to face these real epistemic challenges (and not merely other fair procedures, like coin-flipping and equal lotteries) and prove to be epistemically superior, which is no easy task. This is one of the reasons why Misak and Talisie (and other defenders of pragmatist deliberative democracy) have to introduce the idea of epistemic peerhood and impose rather strong epistemic commitments on citizens—they cannot use a moral argument to disqualify epistocracy, and therefore democracy has to show that it is epistemically (and not morally) superior to epistocracy<sup>32</sup>.

In order to be good epistemic agents, or even to be proper believers (Talisie 2009a), we should not only be ready to defend our own beliefs, but also search for and strive to listen to all arguments, reasons and evidence for and against some proposition. This commitment, according to

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<sup>32</sup> The debate between those arguing in favor of epistocracy and those arguing in favor of pragmatist deliberative democracy is similar to the debate between Plato and Aristotle. Plato argued that the wise should rule (philosopher kings), and he supported this idea using instrumentalist argumentation: kings should become philosophers (or philosophers should become kings) in order to rule the Republic successfully (Plato 2000). Aristotle rejected epistocracy, but his argument against the rule of the wise was not a moral one—he did not claim that epistocracy represents an unfair decision-making procedure. Aristotle argued that democracy would be better in producing good outcomes since it includes many perspectives and enables public deliberation (Aristotle 1984). His argument had an instrumentalist form, just like Plato's: none of them appealed to moral values or purely procedural qualities of a decision-making procedure. The dispute was focused on which decision-making procedure (democracy or epistocracy) epistemically performs better than the other. This distinction is nicely explained in David Estlund's paper *Why Not Epistocracy* (Estlund 2003). Defenders of pragmatist deliberative democracy thus follow Aristotle in claiming that democracy is epistemically superior to epistocracy.

Misak and Talisse, derives from our basic epistemic principles and our desire to have true and justified beliefs. Eva Erman and Niklas Möller challenge this idea using the following example:

Professor Winifred, a brilliant chemist, spends almost all of her time in the laboratory. However, she lives in a college where there is an influential group of antifeminists who lobby for the college to stop admitting women, arguing that women's place is in the home and that higher education is not for them. Now, while Winifred always attempts to revise her beliefs in light of what she takes to be the best reasons available, she is very sensitive to what she takes to be nonsense and simply cannot stand the antifeminists, refusing to stop or even listen when they address her on the way to the lab. Moreover, Winifred has very limited interests outside of chemistry, most of the time neglecting to even read the daily newspaper or meet friends. (Erman and Möller 2016)

Though we might argue that Winifred is not a model democratic citizen and that she should (at least to a certain degree) be interested in what is going on in her political community, it is difficult to claim that she is not a good epistemic agent, or that she is not a proper believer. In fact, as an expert in chemistry, she is more than ready to defend her work in the field and to deliberate and discuss her results and methods with her colleagues. Defenders of pragmatist deliberative democracy have imposed an epistemic commitment which is too strong—the idea that we should constantly aim for the truth and enter the reason-exchange whenever we can seems too demanding. We can consider someone a good (or at least decent) epistemic agent without her constantly searching for additional reasons and evidence, or constantly entering the reason-exchange processes. First, our commitment to truth is not absolute—sometimes it is more appropriate to avoid the process of deliberation and reason-exchange, even when we think that the other person is wrong or holds a false belief. One such example could be when someone has lost a loved one and is comforting himself/herself by holding a false (but not dangerous or encumbering) belief. In such situations, giving and asking for further reasons could show lack of respect for others (Tsai 2014). Second, it is one thing to claim that we should change or consider revising our belief when we hear a convincing argument against it, and quite another to claim that we must search for and strive to listen to *all* arguments, reasons and evidence regarding that belief (Erman and Möller 2016). Similarly, it is one thing to say that we should generally be responsive to reasons, arguments and evidence, and quite another to say that it is our epistemic duty to search for and listen to all available arguments, reasons and evidence. The problem with pragmatist deliberative democracy is that it invokes the stronger epistemic commitment. It has to invoke strong epistemic commitments because it cannot rely on moral values (e.g. fairness and moral equality of people) to defend democracy, and it simultaneously has to show

why we should be responsive to everyone's arguments and reasons, and not only to arguments and reasons presented by some small group of people (e.g. group of experts).

There are numerous reasons why people restrict their epistemic access. Some do not want to deliberate with religious fundamentalists and extremists, others with racists or chauvinists. Most people are reluctant to uphold the deliberative processes with people they think are unlikely to contribute anything of worth (Erman and Möller 2016). Taking into consideration that we have limited time to deliberate on some important issues, this can (even from the epistemic point of view) be seen as a good practice (at least to a certain degree). Furthermore, people sometimes think that, regarding some topics, we should not aim for the truth, but instead for mutual respect or some other moral value. Consequently, people are not always aiming for the truth, nor are they always ready to enter and uphold the process of deliberation. This does not, however, imply that they are not proper believers or good epistemic agents. They might still aim for the truth and be ready to enter and uphold the deliberation process in most cases. These people recognize the value and importance of the basic epistemic principles, but nonetheless do not think that such strong epistemic commitments (as those described by Misak and Talisse) follow from these basic epistemic principles.

The first argument against pragmatist deliberative democracy thus targets its inference of too strong epistemic commitments from basic epistemic principles. These strong epistemic commitments do not follow from our basic epistemic principles, and even if they did, not everyone could recognize this (the inference is not publicly acceptable to all citizens). The second argument goes a step further and argues that, even if these strong epistemic commitments follow from our basic epistemic principles, they are not sufficient to ground public justification of democratic decision-making procedures. Democracy simply does not follow from these strong epistemic commitments.

### *(ii) Democracy Does not Follow from Strong Epistemic Commitments*

Defenders of pragmatist deliberative democracy claim that holding a belief commits us to certain epistemic duties, some of which are social in nature. Since these social epistemic duties can be better realized in certain political arrangements, the mere fact of holding a belief commits us to those political arrangements that are better in realizing our epistemic duties. Democracy is seen as the best political arrangement for upholding our epistemic practices—"[...] democracy is the political entailment—indeed the political manifestation—of the folk epistemic commitments each of us already endorses." (Talisse 2009a: 121) Misak and Talisse recognize and approve the

democratic ideas of equality and participation, but think that they should be grounded in epistemic, and not in moral terms (Misak 2000, Talisse 2009a). This is why they introduce the idea of epistemic peerhood—it is the basis for epistemic equality of people, which is then seen as the basis for political equality of citizens. In the rest of this part of the chapter I want to argue that strong epistemic commitments put forward by Misak and Talisse, as well as the idea of epistemic peerhood, do not justify or support democratic decision-making procedures. These ideas undoubtedly support public deliberation and deliberative accountability, but they do not support democratic decision-making procedures. Some forms of scholocracy, epistocracy or even consultative monarchy might follow from our strong epistemic commitments and from the idea of epistemic peerhood.

Epistemic equality plays an important role in pragmatist argumentation: though we might think that we are not equally wise or well informed, we should all recognize each other as epistemic peers, i.e. we should recognize that we owe reasons to each other, and we should be responsive to criticism from any citizen (Talisse 2009a). Furthermore, our liberal rights should be equally protected and promoted: freedom of thought and speech, as well as freedom of association and press, should be guaranteed equally to each and every citizen. I agree with Misak and Talisse and accept the idea that our epistemic commitments, together with the idea of epistemic peerhood (as understood by Talisse), support and justify public deliberation. However, I do not share their claim that our epistemic commitments, together with the idea of epistemic peerhood, support or justify democratic procedures.

Imagine a society in which liberal rights (freedom of thought, speech, association and press) are guaranteed to all citizens, and in which citizens are encouraged to deliberate and exchange reasons, arguments and evidence. Since citizens' epistemic commitments are supported under such a regime, we can say that this regime can be justified on the epistemic grounds. However, we have not yet said anything about how the decisions are made under that regime—it is possible that decisions are made by a wise monarch or a small group of experts who are willing to deliberate with common citizens and exchange reasons and arguments, but nonetheless the final decisions are made by a small group of people after the public deliberation. Alternatively, imagine a form of Mill's scholocracy, a decision-making procedure that entails the idea that everyone should participate in public deliberation, but does not entail the idea that everyone should have an equal say in the decision-making process<sup>33</sup>. Though everyone has equal deliberative rights (everyone is protected

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<sup>33</sup> This position is discussed in detail in the fourth chapter.

from censorship, everyone can dissent from the majority view), citizens have different voting power (everyone has at least one vote, but better educated can have more than one). Consequently, though consultative epistocracy and Mill's scholocracy can embody the idea of epistemic equality, they do not embody the idea of political equality. Our epistemic commitments say nothing about who should rule or how our decision-making system should look like (as long as our liberal rights are protected and public deliberation and exchange of reasons is ensured). The idea that everyone's reasons should be considered and discussed is not incompatible with a decision-making procedure in which only a minority of citizens participate in the decision-making process and the process of authorization of political decisions. Talisse might try to remedy this problem by introducing a stronger interpretation of epistemic peerhood, where epistemic peers are not only accountable to each other and owe each other reasons, but where they are considered as equally likely to be right or wrong. This stronger interpretation of epistemic equality might be better for constituting political equality of citizens, but it also introduces new problems into the discussion. Fabienne Peter embraces this interpretation of epistemic peerhood (Peter 2012, 2013), and her work is discussed (and rejected) in detail in the second part of this chapter. Namely, this stronger interpretation of epistemic equality is rather questionable since there are many indications that some people are (at least generally) better in producing correct political decisions than others. We do not even have to publicly agree on who those people are—it is enough to claim that there are such people in order to accept the knowledge tenet. The weaker version of epistemic peerhood, one endorsed by Talisse and Misak, is not enough to justify democratic decision-making. Similarly, our (strong) epistemic commitments are also not sufficient to justify democracy—they justify public deliberation, but not democratic procedures.

### **3.1.e. Conclusion**

In order to be public and to be acceptable to all citizens, the justification of a decision-making procedure has to be grounded in some values and principles everyone can endorse and affirm. Defenders of pragmatist deliberative democracy claim that the justification of democracy cannot be grounded in moral values and principles (since in the conditions of reasonable pluralism of moral and religious doctrines we cannot agree on common moral values and principles), but should instead be grounded in epistemic values and principles. They deploy an instrumentalist argument for democracy, claiming that democracy represents the best political arrangement for improving our epistemic capacities and coming to correct (or justified) beliefs. Pragmatist deliberative democrats acknowledge the truth tenet (since they believe that political decisions can be true or false, and

evaluate decision-making procedures by their ability to produce true or correct decisions), but reject the knowledge tenet (since they believe that citizens should be regarded as epistemic peers, and since they deduce political equality from epistemic equality). The pragmatist argument starts from some epistemic principles everyone could endorse and proceeds to argue that certain epistemic duties and commitments follow from these epistemic principles. Our duty to consider arguments, reasons and evidence of people who disagree with us (or even those who agree with us, but use different reasons to support their claim) and to enter public deliberation and reason exchange with our epistemic peers is thus grounded in the basic epistemic principles we all can endorse. I have argued that, even if we accept these epistemic principles, such strong and demanding epistemic commitments simply do not follow from them, or, at least, it is not publicly clear that they follow. Therefore, the pragmatist inference from basic epistemic principles to epistemic duties and commitments is brought into question. Defenders of pragmatist deliberative democracy proceed by claiming that democratic arrangement and democratic decision-making procedures follow from our epistemic duties and commitments. I have rejected this claim by arguing that, even if we accept that these epistemic commitments follow from basic epistemic principles, there is no reason to think that these epistemic commitments imply any kind of democratic decision-making procedure. Though our epistemic commitments entail and encourage some form of public deliberation and epistemic accountability of citizens, they could be realized under different decision-making systems, including scholocracy and consultative epistocracy.

Pragmatist deliberative democracy represents a monistic account that appeals only to procedure-independent (instrumental) standards for justifying a decision-making procedure. However, it fails to give a satisfying justification of democracy. Purely procedural qualities should be included in the account of justification of democracy, but instrumental qualities of a procedure should be included as well (thus making the account non-monistic). This can be done by rejecting the knowledge tenet (Fabienne Peter's recent work represents such a non-monistic position that incorporates the idea of epistemic peerhood and epistemic equality of citizens) (Peter 2012, 2013), but also by affirming the knowledge tenet, and rejecting the authority tenet (David Estlund's work is an example of such a non-monistic account) (Estlund 1997, 2008, 2009).

### **3.2. SECOND-PERSONAL EPISTEMIC DEMOCRACY**

Scholars who recognize the truth tenet, but reject the knowledge tenet, generally reject Pure Proceduralism and accept some form of Rational Proceduralism or even Instrumentalism. Since



they have recognized that the legitimacy-generating potential of collective decision-making procedures depends (at least partly) on their ability to produce correct (or true) outcomes, they have also accepted the introduction of some procedure-independent criteria when evaluating legitimacy-generating potential of a decision-making procedure. These scholars answer the threat of epistocracy by denying the knowledge tenet—they claim that no individual or group of people know what true or correct decisions are better than others. Since there is no such epistemically privileged individual or group, and since everyone has an equal chance to be right or wrong, democracy is the most plausible collective decision-making procedure.

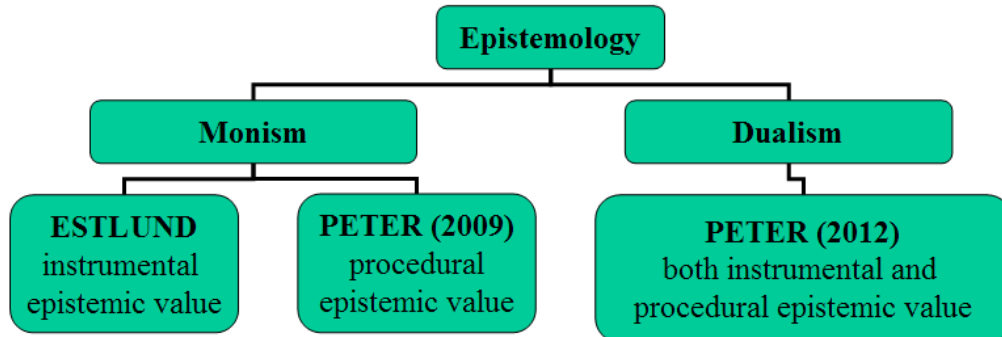
The recent work by Fabienne Peter (papers published in 2012 and thereafter) represents a good example of this position. She introduces the idea of epistemic peers and rejects the knowledge tenet (though she now accepts the truth tenet) (Peter 2012, 2015). Unlike Peter, I believe that the knowledge tenet should be granted, as well as that the idea of epistemic peerhood should not be introduced in discussions on democratic legitimacy. In the first part of this chapter I discuss and reject her new position.

### **3.2.a. Introduction**

In the years following the publication of her book *Democratic Legitimacy* Peter has received criticism because of her attitude towards the instrumental epistemic value of deliberation, as well as because of her appeal to controversial proceduralist epistemology. Peter has now abandoned some of these views in favor of less controversial literature on peer disagreement. When *Democratic Legitimacy* was published, Longino's hybrid epistemology provided the best available background for Peter's pure epistemic proceduralism; things have changed, however, and nowadays the best available epistemic background for her position are recent writings on peer disagreement (Peter 2013). Peter's new thesis is that deliberation may be valued not just instrumentally, but also for its procedural features. She now acknowledges the instrumental value of deliberation, but still finds that the epistemic value of a procedure should not be reduced only to its instrumental qualities. Peter adopts a form of epistemic dualism; she holds that a procedure can have both (procedure-independent) instrumental value as well as procedural value. This view differs significantly from her former position based on hybrid and proceduralist epistemology that placed strong emphasis on

procedural values and completely ignored the instrumental epistemic value of collective deliberation<sup>34</sup>. Her epistemic shift can be seen in the scheme below:

Diagram 3.1.



### 3.2.b. Epistemic Peers and Democratic Legitimacy

In her recent work, Peter defines procedural epistemic value as the relationship of mutual accountability among epistemic agents. Following the distinction between instrumental and procedural epistemic value, Peter claims that the accuracy of beliefs is not the only source of epistemic reasons in favor of some decision-making procedure—some form of mutual accountability between deliberative parties becomes an additional epistemic factor. This mutual accountability invokes the second-person standpoint, thus making the epistemic value of deliberation not merely instrumental, but procedural as well (Peter 2012).

Peter focuses on deliberation among epistemic peers. Following Adam Elga, she thinks of epistemic peers as people who take each other to be equally likely to make a mistake (Elga 2007). Peter uses this weak definition so she can accommodate the term not only to academic and expert inquiry, but also to large social collectives when the issues are too wide-ranging and complex, or when relevant information is dispersed. The central question for Peter is what we should do when an epistemic peer disagrees with us. Rational response would be to reduce confidence in our original beliefs proportionally to (i) our own ability to come to the correct conclusion and (ii) the fact that someone holding a different conclusion is regarded as a peer. Peter agrees with Christensen

<sup>34</sup> Procedural epistemology interprets all three senses of knowledge in social terms; (i) *knowledge-producing practices* are a set of social practices that shape the evaluation of propositions in a relevant community, (ii) *knowing* is a state in which epistemic subject accepts a proposition, and both the proposition itself and the fact that epistemic subject accepts that proposition are acceptable in a relevant community, while (iii) *the content of knowledge* refers to what is thus known by epistemic subjects (Peter 2009: 122). All three senses of knowledge are procedure-related, so there can be no procedure-independent epistemic value of an outcome. Peter later writes that "[...] Longino's view of the knowledge-producing process supports the idea that the epistemic value resides in the process itself, not in its outcome." (Peter 2009: 123) This is clearly a form of epistemic monism.

when he writes that " [...] *rationality requires that we take seriously evidence of our own possible cognitive malfunction in arriving at our beliefs. We must evaluate the evidence for that possibility in a way that is (at least somewhat) independent of some of our own reasoning.*" (Christensen 2011) Sometimes there are good epistemic reasons for epistemic peers to be responsive toward each other's claims and to consider some revision of their original claims. Peter emphasizes that these reasons are *second-personal*; it is not the first order evidence about the object considered, but the claim of our peers, that gives us a reason to adjust our own beliefs.

The distinction between the second-person and the third-person standpoint is introduced by Darwall; he believes that the second-person standpoint is appropriate for our moral reasoning since it locates *the source of normativity in the relationship between moral agents* (the second-person standpoint), and not outside this relationship (the third-person standpoint) (Darwall 2006). Thus, when discussing moral issues, all we can have are second-personal reasons. Things look different, Darwall argues, when we discuss epistemic issues; the third-person standpoint is now appropriate since *the source of normativity is third-personal truth*. Epistemic reasons are primarily third-personal reasons. We can, however, have derivatively second-personal epistemic reasons (e.g. in the case of testimony, when the testifier gives us second-personal reason to change our belief, but his epistemic authority is third-personal—the source of normativity is still the truth, and it is because of our desire to have true beliefs that we change our belief) (Darwall 2006).

Peter accepts Darwall's argumentation, but makes a few modifications; she agrees that truth is third-personal, but this does not imply that epistemic authority is necessarily third-personal. She argues the opposite, towards the idea that epistemic authority is necessarily second-personal. Since we acknowledge our epistemic peer as a source of valid epistemic claims, if a disagreement persists each epistemic peer has an (epistemic) reason to adjust his belief in the direction of the other. Peter finds that deliberation among epistemic peers is located in between the practical (moral) case and testimony, as described by Darwall. She writes that "*[...] there is a triangulation between third-personal truth and the claims that agents make on each other—they are accountable both to each other and to truth. Second-person authority is thus necessary but not sufficient for epistemic authority.*" (Peter 2012) The difference between testimony, practical case and deliberation among peers can be sketched in the following way:

Diagram 3.2.



- Both individuals 1 and 2 are accountable to truth.
- Since 1 has a better access to the truth (he is a testifier), he gives 2 second-personal reason to adjust his original belief.
- 1's epistemic authority is third-personal; it is because of his better access to the truth that he has epistemic authority over 2.



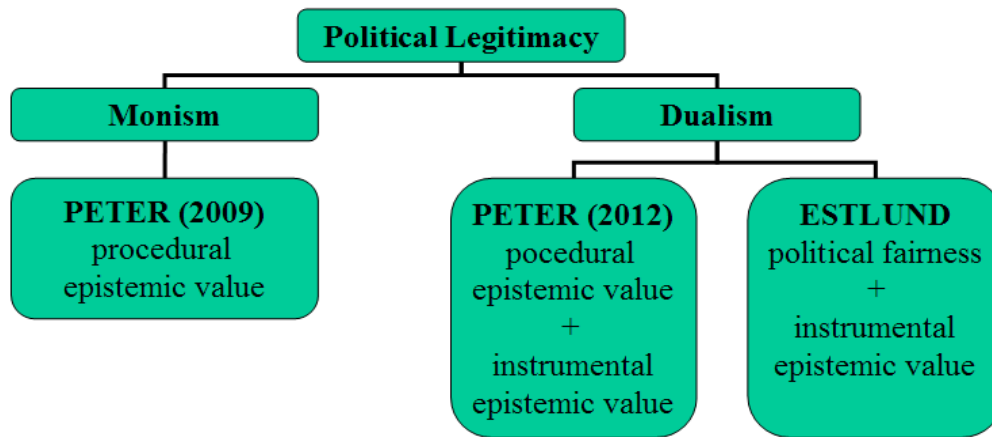
- Both individuals 1 and 2 are accountable to each other
- Both give each other second-personal reasons to adjust their moral claims
- Their moral authority is second-personal



- Both individuals 1 and 2 accountable to each other and to the truth.
- Since both have equal access to the truth (they are epistemic peers), they give each other second-personal reasons to adjust their original beliefs
- Their epistemic authority is necessary second-personal

It is important to stress that for Peter second-person authority is necessary but not sufficient for epistemic authority. Unlike the practical case, in epistemic case we are accountable to the truth as well, so the value of deliberation does not take a form of pure proceduralism, but a form of imperfect rational proceduralism (Peter 2012)! Peter has thus switched sides; now she is with the standard account of epistemic democracy, claiming that epistemic value of deliberation cannot be purely procedural. However, unlike the standard account of epistemic democracy, she holds that epistemic value of deliberation cannot be completely instrumental either. A procedure has to satisfy both epistemic procedural and epistemic procedure-independent standards in order to have legitimacy-generating potential. When epistemic peers find themselves in a permanent disagreement the (procedural) value of their mutual accountability comes into view. The following scheme displays the shift in Peter's position:

Diagram 3.3.



Finally, Peter provides three conditions for procedural value of deliberation. (i) *Respect for epistemic equality* states that it is not permissible to put extra weight on one's beliefs simply because they are one's own. (ii) *Willingness to enter deliberation* asks participants to spell out evidence for their beliefs and, since they aim at truth, to evaluate the beliefs they each hold. (iii) *Uptake* keeps deliberation going by ensuring that participants adequately respond to each other. Peter claims that these are all clearly procedural conditions. They specify the relationship of mutual accountability between the deliberative parties and they do not reduce the value of this relationship to the outcome it produces (Peter 2012).

In the next section I shall argue against Peter's new account and raise four objections, claiming that the knowledge tenet should be granted. We should not argue against epistocracy by arguing there are no individuals or groups who epistemically perform better than others.

### 3.2.c. Rejecting the Idea of Epistemic Peerhood

Having presented her new account, I want to argue against dualist epistemology Peter employs. In the following section I will put forward four separate objections. The first and the second objection grant (for the sake of the argument) that the idea of epistemic peers is applicable in the context of political community, and question whether the account of democratic legitimacy built upon the idea of epistemic peerhood is adequately supported, as well as whether it is purely procedural. The third and the fourth objection reject the idea of epistemic peerhood and explore some of the implausible implications that the use of epistemology of peer disagreement in discussion on political legitimacy might produce.

First of all, it may be a good starting point to wonder whether Peter's epistemology is dualist in the first place. It seems to me that, by putting such a strong emphasis on correctness when explaining and justifying mutual accountability among epistemic peers, Peter derives procedural epistemic value from procedure-independent (third-personal) idea of correctness (or truth). The question is whether procedural epistemic value can be as fundamental as instrumental epistemic value—it seems to me that it cannot, and that it can only be derived from instrumental epistemic value. My second objection emphasizes that collective deliberation cannot be justified as a procedure with a legitimacy-generation potential by using procedural epistemic value—only by appealing to instrumental epistemic value can we justify public deliberation as a legitimate decision-making procedure. The third objection points out that the idea of epistemic peerhood should not be applied to political communities, as well as that it is an unnecessary tool for rejecting epistocracy (i.e. epistocracy can be rejected even when we recognize the knowledge tenet). The fourth objection analyses possible implications of implementing Peter's new account and argues that her position makes unnecessary epistemic demands (e.g. the problem of deference of judgment) on people participating in a deliberative decision-making process.

*(i) Is Dualist Epistemology Defensible?*

One of the central claims of Peter's epistemology is the idea that there is a second-person authority between epistemic peers. Epistemic peers are accountable both to the truth and to each other, and thus claims of each have a second-person authority over the other. We grant our epistemic peers this authority because we acknowledge them as a source of valid epistemic claims. Peter defines epistemic peers as people who take each other as equally likely to make a mistake (or, on the other hand, to have a true or correct belief). It is this chance of having correct beliefs that makes them epistemic peers, and it is because of their ability to come to the truth that they have epistemic authority (Peter 2012). But, is epistemic authority they have second-personal or third-personal? Consider Peter's interpretation of the testimony example borrowed from Darwall:

In testimony, the testifier is accountable to truth and his or her epistemic authority is third-personal. Qua his authority, the testifier has a claim on the person to whom the testimony is addressed, and the addressee has a second-personal reason to adjust his belief (Peter 2012)

When considering disagreement between epistemic peers, Peter says:

[...] there is a link to third-personal truth, but the chain of command does not flow unidirectionally from truth to the first agent involved in deliberation, and then to the other participant. Instead, we have a case when epistemic peers are mutually accountable to each other. Each has a claim to an epistemic authority and each has reason to give some weight to the claims of the other. (Peter 2012)

Finally, she holds that there is some similarity in disagreement among epistemic peers and the practical (moral) case.

Authority—practical in one case and epistemic in the other—is vested in the agents and each does, and should, acknowledge the potential authority of the other. (Peter 2012)

The problem I see in this argumentation is the transition from third-personal authority in the case of testimony to the second-personal authority in the case of peer disagreement. Should we not treat peer disagreement as a testimony case where both agents are simultaneously testifiers and addressees? If we would use this interpretation, epistemic authority of each would still be third-personal, but they would give each other second-personal reasons. There is an argument in favor of this interpretation. Peter's claim that authority is vested in the agents seems justified when considering Darwall's practical (moral) case; however, an epistemic peer has its authority because he or she is as likely to be correct as we are. It is because of instrumental epistemic value of his beliefs that he has epistemic authority, just like a testifier has his epistemic authority because of the instrumental epistemic value of his testimony<sup>35</sup>. Peter does not explain in detail how the third-personal authority from the case of testimony is transformed into second-personal authority in the peer disagreement case. It seems that, at least in epistemology, only the third-personal authority is fundamental; other forms of authority can be derived from it, but are not fundamental themselves. Though procedural values and mutual accountability among epistemic peers can still play a significant role when determining how a legitimacy-producing procedure must look like, they should be justified on procedure-independent grounds. This would call for a monistic epistemology that could incorporate deliberative values and mutual accountability. It seems to me that Robert Talisse has aspirations of this kind; in his book *Democracy and Moral Conflict* he defends deliberative democracy by appealing only to instrumental epistemic values, thus trying to derive political fairness from epistemology (Talisse 2009a).

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<sup>35</sup> This interpretation does not imply that one can have instrumental epistemic authority only when his beliefs are correct; one can have instrumental epistemic authority even when some of his beliefs are incorrect—the source of his authority is the fact that he or she had correct beliefs in most cases.

We can (for the sake of the argument) imagine that everyone is equally capable of producing correct decisions. This does not, however, imply that political authority of our epistemic peers is second-personal—we have defined who epistemic peers are by calling upon their ability to come to a third-personal truth, and thus their authority should be third-personal, though they give us second-personal reasons. Consequently, even if the idea of epistemic peerhood is accepted, it should be discussed in the framework of monistic (consequentialist) epistemology, and not in the framework of dualist epistemology.

*(ii) Epistemic Peerhood Does not Imply Public Deliberation*

Assume, however, that procedural epistemic values can be justified and that dualist epistemology should be deployed. Epistemic peers are mutually accountable and every person is aware that there are others that are equally likely to make a mistake as he or she is. Everyone is aware that the fact that someone we ex ante regard as a peer disagrees with us is not a sufficient reason to dismiss his or her belief. The question arises: What should we do when an epistemic peer disagrees with us? Peter believes that we should enter a deliberative process and adjust our beliefs accordingly. She also believes that this deliberative move is justified by our mutual accountability, not only by the instrumental epistemic value of deliberation. I tend to disagree. The fact that an epistemic peer disagrees with us gives us a reason to treat his belief seriously, and probably to give it equal epistemic relevance as we gave to our own belief or to beliefs of our other epistemic peers. When applied to political philosophy, peer disagreement seems to imply the liberal principle of legitimacy: the exercise of political power is fully proper only when it is exercised in accordance with a constitution, the essentials of which all citizens as free and equal may reasonably be expected to endorse in the light of principles and ideals acceptable to their common human reason (Rawls 1993; 137). Theories on peer disagreement certainly justify some form of a fair democratic system; I doubt, however, that they are sufficient for the justification of deliberative democracy. It seems to me that from the idea of mutual accountability an account of aggregative democracy can follow as well: since we all have an equal epistemic authority why should we not treat our beliefs as equally valuable and consequently have a fair and simple voting procedure that will determine what course of action should we take, what decisions should we make and what laws should we put forward? Why should we, as epistemic peers, prefer deliberative over aggregative democracy?

The answer is simple; we prefer deliberative democracy because it tends to improve the (instrumental) quality of the decisions we make. Deliberation enables us to see what beliefs are



supported by the best evidence, reasons and arguments, to learn from each other and to bring about better outcomes than those produced by other fair procedures.

*(iii) Epistemic Peerhood and Political Philosophy*

In the first two objections we have granted (for the sake of the argument) that the idea of epistemic peerhood can be applied to a political community. Now I want to challenge this assumption. I do not want to argue against the idea of epistemic peerhood as it was introduced by Adam Elga, who used it primarily to describe relations among experts and academics (Elga 2007). Instead, I claim that this idea cannot be used to describe relations between all members of a political community.

Imagine that A and B went for a lunch together. One week later, they are discussing what they had for lunch and cannot agree whether they had sushi or sandwiches. Neither A nor B has any reason to believe that the other has some unusually unreliable short-term memory. It seems that in this case we can say that A and B are epistemic peers. However, imagine another scenario, one in which A and B are discussing the merits of a socialized healthcare system. Though A and B have different backgrounds, they can both conclude that each of their views is (at least internally) consistent. Should they conclude that they are epistemic peers, like they did in the lunch scenario<sup>36</sup>?

Peter seems to argue that they should conclude that they are epistemic peers in both the lunch scenario and the healthcare system scenario. She claims that political issues are often too wide-ranging or complex, or that relevant information is dispersed among the members of political community (Peter 2012). Consequently, there are no experts in politics—we are all equally capable of producing good (correct or true) political decisions.

However, the knowledge tenet does not say that there are experts in politics, nor that some individuals or groups have some high degree of knowledge. The knowledge tenet simply states that there is some degree of superiority in knowledge, and this seems very difficult to deny (Estlund 2008, Simpson 2013). There are numerous reasons that can lead us to conclude that A and B are not epistemic peers when discussing the merits of a socialized healthcare system—their education, professional background, prior involvements with the abovementioned healthcare system, etc. This does not imply that we can easily or publicly identify who has superior degree of knowledge, nor that people who are identified as those with superior degree of knowledge have any special political authority over people who are identified as those with inferior degree of knowledge (that would be the authority tenet, and not the knowledge tenet). Accepting the knowledge tenet does not lead to

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<sup>36</sup> This is a modified version of the argument used by Robert Simpson, who uses an even more demanding analogy and demonstrates that the idea of epistemic peerhood is not applicable on most political questions (Simpson 2013).

the violation of moral equality of all people. To say that all people are morally owed equal respect is not incompatible with the idea that people's ability to produce good or bad decisions can be differently affected by their upbringing, education and social environment (Estlund 2008). The knowledge tenet does not introduce moral inequality or epistocracy, nor does it claim that those with superior degree of knowledge can be (or should be) publicly recognized. It only states that our background (our upbringing, education and environment) affects our ability to produce good decisions, and since we do not have the same background, we have different degrees of knowledge regarding some public issues. Once it is properly understood, it is very difficult to deny the knowledge tenet.

*(iv) The Problem of Deference of Judgment*

The final objection to the idea of introducing epistemology of peer disagreement into debates on political legitimacy regards some of its implausible implications. Peter holds that, if a disagreement among epistemic peers persists, each epistemic peer has an (epistemic) reason to adjust his belief in direction of the other (Peter 2012). Furthermore, one has an epistemic duty to adjust his belief in the direction of his epistemic peers. A minority voter thus has strong epistemic reasons to change or adjust his beliefs, since the majority of his epistemic peers hold different or opposite beliefs. This does not, of course, imply that majority voters do not have to adjust their beliefs as well, but it seems that this duty is especially strong for minority voters, since most of their epistemic peers disagree with them. A minority voter, therefore, must not only obey the political decision produced by the majority of his epistemic peers, but also change or adjust his moral and epistemic judgment according to the beliefs of other epistemic peers. He must say to himself that, although it seems to him that a certain decision is wrong or unjust, the fact that most of his epistemic peers disagree with him points (at least partly) that he was in error.

Rawls is very clear when he rejects this kind of deference of judgment:

Although in given circumstances it is justified that the majority has the constitutional right to make law, this does not imply that the laws enacted are just. [...] While citizens normally submit their conduct to democratic authority, that is, recognize the outcome of a vote as establishing a binding rule, other things equal, they do not submit their judgment to it. (Rawls 1971: 356-357)

Unlike Rousseau, who believes that the minority should always accept the opinion of the majority as the truth and change its opinion accordingly (Rousseau 1968), Peter does not ask for a complete deference of judgment. However, just like Rousseau, Peter introduces the epistemic duty of

changing or adjusting our beliefs in the discussion on political legitimacy, and this seems to me as an unnecessary and a too demanding move. To say that disagreeing with an epistemic peer should motivate us to double check our beliefs is one thing, and to say that disagreeing with an epistemic peer should motivate us to change or adjust our beliefs (just because an epistemic peer disagrees with us) is another.

Furthermore, if we reject the idea that all citizens in a political community are epistemic peers (as the third objection suggests), we no longer have to adjust our beliefs to meet those who are not our epistemic peers (who are epistemically less reliable than we are). If I consider myself as an expert regarding healthcare systems, it is clear that I do not have to adjust my beliefs about healthcare systems according to those who I consider ignorant regarding this issue. Consequently, there is no epistemic duty that requires me to adjust my beliefs according to their opinions (simply because I do not see them as epistemic peers). The idea that we should adjust our opinions on public decisions might stand only in the conditions of peer disagreement: if the idea of epistemic peerhood is rejected, so is the requirement that we should adjust our beliefs according to the beliefs of others.

Finally, imagine that we live in a society where everyone is either our epistemic peer or is epistemically more reliable than we are. Does this imply that we have to adjust our beliefs according to our epistemic peers and our epistemic superiors? I do not think so. To introduce such a requirement is to make the expert—boss fallacy (Rawls 1993). It seems that I can consistently say that I accept a doctor as an expert in the field of medicine, but that I shall not follow his advice regarding a medical condition I have. I might believe that the doctor is generally right or is generally an epistemically better agent than I am (at least regarding medical issues), but this does not prevent me from claiming that, in this particular example, I do not think that the doctor is right, nor that I should adjust my belief according to his.

Peter's introduction of epistemology of peer disagreement into debate on political legitimacy rises too demanding requirements. We should try to answer why one should accept certain political decision as legitimate, and not why one should accept it as true (or why he or she should adjust his or her belief according to his or her epistemic peers). We can have a satisfying account of epistemic democracy that gives us epistemic reasons for accepting the legitimacy of a certain decision (e.g. the fact that this decision was produced by a procedure that has some epistemic qualities), and simultaneously does not give us epistemic reasons for accepting it as true or correct (e.g. the procedure is not the best epistemic procedure we could have, it only has some epistemic qualities). This clear distinction between truth (or our epistemic duties regarding substantive political decisions) on the one side, and authority and legitimacy (or our moral duties regarding substantive

political decisions) on the other, is one of the important advantages of the standard account of epistemic democracy.

### **3.2.d. Conclusion**

Peter's new position represents a clear shift towards non-monistic views of democratic legitimacy—she recognizes both epistemic procedure-independent standards (i.e. the ability to produce true or correct decisions) and epistemic procedural standards (respect for epistemic equality, willingness to enter deliberation etc.) for evaluating legitimacy-generating potential of decision-making procedures. We must notice that Peter does not use any non-epistemic standards: while the standard account of epistemic democracy requires of a procedure to have a certain moral quality (to be fair, to treat everyone's interests as equally important, to give everyone an equal say), Peter's new account of democratic legitimacy holds that these moral qualities are part of the epistemic procedural standards (Peter 2009, 2012). Since moral equality is, according to Peter's view, indistinguishable from epistemic equality, she has to deny the knowledge tenet, one that would imply that not all people are epistemically (and thus morally) equal. Peter's denial of the knowledge tenet introduces several problems for her position, and the most obvious one is the fact that we, because of our different educational, professional and environmental backgrounds, tend to perform differently when faced with difficult political questions. Nonetheless, Peter has to keep denying the knowledge tenet since the recognition of epistemic differences among citizens would lead to the recognition of moral differences among them, and this would introduce some form of epistocracy.

The standard account of epistemic democracy does not face this problem: by differentiating between moral and epistemic qualities of a procedure, defenders of the standard account can accept the knowledge tenet without fear that this will introduce moral inequalities into discussion on political legitimacy. We can reject epistocracy without rejecting the knowledge tenet, i.e. we can say that, though there are those who know better, they do not have moral or political authority over us. Consequently, we do not need to be epistemic peers in order to be morally equal. Our equal moral status is not the result of us having equal degree of epistemic capabilities, but the result of us having certain moral (or minimally epistemic) capabilities above some minimal degree or threshold (Rawls 2001). We can have unequal epistemic capabilities (i.e. accept the knowledge tenet) and still be morally equal (reject the authority tenet). This fact, together with four objections to Peter's theory discussed above, leads us to conclude that the knowledge tenet should be granted.

## CHAPTER IV

# THE AUTHORITY TENET

If a political decision can be correct or incorrect, and if there are those who are better in producing correct political decisions (experts), should they have political authority over others? This is the central question of this chapter—does expertise imply political authority? Some important philosophers, including Plato (2000) and John Stuart Mill (1977a), supported and endorsed the idea that political authority must be (at least partly) related to wisdom and expertise. Since there are some relevant differences among citizens regarding their wisdom and expertise (the knowledge tenet), not everyone should have equal political authority and participate as an equal in the process of making and authorizing collective decisions (the authority tenet).

The authority tenet is seen here as a natural extension of the truth tenet and the knowledge tenet. If indeed there are those who are wiser and generally better in producing correct or true decisions, who else should rule but them<sup>37</sup>? In this chapter I want to challenge this conclusion. Following Estlund, my intention is to acknowledge the truth tenet and the knowledge tenet, and to argue that (even if we think that political decisions can be true or untrue and that there are experts in politics) this does not entail the authority tenet (i.e. the claim that the experts should rule). We can dismiss epistocracy without rejecting the truth tenet and the knowledge tenet. This will be crucial for my central claim presented in the fifth chapter, where I argue that the justification of democratic legitimacy should partly be constituted in its (weak) epistemic value. Namely, democracy's (weak) epistemic value rests on the acknowledgment of the truth tenet and the knowledge tenet<sup>38</sup>. However, before the (partially) epistemic justification of democratic legitimacy can be properly constituted, epistocratic challenge has to be answered. In this chapter I discuss and reject several forms of

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<sup>37</sup> Epistocracy should not be confused with representative democracy. While in a representative democracy citizens elect representatives (who can, but do not have to, be experts in their field) to make laws and policies, the authority of elected representatives does not come from their expertise, but from the fact that they were elected by citizens through a fair procedure that everyone had reason to consent to. On the other hand, political authority in epistocracy comes from the wisdom and expertise, regardless of the elections or the (normative) consent of the people (or the lack of such consent).

<sup>38</sup> As I indicated earlier, my view follows the standard account of epistemic democracy and is rather different from Fabienne Peter's Pure Epistemic Proceduralism. Peter also argues that the legitimacy-generating potential of democratic procedures comes from its epistemic value, but she defines this epistemic value in purely procedural terms. Therefore, Peter (2011) rejects both the truth tenet and the knowledge tenet. However, her view represents a non-standard approach to epistemic democracy, and I have argued against it in the second and third chapter. I have concluded that the truth tenet and the knowledge tenet should be granted—epistemic democracy should be based on the rejection of the authority tenet, and not on the rejection of the truth tenet or the knowledge tenet.

epistocracy and argue that no decision-making procedure that accepts the authority tenet can have legitimacy-generating potential.

The chapter is divided in two parts. In the first part I present basic epistocratic claims and emphasize that epistocracy can take different forms, not all of which can be easily rejected. Following David Estlund (2008) and John Rawls (1993), I raise two basic objections against epistocracy: first, it commits the expert-boss fallacy by arguing that political authority follows from expertise, and second, even if political authority somehow follows from expertise, we cannot have a public justification of any particular epistocratic government since people will disagree upon who the experts are (invidious comparison objection). Both objections are grounded in the liberal criterion of legitimacy (Rawls 1993) or the acceptability requirement (Estlund 2008)—in order to have legitimacy-generating potential, a decision-making procedure (usually specified in the constitutional essentials) has to be acceptable to all qualified (or reasonable) citizens. Therefore, the inference from expertise to authority (expert-boss fallacy) fails—experts can rule and have political authority only if all reasonable citizens have normative reason to accept this form of government. This means that the expert's political authority is not grounded in his or her expertise, independent of citizens' (normative) consent—as epistocrats would have it—but can instead only be achieved through citizens' (normative) consent. Furthermore, the idea that, in the conditions of reasonable pluralism, citizens will not (and cannot) publicly agree on who the experts are also rests heavily on the liberal criterion of legitimacy (or the acceptability requirement)—in order to be able to produce legitimate decisions, the experts who participate in the process of making and authorizing political decisions should be publicly recognized as experts by all reasonable (or qualified) citizens. Even if all citizens accept epistocracy as a decision-making procedure with legitimacy-generating potential, they will still have a problem of publicly agreeing on who the experts are and who should rule. An epistocratic government composed of experts whose expertise some reasonable citizens cannot recognize thus fails the liberal criterion of legitimacy since some citizens (though they generally accept epistocracy) do not see this particular government as an instantiation of a legitimate epistocratic government (because they consider some other people as experts who should rule).

In the second part of this chapter I discuss John Stuart Mill's weak epistocracy (scholocracy) characterized by the plural voting system. I find Mill's position to be very sophisticated and consider it to be the best political implementation of the authority tenet. Mill emphasizes both the democratic value of participation of all citizens (which has considerable epistemic value since it enables introduction of new perspectives and arguments into discussion) and the epistocratic value of experts having greater political authority (which also has considerable epistemic value since it

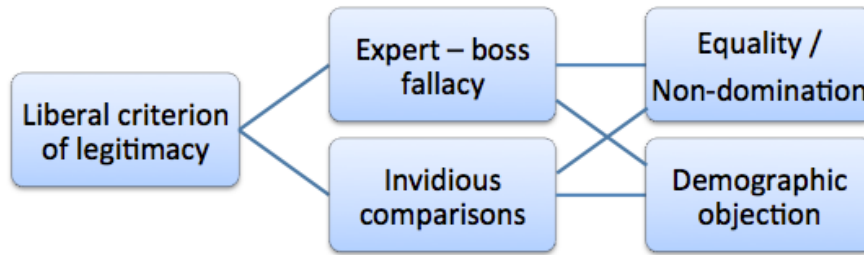
introduces knowledge and expertise into politics and gives experts the privileged status). Finally, Mill avoids the invidious comparisons objection since he himself stresses that experts can have political authority only if everyone can recognize their expertise.

Two further (but more specific) objections can be raised on the basis of the expert - boss fallacy and invidious comparisons objection, and these objection target all form of epistocracy, including Mill's scholocracy. The first one is a moral objection claiming that, in order to have legitimacy-generating potential, a decision-making procedure has to be fair, i.e. it has to treat everyone's interests equally and give everyone an equal chance to participate in the decision-making process. This can be in order to promote publicly equal promotion of everyone's interests (Christiano 1996, 2008), or in order to prevent domination among citizens or between citizens and the state (Pettit 1999, 2012). This argument rests on the expert - boss fallacy objection since it incorporates the idea that some form of consent, and not expertise alone, generates political authority, but it also rests on the invidious comparisons objection since it incorporates the idea that people will not be able to agree on who the expert is, nor which end states are desirable. The second one is the epistemic objection claiming that, even if we acknowledge that some are wiser and more competent, giving such people political authority does not have to result with the best possible decisions. Demographic objections points out that it is not unreasonable to think that experts can be biased precisely because they are experts (and have some common trait typical for the backgrounds of educated people). Since it is not unreasonable to think that there are biases related to education and expertise that can make some experts' decisions worse than democratic decisions (or even worse than coin-flipping), the liberal principle of legitimacy implies that (at least regarding some decisions) epistocratic government has no legitimacy-generating potential. Furthermore, since we cannot always detect nor agree on these biases, we cannot agree upon decisions and policies regarding which epistocratic government is (or is not) reliable (a variation of invidious comparisons objection), and therefore epistocratic government cannot be reasonably acceptable to all citizens regarding any particular decision<sup>39</sup>.

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<sup>39</sup> Imagine someone suspecting that the educated are disproportionately liberal or conservative (and that this has negative epistemic effects) even before there was any way to check it empirically. This person might reasonably think that the educated should not participate in the process of making and authorizing decisions which can be epistemically damaged by their liberal or conservative biases. Furthermore, this person recognizes the educated as generally wiser and more capable of producing correct decisions, and agrees that the educated should decide about many things (i.e. this person accepts the truth tenet, the knowledge tenet and generally the authority tenet), but he or she nonetheless thinks that, at least regarding some political decisions, it is better that the non-educated participate in the process of making and authorizing these decisions. However, if this can be done for a single empirically latent feature, it can be done for numerous others, and people will end up reasonably disagreeing when it is appropriate to follow the publicly-recognized experts, and when the experts' opinion should be disregarded as biased (Estlund 2003, 2008).

Diagram 4.1.



These two objections further support the claim that the authority tenet should be rejected, and that epistocracy cannot be a decision-making procedure with legitimacy-generating potential. Though the knowledge and wisdom of some small group of people (experts) represents an important resource that no decision-making procedure should ignore, this resource is not (and cannot be) sufficient for some to gain political authority over others.

#### 4.1. EPISTOCRACY

In the previous two chapters I have argued that we should endorse both the truth tenet and the knowledge tenet. There are procedure-independent standards against which political decisions can be evaluated, and the decision-making procedure's ability to produce decisions of substantial quality should influence its legitimacy-generating potential. Furthermore, not everyone is equally capable of producing good decisions: some individuals or groups are better in producing decisions of greater substantive quality than some other individuals or groups. Some philosophers think that the authority tenet is a natural consequence of the truth tenet and the knowledge tenet: since political decisions can be right and wrong, and since there are some individuals and groups that are better in producing right decisions, these individuals or groups should have greater political power and authority (both epistemic and political) over those who are worse in producing right decisions (Plato 2000). They are authorized to rule because they are epistemically superior to others.

##### 4.1.a. The Rule of the Wise

The argument for epistocracy was first articulated in the ancient Greece and Plato used it in his *The Republic* to argue against democracy. When important decisions have to be made, why should everyone participate in the decision-making process, regardless of his or her knowledge or competence? What gives a non-educated, unwise and easily manipulated citizen an equal right to



participate in the decision-making process as well as a well-educated, wise and independent citizen? To further support this claim, consider the following analogy: medical decisions can be right or wrong, and there are individuals who are better in producing right decisions (doctors or physicians)—when we are facing a difficult medical decision, should we ask our doctor (or medical staff in general) to do what is best, or should we start a decision-making procedure in which everyone can say what he or she thinks is right, with everyone's vote having equal political power? It seems clear that we should ask our doctor (or several doctors and members of medical staff) what should be done, and we should not use the decision-making procedure that gives every citizen (regardless of his or her competences) an equal say. Same can be said for politics: political decisions can be right or wrong (the truth tenet), and there are individuals who are better in producing right decisions (the knowledge tenet)—when we are facing a difficult (and important) political decision, we should favor a decision-making procedure which recognizes differences in competence and which gives political power to experts, and not to everyone (the authority tenet).

There are several variations of the epistocratic rule and they all accept the authority tenet, though to a different degree<sup>40</sup>.

*Strong epistocracy* entails the idea that some privileged group of experts (and no one else) should participate in the creation and authorization of all political decisions. Plato's idea that philosopher kings should rule could be one such example, and radical Christians or Muslims claiming that their religious leaders should rule could be another. Strong epistocracy is characterized by the idea that all political decisions, regardless of their content and area of application (healthcare, education, ecology, economy, agriculture, etc.), should be made by the same group of experts.

*Moderate epistocracy* entails the idea that some people are better than others in producing correct decisions in some areas or fields they have studied and specialized during their lifetime. This form of government (sometimes characterized as technocracy) advocates the idea that economists (and no one else) should participate in the process of making and authorizing economic policies, doctors and medical staff (and no one else) should participate in the process of making and authorizing policies regarding healthcare and medicine, etc. (Holst 2012, Lippert-Rasmussen 2012). Political power can (but does not have to) be widely distributed, and one can be considered an

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<sup>40</sup> The idea of dividing epistocratic rule into two models (strong and moderate epistocracy) has been introduced by many scholars, and I follow the classification presented by Lippert-Rasmussen (2012). However, I introduce a further distinction between moderate and weak epistocracy since, though both models do not represent a clear despotic rule of the knowers (as strong epistocracy does), they are differently capable of answering two basic objections to epistocracy. Unlike moderate epistocracy, weak epistocracy can avoid the invidious comparisons objection. Both, however, have problems with answering the demographic objection.

expert (and have political power and authority) regarding some political decisions, but not regarding many other political decisions.

*Weak (or sophisticated) epistocracy* allows everyone (or at least everyone who has some basic and minimal competences) to participate in the decision-making process. This means that every citizen has a say, though not that every citizen has an equal say. Mill's scholocracy, characterized by the plural voting system, can be a good example of this type of epistocracy. People are allowed (and encouraged) to participate in the decision-making process regardless of their competences, but those who are better educated have greater political power than those who are not (Mill 1977a).

In this part of the chapter I shall discuss strong and moderate epistocracy. My intention is to demonstrate that neither of them can meet the liberal criterion of legitimacy, and therefore neither can be seen as a legitimate form of government. Weak epistocracy will be discussed (and rejected) in the second part of this chapter.

#### *(i) Strong Epistocracy*

In *The Republic* Plato famously argued against democracy. He clearly acknowledged that there are correct answers to questions about how a state should be ruled (the truth tenet), but also claimed that these questions are often very difficult and appropriate answers are hard to come by. Of course, some people will be better in coming to correct answers (the knowledge tenet), mostly owing to their greater wisdom (which can be seen as a result of their education or their innate abilities). Plato concludes that the superior wisdom of the identifiable minority justifies their having political authority over others (the authority tenet). Political decision-making should be left to the experts (Plato 2000). The ship analogy can be used to further support this claim:

[Men ignorant of navigation] don't understand that a true captain must pay attention to the seasons of the year, the sky, the stars, the winds, and all that pertains to his craft, if he's really to be the ruler of a ship. And they don't believe that there is any craft that would enable him to determine how he should steer the ship, whether the others want him to or not, or any possibility of mastering this alleged craft or of practicing it at the same time as the craft of navigation. Don't you think that the true captain will be called a real stargazer, a babbler, and a good-for-nothing by those who sail in ships governed in that way? (Plato 2000: 19-20)

Just like one can be an expert in navigation, one can also be an expert in politics. And just like it would be foolish to implement the majority rule in the ship case (with many people who lack

relevant knowledge about navigation participating in the decision-making process), it would be foolish to implement the majority rule in the political community (with many people who lack relevant knowledge about politics participating in the decision-making process). According to Plato, ruling is a skill, just like navigation (Wolff 2006). Those who are to rule should specialize in this skill, and unlike defenders of moderate epistocracy (technocracy), Plato does not think that some form of division of labor is appropriate at this level. Of course, he believes that there should be a substantial division of labor in a political community, but no division of labor within the ruling class. After all, Plato claims that future rulers should be selected from among the brightest and most courageous children, and receive special training which begins with gymnastics, music and mathematics, and ends with dialectic, military service and practical city management (Plato 2000). Only those who have received education in all these areas can reflect on timeless values such as justice, beauty, truth, and moderation, and are fit to rule the political community. Therefore, unlike proponents of moderate epistocracy (technocracy), Plato claims that there is only one group of experts in politics, and members of this group are experts regarding all relevant political issues (Nichols 1984). There is no group of experts in economy, fit to participate in the process of decision-making and authorization of economic policies, group of experts in environment, fit to participate in the process of decision-making and authorization of environmental policies, etc. Plato argues for the rule of philosopher kings because he sees rulership as a single indivisible skill, and therefore rejects the idea of (epistemic) division of labor within the ruling class. Finally, Plato argues that the ruling class will always be a relatively small group: the majority of citizens will be producers or soldiers (Plato 2000).

Though Plato's argument is nowadays rarely accepted, there are people who defend some form of strong epistocracy. Some religious people, for example, who consider their religious leaders as the most reliable trackers of important moral and political truths, also consider their religious leaders as political authorities. Furthermore, they believe that, in order to have legitimacy-generating potential, a decision-making procedure has to track important moral and religious truths. Since strong epistocracy, a decision-making procedure in which a few religious experts have all political power, is the best guarantee that the decisions produced will be true, correct or just, strong epistocracy is a decision-making procedure that has legitimacy-generating potential.

Many have criticized strong epistocracy for being a despotic form of government (Dewey 2009, Estlund 2003, Popper 1971): a minority of citizens has all the political power, while the majority of citizens does not participate in the process of the authorization of political decisions. In

order to answer this objection, many different models of moderate epistocracy have been developed.

*(ii) Moderate Epistocracy*

To claim that everyone should participate as an equal in the decision-making process (and the process of authorization of political decisions) does not necessarily entail the idea that everyone should participate as an equal during every stage of his life, or participate as an equal regarding every political decision. Furthermore, even if some are disenfranchised, this does not have to entail (as Plato would have it) that majority of citizens are disenfranchised—political power can be withheld from only a minority of citizens. These are some of the moderate epistocratic positions developed (but not endorsed) by Lippert-Rasmussen—there is a range of intermediate positions between democracy and strong epistocracy that favor moderately unequal distributions of political authority (Lippert-Rasmussen 2012). Not every epistocratic regime has to be as despotic as the one described by Plato.

First, consider a decision-making procedure in which, for every political question, there is a group of citizens that are better qualified than other members of the political community, and therefore have political authority over others regarding that issue. It is possible that every citizen is thus considered an expert regarding some political issues, and though no one participates in the process of making and authorizing decisions regarding all political issues, everyone participates in the process of making and authorizing at least some political decisions (List 2005). An economist might thus be considered an expert regarding economic decisions and public policies, and consequently have political authority when political issues regarding economy are discussed. Similarly, doctors and medical personnel might be considered experts regarding decisions and public policies about health and healthcare systems, and consequently have political authority when political issues regarding medicine and health are discussed. Some might be considered experts regarding more political issues than others, and some areas of expertise might be more relevant to the political life than some other areas, so in the end not everyone will have equal political power, but nonetheless the despotic objection will pose a significantly smaller threat to this position than it poses to strong epistocracy.

Second, consider a decision-making procedure in which (at a particular point in time) only a small group of people are seen as experts regarding all political decisions, but nonetheless everyone is a member of that group during some part of his or her life. For example, only people older than 50 and younger than 60 years are considered experts in politics, and thus only this group of people

has political power and authority and participates in the process of making and authorizing political decisions<sup>41</sup>. Since most citizens are, will be or have been members of this group, this might even be an egalitarian position and a fair decision-making procedure, since everyone has an equal chance to be a member of this privileged group (Lippert-Rasmussen 2012).

Third, consider a decision-making procedure in which the majority of citizens are seen as experts regarding all political decisions, but some minority of citizens is seen as lacking the necessary expertise (and their political authority is thus denied). This small minority might, for example, be a group of Nazis or a group of psychopaths. Though this decision-making procedure takes a form of majority rule, it might seem to have epistocratic elements since it disenfranchises citizens on the basis of their lack of expertise or their inability of produce correct or just decisions<sup>42</sup>.

The three decision-making procedures described above take the form of moderate epistocracy: they claim that some group of citizens should have greater political power because of their expertise, but they nonetheless do not claim that a small group of fixed citizens should make and authorize all political decisions (like strong epistocracy does). Consequently, these moderate epistocratic decision-making procedures are better able to defend against the objection claiming that epistocracy is necessarily despotic in character. However, three strong objections can be raised against both strong and moderate epistocracy.

#### **4.1.b. The First Basic Objection: The Expert - Boss Fallacy**

Defenders of epistocracy claim that expertise entails political authority: if some people have superior wisdom and greater capacity to produce correct decisions, they should have political authority and participate in the process of making and authorizing collective decisions. Those who lack this wisdom and expertise should not have political authority and should not participate in the process of making and authorizing collective decisions. Consider the earlier example: when we have to make a difficult medical decision, what could be stupider than holding a vote? Most of the

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<sup>41</sup> Of course, a group of experts does not have to be a small group, as it was suggested in the earlier example. We might claim that everyone older than 18 years of age is an expert, and thus give political authority to every adult citizen. Though this might seem as a democratic decision-making procedure, it has some epistocratic elements: namely, those disenfranchised (citizens younger than 18 years of age) are denied political power because of their lack of knowledge and expertise.

<sup>42</sup> It is important to emphasize that most scholars who argue that terms of political justification need not be acceptable to Nazis or psychopaths usually do not disqualify members of these groups because of their lack of expertise or their inability of produce correct or just decisions. Since Nazis and psychopaths do not want (or are unable) to live in a society in which they can cooperate with their fellow citizens on fair terms that are acceptable to all, they are disqualified for being unreasonable and not endorsing ideas of freedom and equality of all citizens (Gaus 1996, Quong 2011, Estlund 2008, Dreben 2002, Peter 2011, Rawls 1993). This is the reason why, when discussing moderate epistocracy, I shall focus primarily on its first form, where it is clear that the justification for political authority is *epistemic* expertise regarding some political issue.

people know very little about medicine, and there are some that know much better than others what should be done. In such situations, political authority should reside with greater expertise.

This example, however, suffers from a serious deficit: the doctor's right to perform procedures on us comes from our consent, and not from his or her expertise. We do not think that a doctor, no matter how qualified he or she is, has a right to tie us to a bed and perform certain medical procedures on us. The same can be said for politics as well: why should someone, granted that he or she is indeed wiser and has greater expertise, have the right to rule and make decisions about our lives and lives of others? Authority simply does not follow from expertise (Estlund 2008, 2009, Rawls 1993). We can acknowledge that one is an expert (has greater expertise regarding some relevant issue), but this leaves a completely open question about who is to rule. You might be correct, but what makes you a boss? (Estlund 2009)

To better illustrate this point, Jonathan Quong invites us to imagine the following scenario:

Sailboat: I would like to invest my money in the stock market with the aim of creating sufficient funds to buy a large sailboat when I retire. You are a friend of mine, and because you are a stockbroker, you know a great deal more than I do about which investments I ought to make. I can best achieve the goal of securing the necessary funds by investing in the stocks you tell me to, indeed we can assume my investments are certain to perform better if I follow your advice than if I try to make my own decisions. In this particular context there is little, if any, intrinsic value to my making these financial decisions on my own. I have a fulfilling career as a philosopher, I have no independent interest in learning the ins and outs of financial investments, and there is no reason to suppose my life will be significantly improved if I succeed in becoming an expert in the stock market; doing so would just get in the way of the fulfilling career I have already embarked upon. What is of central importance in this example is that my investments do well enough so that I can buy a sailboat. (Quong 2011: 117)

One way of denying the idea that experts should have political authority is to claim that there is something intrinsically good in engaging other citizens in public deliberation on what should be done. That way a procedure's legitimacy-generating potential will not depend (solely) on its instrumental qualities (its ability to produce correct or true decisions), but on some procedural qualities as well—the intrinsic value of public deliberation will prevent inference from expertise to political authority. Hannah Arendt, for example, claims that public deliberation might be seen as an essential part of the good life for an individual (Arendt 1963), and Fabienne Peter sees public deliberation as an intrinsically valuable realization of epistemic accountability among equals (Peter 2012). These views are usually grounded in the rejection of the truth tenet (Arendt 1963), or the rejection of the knowledge tenet (Peter 2011), so this argumentative strategy is not available to those who accept the truth and the knowledge tenet, and want to deny only the authority tenet.

Quong's example is very important because it points out that we have reasons to deny the inference from expertise to authority even if we acknowledge the truth tenet and the knowledge tenet, and deny any intrinsic value of public deliberation<sup>43</sup>. Though you might be an expert and I ought to follow your directives (from the standpoint of practical rationality), this does still not suffice to show that you have legitimate authority over me with regard to my financial decisions (Quong 2011).

There is, of course, an important distinction between Quong's example and politics: while our decisions regarding investing our money in the stock market seem to affect only ourselves (and possibly a few people closely connected to us), political decisions affect many (often all) members of a political community (Zelić 2012). It is one thing to ruin our own savings, and quite another to ruin savings of other people. We must note, however, that the argumentative strategy employed by the advocates of epistocracy is the same in both cases—political authority of some citizens is derived from their expertise. Imagine an alternative scenario, one in which you and your nine friends each own 10% of a company. Consequently, each is entitled to an equal right to manage the company and participate as an equal in meetings where the key aspects of the business plan will be developed. The business plan and the decisions made in these meetings will not affect only your own well-being, but the well-being of all people who own a part of the company. However, even if one of you is recognized as an expert and is seen as most fit to make decisions regarding the business plan of the company, it still seems that the very fact that she is an expert does not give her authority over you, nor makes her the boss of the company. Expertise is simply not enough—some form of consent (though not necessarily actual consent) is needed in order to give one person political authority over others. Only actual (we all agree that one should rule) or normative (we all have a moral duty to obey someone's authority) consent can give one person political authority over others (Estlund 2008).

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<sup>43</sup> I doubt that Quong would accept (or deny) some of these qualifications regarding the truth tenet and the knowledge tenet. Remaining agnostic regarding these issues would be compatible with his position. However, his example is precious because it denies the inference from expertise to authority regardless of whether we accept the truth tenet and the knowledge tenet, thus showing that the inference from expertise to authority can be rejected even if we accept the truth tenet and the knowledge tenet.

Furthermore, though Quong's argument does not have to rely on intrinsic value of public deliberation (as arguments by Arendt and Peter do), it still has to rely on some intrinsic (purely procedural) value. This value is the fairness of the procedure, or the idea that all reasonable (or qualified) citizens should be treated as equals and should have an equal chance to participate in the decision-making process. This value is, however, compatible with the acknowledgement of both the truth tenet and the knowledge tenet.

#### **4.1.c. Second Basic Objection: Invidious Comparisons**

Imagine, for the sake of the argument, that the authority tenet is true and that political authority follows from expertise. Every citizen recognizes this and believes that experts (and only experts) should participate in the process of making and authorizing political decisions. Can this be sufficient to ground the epistocratic rule? It seems that, in order to justify any particular form of epistocratic rule, we would need an agreement not only on the idea that the experts should rule, but also on the explanation of who the experts are. Unless we can have a public agreement on who the experts are, the rule of any particular group of people will be contested by citizens wanting to be ruled by the experts, but not recognizing the expertise of the particular group. Therefore, a public agreement on the criteria for expertise and on a particular list of experts is needed in order for everyone to recognize epistocratic decisions as legitimate (Estlund 2008, 2009).

However, in the conditions of reasonable pluralism of moral and political doctrines, having such public agreement on the criteria for expertise or on particular experts is impossible. Consider, for example, a disagreement between defenders of strong epistocracy and defenders of moderate epistocracy (technocracy): when discussing who are the experts regarding economic policies, strong epistocrats will point at philosophers, religious leaders, Nobel prize winners or some other group of people, and moderate epistocrats (technocrats) will point at people with an university degree in economy. The first will claim that political decisions (even those regarding economic policies) are so complex and wide-ranging that only people who are experts on justice, beauty, truth, and moderation (or experts in the will of God) can be regarded as wise enough to make and authorize them, while the second will claim philosophers or theologians are ignorant regarding many important economic theories, and therefore cannot be considered experts on economic policies. Further disagreement is unavoidable: strong epistocrats who believe that the experts in the will of God should rule will disagree on who those experts are, or even upon which kind of God's will should be done. Moderate epistocrats (technocrats) will disagree on who the experts among economists are, or even whether some non-economists (but successful businessmen or prominent scientists in interdisciplinary fields) should be considered experts on economic policies. To sum up, neither strong nor moderate epistocrats can publicly define who the experts are: in the conditions of reasonable pluralism of moral and religious doctrines, no individual or group of individuals can be publicly regarded as experts regarding any political decision.

Even if we grant that political authority follows from expertise, strong and moderate epistocracy fails to meet the liberal criterion of legitimacy: no form of epistocratic government can be acceptable to all reasonable (or qualified) citizens, simply because citizens will, in the conditions



of reasonable pluralism, consider different individuals and groups of people as those with sufficient wisdom and expertise to rule (Christiano 1996, 2008, Estlund 2008, 2009). Defenders of weak (or sophisticated) epistocracy might be able to avoid this objection by claiming that education in general makes us more capable of producing correct decisions, and therefore asserting that the better educated should have more than one vote (Mill 1977a, 1977b). Though weak epistocracy might avoid this objection, it is confronted with two additional objections: the moral objection and the epistemic objection, which are articulated in the second part of the chapter where I discuss Mill's plural voting proposal in detail.

#### **4.1.d. Conclusion**

Though it takes different forms, epistocracy is characterized by the idea that knowledge is more valuable than ignorance and that, consequently, those who know best should rule, or at least have greater political authority than those who are ignorant. Several objections can be raised against epistocracy, and I have discussed two basic critiques in this part of the chapter. I have claimed that defenders of epistocracy commit the expert - boss fallacy, inferring from expertise directly to political authority, but are also facing the problem of invidious comparisons: even if all can agree that the experts should rule, we would not be able to have a public agreement on who the experts are. These two objections target most forms of strong and moderate epistocracy. However, weak epistocracy (scholocracy) defended by John Stuart Mill is more difficult to object to, since it partly avoids the expert - boss fallacy and invidious comparisons objection. In the second part of this chapter I discuss Mill's position in detail, and also raise two further arguments that weak epistocracy cannot avoid. Of course, these two arguments can be used against most forms of strong or moderate epistocracy as well.

There is a convincing moral argument against epistocracy: this argument can be grounded in the principle of public equality (Christiano 1996, 2008) or in the value of non-domination (Pettit 1999, 2012), but regardless of its origins it unmasks epistocracy as a morally deficient decision-making procedure.

An epistemic argument can be raised against epistocracy as well: we can try to demonstrate that, even if we can reject invidious comparisons objection and all publicly agree upon who the experts are, there are epistemic reasons not to embrace epistocracy. Demographic objection discussed in the second part of this chapter is the basis for the epistemic critique of epistocracy. However, before we can analyze this final objection, I shall focus on Mill's scholocracy, a form of weak (or sophisticated) epistocracy, since I consider it to be the most convincing form of

epistocracy. If Mill's scholocracy can be reasonably rejected, than any form of epistocracy can probably be rejected as well. The epistemic argument raised against Mill's scholocracy rests on the objections discussed in this part of the chapter, as well as on the epistemic considerations that constitute the demographic objection.

## 4.2. SCHOLOCRACY

Epistocracy represents a clear and simple realization of the authority tenet. This tenet claims that normative political knowledge of those who know better is warrant for their having political authority over others, and epistocracy realizes this by giving political power only to the small number of experts. As we have seen in the previous part of this chapter, epistocracy has been criticized by both expert-boss fallacy and the 'invidious comparisons' objection, as has been rejected for not meeting the liberal criterion of legitimacy. Since reasonable citizens cannot agree who the experts regarding moral and political issues are, every form of epistocracy can be reasonably rejected.

In the second part of this chapter I discuss a more sophisticated realization of the authority tenet. Mill's scholocracy<sup>44</sup>, the rule of the educated, seems to be able to avoid the 'invidious comparisons' objection. By introducing the plural voting proposal that gives every citizen at least one vote, though those better educated receive more than one, Mill combines the democratic value of diverse perspectives with the value of greater wisdom of the few. First, I discuss Mill's account of political legitimacy, arguing that it represents a clear instrumentalist position. His position is analyzed in detail, partly to criticize interpretations that tend to overemphasize the role of political equality in Mill's theory, and partly to better understand the complex argumentative structure Mill has developed to support his position. After that, I criticize scholocracy and the plural voting proposal by introducing the demographic objection and claiming that, though Mill's position was able to avoid the 'invidious comparisons' objection, it can still be reasonably rejected. Namely, the plural voting proposal might introduce new epistemically damaging features into the collective decision-making procedure. Some reasonable citizens might object this, and that is enough to disqualify scholocracy and the plural voting proposal on the ground of liberal criterion of

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<sup>44</sup> Estlund was the first one to name Mill's position scholocracy. He positioned it between democracy (a form of government in which everyone participates in a decision-making process as an equal) and epistocracy (a form of government in which only experts (or knowers) participate in a decision-making process) (Estlund 2003, 2008).

legitimacy. Finally, since both epistocracy and scholocracy fail to meet the liberal criterion of legitimacy, I conclude that the authority tenet should be rejected.

#### **4.2.a. Mill's Account of Political Legitimacy**

##### *(i) Introduction*

Many papers have been published criticizing Mill's plural voting proposal and analyzing its strengths and weaknesses, as well as trying to implement it (or criticize it) from the standpoint of contemporary western democracies. Unfortunately, it seems that Mill's original work is somehow neglected in favor of some notable interpretations, and the emphasis is sometimes placed on the implementation of Mill's ideas in contemporary society without first analyzing and understanding the justificatory process Mill carefully developed to support those ideas. This part of the chapter aims to clarify some of the contested ideas by analyzing the reasons and arguments Mill used to support them. Additionally, this part aims to point out and emphasize how these ideas and arguments supporting them are connected into a coherent system.

The first part of this chapter sets Mill's account in the wider explanatory framework of democratic legitimacy developed by Thomas Christiano. Mill's view is portrayed as a typical example of democratic instrumentalism—a monistic position that focuses on the results of a decision-making process when discussing the legitimacy of the decisions produced by this decision-making process. Mill's understanding of political equality is discussed in the second part: by introducing Berlin's distinction between positive and negative liberties, I claim that Mill argued only for the equality of negative liberties. Positive liberties, those inherent to a participatory democratic process, are not to be equally distributed. Values of deliberative democracy and diverse perspectives are discussed in the third part. By building on these ideas, I point out why Mill believed that everyone should have a say in a decision-making process, though not everyone should have an equal say. The plural voting proposal perfectly satisfies the requirement Mill had in mind (unequal political power but participation of all in a decision-making process) and is discussed in the fourth part. There, I stress Mill's allegiance to democratic instrumentalism again by comparing his view on experts with the views of Thomas Christiano and Philip Kitcher. While Christiano and Kitcher advocate for equality in the process of setting up political aims (and give greater power to the experts only when discussing the implementation of the already set aims), I claim that Mill rejects the idea of equality both in the process of setting up aims and in the process of their implementation (though he has a different standard for identifying experts in these two domains).

Finally, I emphasize the importance of public justification for Mill's view, introducing the worry that Mill's account might seem to be acceptable even from the liberal criterion of legitimacy.

*(ii) Background*

Whenever we try to justify or argue for a certain form of government, we start by enlisting its virtues. Contemporary political philosophy divides these virtues depending on whether they are the virtues of a decision-making process or of the final outcome produced by this process. In order to give an account of democratic legitimacy presented by John Stuart Mill, as well as to compare his position with those of contemporary defenders of epistemic democracy, one first has to clarify the criteria listed above and set Mill's view according to them.

As the name suggests, procedural virtues of some form of government refer to the virtues of the decision-making process; they are not related to the quality of the decision, but to the process by which these decisions are made. The main procedural virtue of democracy is its tendency to treat all participants in the decision-making process as equals and to give everyone an equal power to influence the final decision. In debates on legitimacy, this position places focus on procedural qualities of democratic decisions; the question is not whether a particular decision is correct or just, but whether a decision came about through a process that has certain qualities (virtues) that make it legitimacy-generating.

Non-procedural virtues are not related to the decision-making process, but to the quality of decisions that some form of government produces. In other words, they do not come from the procedure by which the decision was made, but are associated with the external world in which the decision shows as profitable or unprofitable, right or wrong, true or false. The main non-procedural virtue of democracy is its tendency to produce correct decisions. According to this view, decisions are legitimate if and only if they are true (or just), and democracy as a form of collective decision-making has only instrumental value—it represents a good means to achieve a desired goal, i.e. to bring about correct (or just) decisions.

We can try to justify democratic authority by referring to one of these virtues, in which case we will be endorsing some monistic position, or we can try to justify democratic authority by referring to both virtues, in which case we will be endorsing some non-monistic position<sup>45</sup>.

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<sup>45</sup> The distinction between monistic and non-monistic positions was first introduced by Thomas Christiano (2004).

*(iii) Mill's Criteria for Legitimacy*

Mill asserts that the best form of government is the one that best achieves the following two goals:

(i) improving the virtue and intelligence of the people under its jurisdiction, and (ii) organizing the existing virtues and good qualities of the people in a way that promotes the long-run common good.

One criterion of the goodness of a government [is] the degree in which it tends to increase the sum of good qualities in the governed, collectively and individually; since, besides that their well-being is the sole object of government, their good qualities supply the moving force which works the machinery. The other constituent element of the merit of a government [is] the quality of the machinery itself; that is, the degree in which it is adapted to take advantage of the amount of good qualities which may at any time exist, and make them instrumental to the right purposes. (Mill 1977: 390-391)

The same two criteria reappear, more or less reformulated, throughout his entire work.

[Merit which any set of political institutions can possess] consists partly of a degree in which they promote the general mental advancement of the community, including [...] advancement in intellect, in virtue, and in practical activity and efficiency; and partly of the degree of perfection with which they organize the moral, intellectual and active worth already existing, so as to operate with the greatest effect of public affairs. (Mill 1977: 392)

However, it seems that the basic and unifying criterion behind these two are beneficial consequences (Sandel 2013, Peter 2014). Following Mill's utilitarian account characterized by the differentiation between higher-quality and lower-quality pleasures, the best form of government is to be understood as the one that produces maximal aggregate long-run utility (excellence-weighted pleasure).

The ideally best form of government is [...] the one which [...] is attended with the greatest amount of beneficial consequences, immediate and prospective. (Mill 1977: 404)

It is rather clear that Mill uses a procedure-independent criterion for evaluating the quality of the outcomes, i.e. he accepts the truth tenet. A political decision can be good or bad regardless of the procedure that has produced it. This is particularly clear when Mill uses an epistemic argument to argue against despotic monarchy; even if there would be a wise benevolent despot, he would be unable to detect and promote the common good, as well as particular interests of different individuals, as efficiently as representative (democratic) government. A political decision is good or

bad regardless of the procedure that has produced it; its quality is evaluated in the light of its consequences.

Mill adopts the instrumentalist position: a form of government is only legitimate if it produces the greatest possible amount of beneficial consequences. He avoids the common objections against utilitarianism by introducing the differentiation between higher-quality and lower-quality pleasures, as well as by strongly arguing that only by preservation of individual liberties can we maximize utility in the long-run<sup>46</sup>. However, his argumentation has an instrumental form; in order to be legitimate, a form of government has to improve intellectual and moral qualities of its citizens, as well as to organize them in such a way as to produce the best possible outcomes (Peter 2014).

What form of government will prove itself as the best depends on the people it is exercised upon. Tyranny will be the best form of government for barbarian tribes, since it will best improve their intellectual and moral qualities (e.g. teach them to obey the laws), as well as organize them in a manner they, because of the lack of discipline, would otherwise be unable to do themselves. Democracy is preferred to tyranny, but only when discussing developed societies where certain preconditions have already been met. This emphasizes the instrumental approach used by Mill: what form of government is legitimate depends on the type of society we want to apply it upon. Different forms of government will yield different results when applied to different societies. Democracy is thus instrumentally justified: if we want to promote intellectual and moral qualities of individuals in our society, and if we want to organize them to produce the best possible outcomes, we should embrace democracy as a proper form of collective decision-making.

#### *(iv) Expertism and Equality*

Mill's democratic instrumentalism can sometimes be mistaken for a weak kind of (epistemic) proceduralism: after all, Mill does not think that a political decision is legitimate if and only if it has beneficial consequences. According to such view, whenever one has a reason to doubt the quality of consequences of a political decision, one could say that he does not recognize that particular decision as legitimate. This is surely not the result Mill had in mind. Furthermore, we could question the extent to which such view improves intellectual and moral qualities of the people

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<sup>46</sup> Mill's famous essay '*On Liberty*' can be viewed as a unified attempt to argue in favor of individual liberty from the consequentialist (utilitarian) standpoint. All four reasons that explain why we should uphold individual liberty have an instrumental form—we should not silence the dissents because such an action would produce ill consequences for our society: we might be deprived of true or partially true belief, our own belief might harden into dogma and prejudice, and forcing the members of a society to embrace custom and convention is likely to deprive them of the energy and vitality for social improvement. For detailed argumentation see Mill 1879 and Sandel 2009.

involved. The decision-making procedure is very important for Mill—it has to be organized in such a way as to satisfy two criteria of good government, i.e. to improve the intellectual and moral qualities of people and to organize their potentials to maximize the quality of results. A decision is thus legitimate if it is a product of a good decision-making procedure. Though this might seem as a form of democratic proceduralism, we must note that the justification of the procedure is purely instrumental (Peter 2014). Mill does not find democracy superior to despotic monarchy because the former respects the equality of all the people involved, and the latter does not. His arguments for democracy have instrumental form; we should prefer democracy because it produces better outcomes, i.e. it is better in improving our moral and intellectual qualities, as well as in producing better decisions. Unlike Estlund and other philosophers who adopt non-monistic positions, putting emphasis on both the fairness of a procedure and the quality of results it produces, Mill's view is monistic—only the results are important.

Some might argue otherwise by stressing the importance of equality in Mill's political thought, especially in his famous essay *On Liberty*. Though equality is indeed a very important idea for Mill, we must notice that in *On Liberty* Mill refers primarily on the idea of negative liberty, i.e. the area within which the subject—a person or group of persons—is or should be left to do or be what he is able to do or be, without interference by other persons (Berlin 1969). Mill's thoughts on positive liberty, i.e. his answer to the question what, or who, is the source of control or interference that can determine someone to do, or be, this rather than that (Berlin 1969), are quite different. Mill explicitly distinguishes the power that one has over oneself alone and the power one has over others<sup>47</sup>:

They say that everyone has an equal interest in being well governed, and that everyone, therefore, has an equal claim to control over his own government. I might agree to this, if control over his own government were really a thing in question; but what I am asked to assent is, that every individual has an equal claim to control over the government of the other people. The power that suffrage gives is not over himself alone (*i.e. negative liberty*) it is power over others also (*i.e. positive liberty*): whatever control the voter is able to exercise over his own concerns, he exercises the same degree of it over those of every one else. Now, it can in no sort be admitted that all persons have an equal claim to power over others. (Mill 1977 b: 323)

It seems that equality does not play an important role in Mill's thoughts on collective decision-making procedures; it is very important to ensure the equal protection of everyone's basic negative

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<sup>47</sup> I thank David Miller for pointing this idea and encouraging me to analyze Mill's *Thoughts on Parliamentary Reform* in detail.

liberties (e.g. freedom of thought, speech, press and assembly), but equality should be rejected and opposed when discussing positive liberties. It should instead be replaced with competence, because it is the key virtue needed to achieve better quality of political decisions<sup>48</sup>.

This particular idea is nicely implemented in the *plural voting* practice suggested by Mill. He indicates two motives for this proposal: (i) to prevent one group of people from being able to control the political process without having to give reasons in order to have sufficient support, and (ii) to avoid giving each person an equal chance to influence political decisions without regard to their merit, intelligence etc.

Yet in this stage of things, the great majority of voters [...] are manual laborers; and a twofold danger, that of too low a standard of political intelligence, and that of class legislation, would still exist in a very perilous degree. (Mill 1977: 473)

Many scholars who follow republican philosophical tradition believe that the main motive Mill had to suggest plural voting was to stop the tyranny of the majority in a form of class legislation (Brilhante and Rocha 2013). The danger of too low a standard of political intelligence is often neglected, and the entire plural voting proposal is regarded as a temporary solution Mill used 'in [his] stage of things', i.e. to answer the problem of British electorate in the 19<sup>th</sup> century. However, there are good reasons to consider Mill's plural voting account as a permanent solution. In fact, Mill's own words oppose those who think that plural voting is only a temporary solution that should not be considered as an important part of his political thought.

I do not propose the plurality as a thing in itself undesirable, which, like the exclusion of a part of the community from the suffrage, may be temporarily tolerated while necessary to prevent greater evils. (Mill 1977: 478)

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<sup>48</sup> To additionally stress this point, it might be useful to point out important differences between Mill's approach and the approach of those who base democratic legitimacy on the idea of equality (e.g. Thomas Christiano). Christiano builds his theory on a basic claim that human beings are authorities in the realm of value because (i) they are capable of recognizing, appreciating and producing value, and because (ii) their exercise of this authority is itself intrinsically valuable. Christiano further claims that equal status of persons is based on the fact that human beings all have essentially the same basic capacities to be authorities in the realm of value (Christiano 2008). Mill, on the other hand, believes that people are obviously differently capable of appreciating intrinsic values (his version of 'higher pleasures' utilitarianism), and that differences in capacity should produce differences in status. This does not imply that those who are better educated should direct the private lives of those who are not (Mill clearly stresses this point in 'On Liberty'), nor should they have absolute power in political arena (this is pointed out in 'Considerations on Representative Government'). The underlying reason for this is not equality, however, but the idea that intellectual and moral qualities of all human beings should be cherished and improved, and that would be impossible if other people would direct our every action. This does not imply, however, the idea that everyone should have an equal say in a collective decision-making process.



It is clear, in fact, that Mill's main reason for plural voting is not class legislation, the 'greater evil' from the previous quote. Even in a society where there is no fear of one class or group of people being able to control the political process without having to give reasons in order to have sufficient support, Mill would still opt for plural voting and against the equality of votes. This is a clear indication that Mill accepts both the knowledge and the authority tenet.

I do not look upon equal voting as among the things which are good in themselves, provided they can be guarded against inconveniences. I look upon it as only relatively good [...], but in principle wrong, because of recognizing a wrong standard, and exercising a bad influence on the voter's mind. It is not useful, but hurtful, that the constitution of a country should declare ignorance to be entitled to as much political power as knowledge. (Mill 1977: 478)

Mill was strongly influenced by the classical political philosophy, and his plural voting proposal can be seen as a combination of Plato's epistocracy and Aristotle's democracy. Following Plato, Mill emphasized the value of greater wisdom of the few, while following Aristotle he embraced the value of diverse perspectives for political decision-making. (Estlund 2003: 57) Though Mill never embraced Plato's epistocracy (because it denied the value of diverse perspectives for decision-making, as well as because it was not compatible with the account of moral and intellectual improvement of the people), he considered the idea that competence should have greater weight than incompetence very appealing.

[...] that governing is not a thing which can be done at odd times, or by the way, in conjunction with a hundred other pursuits, nor to which a person can be competent without a large and liberal general education, followed by special and professional study, laborious and of long duration, directed to acquiring, not mere practical dexterity, but a scientific mastery of the subject. This is the strong side of the Platonic theory. (Mill 1978: 436)

When two persons who have a joint interest in any business, differ in opinion, does justice require that both opinions should be held of exactly equal value? If [...] one is superior to the other in knowledge and intelligence, the judgment of a higher moral or intellectual being is worth more than that of an inferior: and if the institutions of the country virtually assert that they are of the same value, they assert a thing which is not. One of the two, as a wiser or better man, has a claim to a superior weight [...] (Mill 1977: 473)

It seems clear that Mill argued for deliberative democracy on instrumental grounds; his plural voting proposal is an example of such argumentative strategy.

(v) *Deliberative Democracy*

One has to notice, however, that the reason why plural voting is introduced is not *only* to improve the quality of decisions produced by collective decision-making process. Mill emphasizes the educational role of democracy, and of the experts as well. Their influence will improve the quality of decisions, but it will also help common people to further develop their intellectual and moral skills.

There are very good reasons not to believe that Mill adopted a form of elitism that could lead to epistocracy. We have indicated earlier that Mill recognizes the value of diverse perspectives, as well as the danger of class legislation. If we give overly exaggerated political power to a certain group of people (even if they are experts), the danger of class legislation is reintroduced, and the value of diverse perspectives is lost. This value of diverse perspectives is best introduced through deliberation; though one can argue that even a form of aggregative democracy could take advantage of diverse perspectives and produce high-quality outcomes (e.g. Marquis de Condorcet, Kenneth Arrow), this is only one of the two goals of the good government. The other one, development of our intellectual and moral qualities, can only be achieved through deliberation.

Those who are supreme over everything, whether they be One, Few or Many, have no longer need of the arms of reason; they can make their mere will prevail; and those who cannot be resisted are usually to well satisfied with their own opinions to be willing to change them, or listen without impatience to anyone who tells them that they are in the wrong. [...] the one which develops the best and highest qualities is the position of those who are *strong enough to make reason prevail, but not strong enough to prevail against reason*. (Mill 1977: 478-479)

Following this argumentation, one could be led to believe that the only reason for plural voting is to attain the balance between groups or classes that would force them to deliberate instead of simply asserting their will, and the only reason for adopting deliberative procedures is to improve the moral and intellectual qualities of people engaged in deliberation. There are good reasons not to embrace this interpretation: though Mill's argumentation was aimed to maximize the individual liberty, this liberty can be limited when our actions have impact on lives of other individuals. As long as we make decisions that are within our private sphere, neither the majority of the people nor (moral) experts should have an authority to limit our liberty. Things change, however, when our decisions influence other people beside us, just like all political decisions do. Giving greater power to the voice of an expert in such a situation can be legitimate.

There would be no pretense for applying this doctrine to any case which could with reason be considered as one of individual and private right. In an affair that concerns only one of two persons, that one is entitled to follow his own opinion, however much wiser the other might be than himself. But we are speaking of things that equally concern them both; where, if the more ignorant does not yield to the guidance of the wiser man, the wiser man must resign to more ignorant. [...] No one but a fool, and a fool of peculiar description, feels offended by the acknowledgement that there are others whose opinion, and even whose wish, is entitled to a greater amount of consideration than his. (Mill 1977: 473-474)

*(vi) The Role of Plural Voting*

Mill is well aware of the defects any form of government might have. He points out that the worst defects a democratic government might face are its inability to produce good decisions and its tendency to be influenced by particular interests of dominant groups (Mill 1977: 436). Plural voting was introduced as a means to counter these defects: its main purpose was to ensure that the representative government produces high quality outcomes, and that no group has exclusive right to the benefits of social cooperation by the power of votes alone (and without having to deliberate and convince others to support the decision in question).

It is unclear, however, how exactly the plural voting proposal was supposed to counter the first defect of democratic government, i.e. to ensure that it produces good decisions. How was the plural voting supposed to achieve its purpose? In order to answer this question, we must first analyze the sophisticated structure of a democratic government and the key stages of a democratic decision-making process. Mill firmly believed in the idea of epistemic division of labor and, consequently, that laws and political decisions should be made by the most competent members of a society (i.e. experts). He saw division of labor as one of the central reasons for rejecting direct democracy, but nonetheless did not believe that parliament should make laws, public policies and political decisions. This task was appointed to small expert bodies (commissions), while it was the task of the parliament to discuss and deliberate on proposed laws and decisions, as well as to accept or refuse proposals made by such commissions (Mill 1977: 424). Unlike expert bodies, Mill did not think that the parliament should be composed primarily of experts:

[Members of parliament] are not a selection of the greatest political minds in the country, from whose opinions little could with certainty be inferred concerning those of the nation, but are, when properly constituted, a fair sample of every grade of intellect among the people which is at all entitled to a voice in public affairs. Their part is to indicate wants, to be an organ for popular demands, an a place of adverse discussion for all opinions relating to public matters, both great and small [...] (Mill 1977: 433)

Therefore, considering the division of labor and a purely deliberative function of the parliament, Mill did not have in mind that plural voting will directly ensure more competent law-makers and policy-makers. Plural voting is introduced to give additional strength to opinions and even wishes of those better educated, and to increase the number of people representing these opinions and wishes in the parliament. If small expert bodies (commissions) are those who devise practical means (laws, policies, decisions) to achieve a desired political end, it is the parliament which sets these political ends, and in setting them, the parliament represents the general public, but plural voting enables it to put a greater emphasis on those ends that well-educated people consider valuable (because their opinions are better represented in the parliament). Plural voting thus improves the quality of political decisions not by improving the technical process of finding the best practical solutions to designated problems, but by improving the quality of political aims we as a society want to achieve. This is why Mill does not set strict constraints on education (he does not insist that only philosophers, or only experts in political science or economics, have greater political power), nor does he name the exact profession one has to have in order to have a plural vote. His main idea is that people who have dedicated some time and effort to improving their intellectual and moral capacities are generally more capable of knowing what is more valuable in life (they are better acquainted with higher pleasures), and are therefore more capable of setting valuable aims for the society in general<sup>49</sup>. This is clearly an inegalitarian position.

*(vii) Public Justification*

What makes the plural voting procedure legitimate? As Estlund points out (Estlund 2003), Mill acknowledges the need for plural voting to be generally acceptable rather than simply correct. Authority does not follow from expertise, but from our acceptance that those wiser than us should have greater political power than us. This takes a form of hypothetical (or maybe normative) consent, and not a form of the actual consent.

It is only necessary that this superior influence should be assigned on grounds which [all] can comprehend, and of which [all] are able to perceive justice. (Mill 1977: 474)

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<sup>49</sup> Mill's view is radically different from the thoughts of many contemporary political philosophers and epistemologists who discuss the role of experts in a democratic society. Philip Kitcher and Thomas Christiano, for example, agree that it is the role of a democratic process to set up important aims, and the role of experts to devise means for achieving them (Kitcher 2011, Christiano 2012). We should be democratic egalitarians when discussing political aims, and advocate for expertism only when discussing practical means for achieving those aims. Mill disagrees and rejects democratic egalitarianism: there are those who are more competent in setting valuable aims and they should have greater political power in a democratic decision-making process.

This is why Mill has to find a criterion for expertise that can be reasonably accepted by everyone. The problem is the fact that there is reasonable disagreement on who counts as wise. However, the idea that good education improves ability to rule more wisely is uncontested.

[The distinctions in voting power] are not made arbitrary, but are such as can be understood and accepted by the general conscience and understanding. [They are based on something that] would not necessarily be repugnant to any one's sentiment of justice. (Mill 1977: 476)

Finally, the reason why everyone should accept plural voting procedure is the quality of outcomes.

Which of these modes of getting over a difficulty is most for the interest of both, and most conformable to the general fitness of things? [...] that the better judgment should give way to the worse, or the worse to the better? (Mill 1977: 473-474)

Since Mill believes that good education improves our ability to rule more wisely (i.e. to make better decisions), and since he believes that everyone shares (or should share) this belief, he emphasizes plural voting as a procedure that gives greater political power to those who can rule more wisely, and consequently favors it as a procedure that tends to create better outcomes<sup>50</sup>.

As we have seen, the plural voting proposal has two goals: (i) to improve the quality of the outcomes by giving the educated additional political power, and (ii) to improve the intellectual and moral qualities in individuals by making them deliberate and exchange reasons and arguments.

#### **4.2.b. Rejecting Mill's Account**

##### *(i) Introduction*

Mill's view represents a sophisticated version of instrumentalism: a political decision is legitimate if (and only if) it is a product of a (solely) instrumentally justified decision-making procedure. A collective decision-making procedure has legitimacy-generating qualities if it is able to improve the well-being of citizens (by improving the virtue and intelligence of the people under its jurisdiction, and by organizing the existing virtues and good qualities of the people in a way that promotes the long-run common good) better than any other procedure. Unlike other instrumentalist discussed in this thesis (e.g. Marquis de Condorcet and Robert Talisse), Mill does not think that the desired end state will be best achieved through a procedure that treats everyone as an equal, but instead through

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<sup>50</sup> One can consistently argue against this idea and rise against it not only argument based on procedural fairness, but an epistemic argument as well (see Estlund 2003).

a procedure that differentiates between people with different competences and gives greater political power to those who are more competent. Therefore, Mill (at least partly) accepts the authority tenet, one claiming that normative political knowledge of those who know better is a warrant for them having political authority over others. Finally, it might seem that Mill's account is compatible with liberal criterion of legitimacy—his departure from equality might seem to be publicly justified, since Mill himself requires that the criterion for expertise must be reasonably acceptable to everyone. If that can be achieved, we have to acknowledge the authority tenet and dismiss the idea of political equality of citizens.

I do not think that Mill's plural voting account can be publicly justified. In the rest of this part of the chapter I shall demonstrate why Mill's account represents probably the most sophisticated implementation of the authority tenet, but also why it should nonetheless be rejected as a position failing to satisfy the liberal criterion of legitimacy. First of all, there is a strong moral argument against epistocracy—it is grounded in the public principle of equality (Christiano 2008) or in the value of non-domination (Pettit 1999, 2012, Lister 2014). Furthermore, there is an epistemic argument that shows how Mill fails the liberal criterion of legitimacy, i.e. an argument demonstrating that some reasonable people might reject the plural voting proposal (the demographic objection) on epistemic grounds (Estlund 2003, 2009). Both arguments are discussed in the rest of this chapter.

### *(ii) Scholocracy and the Liberal Criterion of Legitimacy*

The idea that political justification must rely only on claims and doctrines acceptable to all reasonable citizens (Rawls 1993) represents one of the most important principles of political philosophy today. Mill anticipates this when he acknowledges the need for plural voting to be generally acceptable rather than simply correct. Authority does not come merely from expertise, nor does it come from actual consent. In order for experts to have authority over others, both (i) their expertise and (ii) their greater political power must be accepted by the general conscience and understanding (Mill 1977a). Mill, of course, claims that scholocracy, a form of government characterized by plural voting, can meet these two criteria.

I agree that scholocracy might be able to meet the first criteria. Unlike epistocracy, scholocracy might be successful in avoiding the 'invidious comparisons' objection (we might reasonably disagree on who the expert is regarding some important moral and political issues). 'Invidious comparisons' objection is not incompatible with the idea that a well-educated population will, other things equal, tend to rule more wisely. And if better-educated population will tend to

produce wiser decisions, then it might seem that better-educated individuals must be better in producing wiser decisions. Of course, we might end up disagreeing on the kind of education that improves our ability to produce wiser decisions (Baccarini & Ivanković 2015), but I am willing to accept (for the sake of the argument) the claim that there is some education that improves our ability to produce wiser decisions, as well as that it would be unreasonable to deny that the population with this education would rule more wisely. I shall elaborate this claim in the next chapter: for now, I am prepared to grant that Mill's scholocracy meets the first criteria, i.e. that we can have a public agreement on who is better in dealing with public matters. However, I shall claim that scholocracy is not able to meet the second criteria, i.e. that the attribution of greater political power to those we have accepted as better in dealing with public matters cannot be justified to all reasonable citizens. Combined moral (appeal to the expert-boss fallacy) and epistemic argument (the demographic objection) show that, even if we have agreed that some education generally makes the population better in producing correct or just decisions, this does not imply that those who have received this education should have greater political authority or greater chance to influence the decision-making process.

*(iii) First Specific Objection: The Argument from Equality and the non-domination Argument*

A moral argument against epistocracy can be raised from both liberal and republican political tradition. While liberals usually focus on the intrinsic value of equality, claiming that all of us should have equal positive liberties regarding participation in the decision-making process, republicans focus on non-domination as a negative conception of liberty that introduces equality in the decision-making procedures.

Epistocracy entails the idea that some individuals or groups of citizens should have all political power (strong and moderate epistocracy), or at least should have greater political power than other citizens (weak epistocracy). This clearly undermines the procedural fairness of a decision-making procedure: if we do not have equal say regarding public decisions, we are not being treated as equals. Christopher Griffin clearly embraces this idea when he writes "democracy is non-instrumentally just because it expresses our equal standing, as citizens." (Griffin 2003: 117) Though instrumentalists might argue that substantive equality implemented in laws and policies is more important than procedural equality of a decision-making process (Arneson 2003a, 2003b), their views are undermined by the fact of reasonable pluralism—when people disagree on what the correct or just decision is, they will also disagree on whether particular political decisions substantively expresses equal respect. Since we cannot agree on the substantial quality of the results

(at least not to the level that would justify some people having greater political authority because they are experts in producing results of this substantive quality), we should consider procedural fairness as an important component for the legitimacy-generating potential of decision-making procedures<sup>51</sup> (Christiano 1996, 2008). The argument from equality seems convincing when facing strong and moderate epistocracy—"the more contentious the debates over justice and the common good, the more important is that we are not publicly declared to be unworthy of *any* say in the decisions." (Griffin 2003: 119) Since strong and moderate epistocracy disenfranchise some people regarding some (or all) political decisions, they are targeted by Griffin's argument. Weak or sophisticated epistocracy, like Mill's scholocracy realized through the plural voting proposal, seems to be (at least partly) able to avoid this objection, since it gives every citizen a say regarding all political decisions—it is only that it does not give everyone an equal say. However, though weak epistocracy avoids Griffin's objection, it still fails to be a decision-making procedure that embodies public equality (Christiano 2008). Though it might include participation of all citizens in the process of making and authorizing collective decisions, it is still not a fair procedure, since not everyone has an equal chance to influence the final outcome (Estlund 2008). This argument has been thoroughly analyzed in the second chapter of this thesis, so I shall not discuss it here in detail.

Another way of raising a moral argument against epistocracy is by introducing a modern republican value of non-domination. Unlike 'populist' republicans who take democratic participation as one of the highest forms of the good (Rousseau 1968, Arendt 1958) and whose views have been mentioned earlier in this chapter, contemporary republicans take democracy primarily as a means to protecting individual liberty (Pettit 1999). Following these contemporary republican views, the argument against epistocracy is very straightforward: epistocratic institutions will constitute relationships of domination. Conceiving non-domination as a goal, Pettit argues that the state should be arranged so as to minimize domination between citizens and between citizens and state (Lister 2014). Of course, one might object that a group of wise citizens will be better able to arrange the institutions of the state to minimize domination, and therefore a small group of experts should

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<sup>51</sup> It is important to emphasize that, though procedural fairness excludes epistocracy from a set of decision-making procedures with legitimacy-generating potential, it does not exclude epistemic democracy, which relies both on procedural fairness and the quality of outcomes. Furthermore, epistemic democracy requires only a weak epistemic value of democratic procedures—everyone should be able to see that democratic decisions are better than those produced by alternative *fair* decision-making procedures, like coin-flipping or equal lotteries. Epistocracy, on the other hand, requires a strong epistemic value—everyone should be able to see that decisions produced by an epistocratic government are better than those produced by any other (*fair or unfair*) decision-making procedures, including alternative epistocratic governments. Since in the conditions of reasonable pluralism we cannot have public agreement on the quality of results produced by various epistocratic procedures, we cannot have a public justification of epistocracy. Epistemic democracy can have public agreement on the quality of decisions produced by a democratic decision-making process because it has to compete only with other *fair* decision-making procedures (coin-flipping or equal lotteries), and not with all other decision-making procedures.



rule to minimize domination between citizens and between citizens and state. This is an argument similar to those raised against egalitarian positions, when it is argued that a small group of experts might be better in producing decisions that promote public equality. Just as Christiano rejects the idea that substantive equality of outcomes has a priority over procedural equality of the decision-making process (Christiano 2008), Pettit rejects the idea that non-domination in decisions and outcomes has a priority over non-domination in the decision-making process (Pettit 1999). In fact, both argue the opposite: it is non-domination (or equality) in the decision-making process that has priority over non-domination (or equality) of decisions. Having (equal) control over the state is the only way to avoid domination.

If we are subject to a government that can dominate us, then we are going to lack control over changes in the government's will towards us and towards those of our kind. But this lack of political control means that any social control we enjoy over changes in the will of our fellow citizens towards us are also likely to be somewhat precarious [...] Let government be a law unto itself and we will be vulnerable both in relation to the state and in relation to our fellow citizens. (Pettit 2012: 24-25)

Of course, domination in decisions cannot always be avoided, yet what matters is how the decision-making procedure affects relationships among citizens, or between citizens and the state. In small groups, but also in large communities, not having an equal say can be an instance of domination. If, in a group composed of Alf, Betty, Charlie and David, David is the king, Alf, Betty and Charlie are on the subordinate end of the relationship with David. Even if David is benevolent and picks domination-minimizing rules, the satisfaction of Alf's, Betty's and Charlie's essential interests depends on David's benevolence. The three are dependent (and unfree) because of the structure of the decision-making procedure, i.e. because the procedure establishes a relation of domination (Lister 2014). This is true even if no coercion, oppression or violence ever comes about, and even if David keeps promoting domination-minimizing rules. Strong epistocracy, as well as some forms of moderate epistocracy, in which only some individuals or a smaller groups of people participate in the process of making and authorizing political decisions, can thus be rejected as procedures that generate and encourage domination among citizens or between citizens and the state.

Weak or sophisticated epistocracy, characterized by the plural voting system, also represents a procedure that generates and promotes domination. Namely, if David has four votes, Charlie has three, Betty has two and Alf has only one vote, David has a much easier time getting his way than do the others. He needs only Charlie's or Betty's vote to win, and is able to force a tie if Alf is on his side. In other words, he loses only when all others are against him. Alf, on the other hand, needs at

least two other people to get his way (Lister 2014). There is certainly a form of domination present in the structure of this decision-making procedure. In order to complete the analogy, imagine that a political community is divided in four groups according to levels of education (e.g. A = less than high school, B = high school, C = university, D = graduate degree), with each group being of equal size. Members of each group get different number of votes (e.g. A 1, B 2, C 3 and D 4), and all together members of A will be dependent on the benevolence of members of D (Lister 2014). Even if members of D give their best to promote domination-minimizing rules, a fact still remains that the relation between members of group A and members of group D is one of domination.

Weak epistocracy (scholocracy) is therefore no better than moderate or strong epistocracy in answering this objection. Every model of epistocracy represents a form of domination among citizens, or between citizens and the state.

*(iv) Second Specific Objection: The Demographic Objection*

As it has been discussed earlier in this chapter, expert-boss fallacy points out that political authority does not simply follow from expertise. Mill acknowledges this when he introduces the second criterion for the authority of experts—the greater political power of experts (after we have successfully defined who the experts are) must be accepted by the general conscience and understanding (Mill 1977a). In other words, the greater political power of experts must be justifiable to all reasonable views—there should not be a single reasonable (or qualified) objection against the plural voting proposal.

The demographic objection emphasizes that the better-educated need not be better able to rule wisely owing to other epistemically detrimental features of the group. The educated portion of the population may disproportionately have epistemically damaging features that countervail the admitted epistemic benefits of education (Estlund 2003). Having a higher degree of education is disproportionately a privilege of certain races, classes or genders, which might be seen as biases that damage the quality of collective decisions. For example, literacy tests that indirectly disenfranchised poor Black Americans were employed in the American South after the Second World War, and lasted until 1965. These literacy tests made it impossible for a certain group (one that was already discriminated by not being able to receive a decent education) to promote its interests in the public sphere, but also to adequately contribute to the public deliberation and participate in the epistemic activities of the political community. Even nowadays, secondary or higher education is not equally available to everyone—social status, education and the income of parents have been shown as (some of) important indicators for the level of education their children

will receive (Farkas 2006). Consequently, the plural voting proposal will give greater political power to a certain class or group of people (or reduce the political power of some other class or group), and this might introduce some biases and other epistemically damaging features into the procedure, making it less likely to produce a correct outcome than a democratic procedure (one in which everyone receives an equal vote).

One way of answering this objection is by selecting a subset from the educated in which certain groups (classes, races, sexes) are represented in proportion to their presence in a general population. This should eliminate epistemically damaging features from the procedure by proportionally representing certain known classifications. However, there are two further objections to this answer. First, what about empirically latent (not empirically testable) features? Someone can suspect that the educated are disproportionately liberal or conservative (or racist and sexist), even before there is any way to check that empirically. If someone's objection is based on empirically latent features, though it might be disputable, it might be very difficult to disqualify such an objection or characterize it as unreasonable. Second, there might be some features that travel with education (or are even caused by education) and so get unintentionally favored by the plural voting proposal. Estlund invites us to imagine that, unbeknownst to anyone, the better-educated are also more sexually frustrated. This feature might offset the benefits of their education, at least regarding some public issues, and since these conjectural features are not always known, we would not know which issues are thus compromised (Estlund 2003, 2008).

Not all of us have to agree that the demographic objection and objections based on latent or conjectural features, are strong enough to make us reject scholocracy and the plural voting proposal. It is enough that it is not unreasonable to hold these objections. Let us recall that liberal criterion of legitimacy requires that political justification of a decision-making procedure must be acceptable to all reasonable citizens—if there is even one reasonable (or qualified) objection against a decision-making procedure (and I think that demographic objection can be reasonable or qualified, even if untrue), then the decision-making procedure does not meet the liberal criterion of legitimacy.

In the end, even if we can all agree that some kind of education enables those who receive it to rule more wisely, we cannot justify a decision-making procedure that privileges these groups to each and every reasonable citizen. Since the demographic objection is a reasonable argument against scholocracy and the plural voting proposal, they have to be rejected as procedures that violate the liberal criterion of legitimacy.

#### **4.2.c. Conclusion**

This part of the chapter is focused on the account of political legitimacy presented by John Stuart Mill. I characterized his position as a monistic approach to political legitimacy, i.e. as a form of instrumentalism. According to Mill, a political decision is legitimate if (and only if) it is a product of a (solely) instrumentally justified decision-making procedure. Mill clearly accepts the truth tenet (there are political decisions that are better and worse independently of the procedure that has produced them) and the knowledge tenet (there are some people who know better what should be done in politics, or who are better in producing true or correct decisions), and he seems to be accepting a sophisticated form of the authority tenet (those who know better should have greater political authority).

Mill's position is characterized as 'sophisticated' because, though he accepts the authority tenet, he introduces the idea that political authority (at least partly) comes from the acceptance of those who are governed. Though Mill's scholocracy (together with the plural voting proposal) surely represents a well-developed decision-making procedure with many epistemic qualities (e.g. combining the democratic value of diverse perspectives with the value of greater wisdom of the few), it is nonetheless unable to meet the liberal criterion of legitimacy. Namely, some might reasonably reject the plural voting proposal on the grounds of the demographic objection.

I consider Mill's scholocracy as the best political implementation of the authority tenet. It is definitively stronger than any form of epistocracy (unlike strong and moderate epistocracy, scholocracy avoids 'invidious comparisons' objection), and if Mill's plural voting proposal can be reasonably rejected, then any decision-making procedure that accepts the authority tenet can be rejected on the grounds of liberal criterion of legitimacy.

## CHAPTER V

# EPISTEMIC DEMOCRACY

The central claim of epistemic democracy is the idea that the democratic decision-making process is evaluated at least in part for its knowledge-producing potential, and its legitimacy-generating potential is determined in relation to this (Peter 2011). This is a rather general idea and it allows us to characterize many different positions as epistemic: Fabienne Peter's (2011) pure epistemic proceduralism discussed in the second chapter and Robert Talisse's (2009a) pragmatist deliberative democracy discussed in the third chapter are thus epistemic positions, though the former rejects the truth tenet and the latter rejects the knowledge tenet. A position can be qualified as epistemic even if it rejects the idea that there are procedure-independent standards for evaluating political decisions, as well as if it rejects the idea that some people are better than others in producing decisions that are in accordance with that standard.

Of course, there are huge differences among various epistemic positions, and not all should be endorsed as those offering a plausible account of political legitimacy. Earlier in this thesis I have claimed that the truth tenet and the knowledge tenet should be granted, and consequently that positions that reject them should be abandoned. Furthermore, I have claimed that the authority tenet should be rejected, and the positions that affirm it should be abandoned as well. We need an epistemic position that will acknowledge the truth tenet and the knowledge tenet, but will reject the authority tenet. Since it endorses the knowledge tenet but rejects the authority tenet, this position will have to introduce purely procedural (moral) along with instrumental (epistemic) considerations, thus having a non-monistic form: it will have to take into consideration both the fairness of a procedure and the procedure's ability to produce (procedurally-independent) good outcomes. Finally, since it (at least in part) uses procedural fairness to evaluate legitimacy-generating potential of a decision-making procedure, it has to be a kind of egalitarian position. The standard account of epistemic democracy, sometimes referred to as (rational imperfect) epistemic proceduralism<sup>52</sup> (Estlund 1997), is such a position.

This chapter is divided into three parts. In the first part I present the standard account of epistemic democracy, the position that I advocate and want to defend in this thesis. I follow David

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<sup>52</sup> Estlund (1997) originally named his position *epistemic proceduralism*, but since a few substantially different positions have been developed in the past decade, and all can be described as a form of epistemic proceduralism, it is useful to make a distinction introduced by Peter (2012), thus differentiating between pure epistemic proceduralism (Peter), rational imperfect epistemic proceduralism (Cohen, Estlund) and rational perfect epistemic proceduralism (Rousseau, Dewey).

Estlund (1997, 2008, 2009, 2010) in claiming that, in order to have legitimacy-generating potential, a decision-making procedure has to be epistemically the best one among fair decision-making procedures. In other words, a legitimacy-generating procedure has to meet two conditions: (i) it has to be a fair decision-making procedure, and (ii) it has to be epistemically more reliable than any other fair decision-making procedure. I end the first part by concluding that democracy is a decision-making procedure with legitimacy-generating potential.

Since democracy can take many forms, in the second part of the chapter I discuss epistemic aggregative democracy, which emphasizes the epistemic qualities of voting mechanisms. I analyze the famous Condorcet's jury theorem, according to which, provided that voters are independent and better than random and the political choices are binary, the more citizens participate in the decision-making process, the greater the chance that the decision produced will be correct. This theorem can be a strong argument in favor of aggregative democracy since it shows that no deliberation is necessary in order for a procedure to have epistemic value—voting mechanisms alone are enough to ensure very high chances that a democratic procedure will produce the correct result. I reject epistemic aggregative democracy by showing that Condorcet's jury theorem cannot be applied to most political decisions.

In the third part of this chapter I discuss epistemic deliberative democracy, one that I find to be epistemically the best procedure among fair decision-making procedures. First, I analyze how a decision-making procedure can have substantive (epistemic) qualities and how these epistemic qualities can be acknowledged and accepted by all reasonable (qualified) points of view. After that, I discuss two advantages deliberative democracy has over aggregative democracy: its ability to assess and organize information dispersed throughout the political community, and its ability to detect and remedy epistemic injustice, a practice that can have highly negative impact on procedure's ability to produce correct outcomes.

## 5.1. THE STANDARD ACCOUNT OF EPISTEMIC DEMOCRACY

The standard account of epistemic democracy was first formulated by Joshua Cohen (1986), who originally referred to it as *epistemic populism*.

[*Epistemic populism*] has three main elements: (1) an independent standard of correct decisions—that is, an account of justice or of the common good that is independent of current consensus and the outcomes of votes; (2) a cognitive account of voting—that is, the view that voting expresses beliefs about what correct policies are according to the independent standard, not personal preferences for policies; and (3) an

account of decision making as a process of adjustment of beliefs, adjustment that is undertaken in part in light of the evidence about the correct answer that is provided by the beliefs by others. Thus, the epistemic conception treats the process of decision making as, potentially, rational process of the formation of common judgments. (Cohen 1986: 34)

Standard epistemic democrats hold that there exists, independently of the actual decision-making process, a correct decision, and that the legitimacy-generating potential of a decision-making procedure depends, at least in part, in its ability to generate the correct outcome. This is clearly a position that invokes truth-oriented (veritistic) epistemology (Goldman 1987), but also a form of consequentialist epistemology, one that evaluates epistemic practices on the basis of their ability to produce true beliefs (Percival & Stalnaker 2002). Furthermore, it invokes a partly instrumentalist justification since a procedure's ability to produce correct decisions is important for its legitimacy-generating potential, and by rejecting the authority tenet it also invokes a partly (purely) proceduralist justification since procedural fairness is important for its legitimacy-generating potential.

The standard account of epistemic democracy thus takes a form of non-monistic account of political legitimacy. Two questions arise from this classification. First, since a decision-making procedure has legitimacy-generating potential depending on both its purely procedural and its instrumental qualities, we have to determine whether both qualities are equally important or one has priority over the other. Second, since the procedure's ability to produce correct outcomes (according to some procedure-independent standard) is a constitutive part of its legitimacy-generating potential, we have to determine how epistemically reliable should a procedure be: does it have to yield a correct outcome every time (a perfect procedure) or does it have to yield a correct outcome in most cases, or at least yield correct outcomes more often than incorrect outcomes (an imperfect procedure).

### **5.1.a. What Comes First: Purely Procedural or Instrumental Qualities of a Procedure?**

Since the standard account of epistemic democracy is portrayed as a non-monistic account of political legitimacy, a natural question that follows is "What comes first?" Should procedural fairness have priority over the correctness of outcomes, should it be the other way around, or should both qualities be of equal importance for the legitimacy-generating potential of a procedure? David Estlund (1997, 2008, 2009) offers the most sophisticated version of the standard account of

epistemic democracy, which ultimately rests on the liberal principle of legitimacy<sup>53</sup>: "Our exercise of political power is fully proper only when it is exercised in accordance with a constitution the essentials of which all citizens as free and equal may reasonably be expected to endorse in the light of principles and ideals acceptable to their common human reason." (Rawls 1993: 137) The liberal principle of legitimacy takes as a default position the absence of authority or legitimate coercive power, and requires its justification whenever it is exercised (Estlund 2008). Though this does not (at least explicitly) point towards giving priority to purely procedural or instrumental qualities, it limits the use of some arguments in the process of justification of particular decision-making procedures, i.e. it opens the door for the invidious comparisons objection. Universal suffrage is thus given a default status, and we are facing an additional burden of justification whenever we want to establish the legitimate power of one group over the other. As long as the conditions of reasonable pluralism subsist, this effectively blocks the authority tenet—greater political wisdom of some citizens does not authorize them to rule over the others (expert-boss fallacy), and even if there would be a convincing moral argument why everyone should endorse the authority of experts (normative consent), citizens would be unable to agree on who the experts are. It seems that the liberal principle of legitimacy thus gives priority to purely procedural qualities of a decision-making procedure over its instrumental qualities. First of all, a decision-making procedure has to be grounded in ideas and principles acceptable to all reasonable (or qualified) points of view—since the unequal distribution of political power yields the invidious comparisons objection and cannot be publicly justified, in order to have legitimacy-generating potential a decision-making procedure has to be fair, i.e. to distribute political power equally among all reasonable citizens.

Some might see this as a disappointing (or even cowardly) retreat towards pure proceduralism—epistemic democracy was promising a lot by emphasizing both the moral (fairness of a procedure) and the epistemic (substantive quality of outcomes) qualities of a decision-making procedure, but in the end it turns out to be primarily a moral justification of democracy, claiming that the truth of particular laws or decisions cannot enter the process of justification of decision-making procedure that have produced them, unless it can be recognized by all reasonable (qualified) citizens. Why should an objection based on false (but still reasonable or qualified) doctrine defeat justifications that employ true premises and valid reasoning? Estlund answers this objection by claiming (unlike Rawls) that the liberal criterion of legitimacy (or the principle of qualified

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<sup>53</sup> Estlund calls his version of this principle *the principle of qualified acceptability*, which requires that, in order to have legitimacy-generating potential, a decision-making procedure has to be grounded on ideas acceptable to all qualified points of view. He stresses that this is a necessary, but not necessarily a sufficient condition for having legitimacy-generating potential (Estlund 2008).



acceptability) is true—it expresses a truth about legitimacy, i.e. it expresses the truth about what kind of doctrines should be allowed to be defeaters in the process of public justification (Estlund 2008, 2010). There are truths about laws and policies, as well as truths about what gives a collective decision-making procedure its legitimacy-generating potential. The standard account of epistemic democracy is thus not at odds with the truth, though it rejects the idea that, in the decision-making process, only true or correct views should be considered as relevant. Those who insist that the political process should 'track the truth' should see that the standard account of epistemic democracy does precisely that by asserting the liberal principle of legitimacy as the truth about legitimacy, and then disqualifying those who think that only true or correct doctrines should be admitted in the process of public justification by appealing to another truth—the truth about legitimacy, presented in the liberal principle of legitimacy.

Based on the liberal principle of legitimacy, the standard account of epistemic democracy claims that, in order to have legitimacy-generating potential, a decision-making procedure has to be epistemically the best among those justifiable to all qualified (reasonable) points of view (Estlund 2008: 42). Since, because of the invidious comparisons objection, we are unable to justify a model of unequal distribution of political power that all reasonable (qualified) citizens could accept, the first requirement a decision-making procedure has to meet in order to have legitimacy-generating potential is to distribute political power equally among the members of a political community: all citizens should have an equal chance to participate in the decision-making process and to influence the final decision. Since more than one decision-making procedure can meet the first requirement (i.e. treat citizens as equals in the decision-making process), the second requirement is introduced to differentiate between fair procedures: a procedure has legitimacy-generating potential if it is epistemically better than any other fair decision-making procedure. Of course, even here the liberal criterion of legitimacy dictates that every reasonable (qualified) citizen should be able to recognize the procedure as epistemically better than any other fair decision-making procedure in order for it to have legitimacy-generating potential (Estlund 1993).

### **5.1.b. How Epistemically Reliable Should a Procedure Be?**

Though the fairness of a procedure has certain priority over its ability to produce outcomes that are correct or true according to a certain procedure-independent standard, the non-monistic view still emphasizes the instrumental epistemic value of a decision-making procedure. Of course, it makes sense to ask what degree of epistemic value are we looking for: does the decision-making procedure have to yield a correct outcome every time (perfect procedure) or does it have to yield a correct

outcome in vast majority of cases, or at least yield correct outcomes more often than incorrect outcomes (imperfect procedure).

It is useful to fall back to Rawls and his differentiation between perfect, imperfect and pure procedural justice to better understand the possible alternatives. According to Rawls (1971), pure procedural justice describes situations in which there is no criterion for what constitutes a just outcome other than the procedure itself. Since there is no procedure-independent standard for the evaluation of outcomes, this account clearly rejects the truth tenet. An account of epistemic democracy that draws on pure procedural justice is Fabienne Peter's (2011) pure epistemic proceduralism, which is discussed and finally rejected in the second chapter. Unlike pure procedural justice, both perfect and imperfect procedural justice describe situations when there is a procedure-independent criterion for what constitutes a fair or just outcome of the procedure. They acknowledge the truth tenet, but disagree on the procedure's ability to produce the correct outcome. Perfect procedural justice describes situations when the procedure guarantees that the fair outcomes will be achieved, and imperfect procedural justice describes situations when no method guarantees that the fair outcome will be achieved.

Can the decision-making procedure guarantee that the correct decision will be produced? Rousseau believes it can: democratic procedures answer the question "What should we, as a political community, do?" and the answer to this question is true or correct according to some procedure-independent standards. The correct answer to the abovementioned question is "whatever is common to the wills of all citizens," or whatever is every citizen's "general will" (Rousseau 1984). Democratic procedures are good means for discovering the general will, and if the democratic procedure is properly conducted, it guarantees that the general will will be detected. The procedure does not establish the correct outcome (i.e. one in accordance with the general will), but if the procedure is properly conducted, it cannot miss—a properly conducted procedure will always yield a correct result. A decision produced by a democratic decision-making procedure will in the end be legitimate not because of the qualities of a procedure that has produced it (i.e. not because it was produced by a democratic procedure), but because it is true or correct (i.e. because it represents the general will). Rousseau's position, often characterized as the correctness theory of democratic legitimacy (Estlund 1997, Peter 2011), thus represents a case of democratic instrumentalism—a democratic decision is legitimate because it is correct according to some procedure-independent standards, and democracy is a procedure that enables us to find correct decisions. A properly conducted democratic decision cannot make a wrong decision.

Rousseau's account represents a case of democratic instrumentalism (a monistic theory of democratic legitimacy) and would therefore have a problem with meeting the liberal principle of legitimacy, but it could, for the sake of the argument, be transformed into a non-monistic position, where the decision-making procedure is regarded as epistemically perfect, producing correct outcomes every time it is properly conducted. This new view would still face two fatal objections: first of all, the correctness theory is very demanding and it requires from a decision-making procedure to be extremely epistemically reliable. Just like from scientific procedures, we can also expect from democracy to generate outcomes of some procedure-independent quality, but we cannot expect from every democratic decision to be correct. Rousseau does not offer an account demonstrating what gives democracy this enormous epistemic reliability: some argue that Condorcet's jury theorem could be used to support Rousseau's claim (Grofman & Feld 1988, 1989), and I discuss and ultimately reject this argumentative strategy in the second part of this chapter, where I address aggregative epistemic democracy. For now, it is suffice to say that Rousseau's correctness theory is too demanding—it attributes democratic procedures much higher epistemic reliability than they could possibly have.

Second, the correctness theory seems to ask from minority voters not only to accept the legitimacy of a democratic decision, but its truth as well. Since a decision is legitimate because it is true or correct, and not because it is produced by a decision-making procedure with legitimacy-generating potential, every democratic decision must simultaneously be accepted both as legitimate and true. This calls for some kind of deference of judgment: a minority voter should accept that he or she was wrong and simply change his or her view according to the majority view. Following Rawls (1950, 1971) and Estlund (1997), I have already argued in the third chapter, when I discussed Fabienne Peter's account of epistemic peerhood, that accounts that require deference of judgment should be rejected. An account of political legitimacy should demonstrate why minority voters should recognize democratic decisions as legitimate even when they had voted otherwise. Citizens should be able to keep their political beliefs and opinions even when the majority thinks otherwise: to ask them to recognize the legitimacy of democratic decisions is one thing, and to ask them to recognize the truth is quite another. This clearly calls for an account of democratic legitimacy that allows citizens to recognize that a democratic decision is legitimate even when they do not recognize it as true or correct. Democracy should be seen as an imperfect decision-making procedure—it cannot guarantee that every decision will be true or correct, though it has an ability to approximate correct or true outcomes.

In order to demonstrate how an imperfect decision-making procedure can have legitimacy-generating potential, Estlund (2009) introduces an analogy with a jury system. Assuming that the procedure has been properly conducted, the jury trial produces decisions with legal force, but also with some moral force. If the defendant is found guilty then we have a duty to punish him, and if the defendant is found not guilty, we have a duty to let him or her go and a duty not to carry out private punishments. The jury trial seems to create moral duties regardless of whether the defendant is really guilty or not guilty, i.e. regardless of whether any particular verdict is true or correct. However, the jury trial would not have this moral force if it did not have its considerable epistemic virtues (Estlund 2009: 19). If the jury trial would not have greater chance to reach the correct verdict than flipping a coin, it would not have sufficient moral force to produce moral duties. Verdicts produced by the jury trial are morally binding even when they are incorrect because the jury trial (besides being a fair procedure) has a certain epistemic value that makes it more reliable than other fair procedures. Decisions produced through such a procedure are not legitimate and morally binding because they are true or correct (as Rousseau would have it), but because they are the product of a legitimacy-generating procedure. One can still believe that the verdict produced by a jury system (or a democratic decision) is incorrect, but he or she must acknowledge it as legitimate since it was produced by a legitimacy-generating procedure.

Of course, there might be other collective decision-making procedures that are even more epistemically reliable (have greater tendency of producing correct decisions) than democracy (e.g. epistocracy and scholocracy discussed in the fourth chapter), but they fail to meet the first requirement of political legitimacy (i.e. procedural fairness). Democracy is epistemically the best procedure among those that are able to meet the first requirement of political legitimacy (e.g. coin-flipping, equal lotteries, queen for a day). Other, possibly epistemically better decision-making procedures, are eliminated because they are unable to meet the liberal principle of legitimacy, i.e. because not every reasonable (or qualified) citizen can see that they are epistemically better than other decision-making procedures.

### **5.1.c. Conclusion**

I have started this chapter by describing the standard account of epistemic democracy, a position which I follow and want to defend in this thesis. Following Joshua Cohen (1986) and David Estlund (2008) I have argued that, in order to have legitimacy-generating potential, a decision-making procedure has to meet the liberal principle of legitimacy, i.e. it has to be justified by ideas and values that all reasonable (or qualified) citizens can be expected to accept. A decision-making

procedure thus has to meet two requirements: (i) it has to be fair and give all citizens an equal chance to participate in the decision-making process, and (ii) it has to be epistemically the best procedure among the set of fair procedures. Procedural fairness of a procedure thus has certain priority over its ability to produce substantively correct outcomes. Furthermore, legitimacy-generating procedure does not have to produce correct outcomes in all cases or in a vast majority of cases: all it has to do is to produce correct outcomes more often than any other fair decision-making procedure. Finally, this assessment of the epistemic qualities of a procedure also has to be done in accordance with the liberal principle of legitimacy: every reasonable (or qualified) citizens must be able to see that a certain procedure epistemically performs better than any other in order for it to meet the second requirement and have legitimacy-generating potential.

I have ended this part of the chapter by claiming that democracy is a decision-making procedure with legitimacy-generating potential: it treats all citizens as equals and performs better than any other fair procedure, like coin-flipping or equal lotteries. However, as I already argued in the second chapter when I discussed Thomas Christino's position, democracy can take many forms and some of these forms will perform epistemically better than some other forms of democracy. In the rest of this chapter I analyze two such forms of democracy: aggregative democracy, where the emphasis is put on the voting mechanisms and their ability to utilize the epistemic value of voting, and deliberative democracy, where the emphasis is put on the process of public deliberation and its epistemic value. I end this chapter by arguing that deliberative democracy represents a more convincing account and is able to produce correct decisions better than any other fair decision-making procedure.

## **5.2. EPISTEMIC AGGREGATIVE DEMOCRACY**

In the first part of this chapter I have accepted the main thesis of the standard account of epistemic democracy (or rational epistemic proceduralism): in order to have legitimacy-generating potential, a collective decision-making procedure has to be epistemically the best procedure among fair decision-making procedures. Furthermore, all reasonable (or qualified) citizens should be able to recognize this epistemic quality of a decision-making procedure. Epistocracy is thus disqualified for not being a fair decision-making procedure, i.e. for failing to satisfy the first criterion of political legitimacy. Coin-flipping, equal lotteries, queen for a day and democracy are all fair decision-making procedures (all give each and every citizen an equal chance to participate in the decision-making process and to influence the final decision), so they are able to meet the first criterion.

However, important differences appear when we apply the second criterion of political legitimacy—these decision-making procedures will tend to produce results of different epistemic quality, with some procedures performing better and some procedures performing worse. I have ended the first part of this chapter with the claim that democracy will, in general, produce better results than other fair decision-making procedures (e.g. coin-flipping, equal lotteries, queen for a day), and thus meet the second criterion of political legitimacy.

By claiming that democracy is better than queen for a day (a decision-making procedure in which we randomly select one citizen who will be authorized to rule for a day or to make a particular political decision) in producing correct or true decisions, we are asserting that there is something (instrumentally) epistemically valuable in the democratic decision-making process, something that makes the epistemic competence of a political community more reliable than epistemic competence of its individual members. What makes a democratic decision-making procedure epistemically better than queen for a day? How is it able to produce political decisions with epistemic quality that exceeds the epistemic average of its individual members?

Aggregative democracy claims that the aim of the democratic processes is to solicit citizens' preferences on what should be done in politics and aggregate them together to determine which decisions should be made. Proponents of this view hold that democratic participation should primarily focus on voting, and the decision with the most votes thus becomes legitimate. Though aggregative democracy usually claims that citizens' preferences should be aggregated, it can take epistemic form by arguing that, instead of preferences, citizens' opinions on what is right (or true or correct) should be aggregated. Epistemic aggregative democracy claims that political communities can, under certain conditions, make better decisions than individuals, even without deliberation and exchange of arguments. Though common individuals are not very competent and are often wrong about what should be done in politics, they can collectively be wise and make collective decisions of significant epistemic quality. The crowds can thus be wise and make correct decisions more often than individuals (Surowiecki 2005).

In this part of the chapter I shall discuss Condorcet's jury theorem, which represents the strongest argument in favor of epistemic aggregative democracy. This theorem asserts that, as long as voters are more likely to vote correctly than incorrectly, adding more voters increases the probability that the majority decision is correct. Consequently, a large group of voters (provided they are more often right than wrong) can come to the right decisions more often than any of its members (Condorcet 1994). I shall first demonstrate how the jury theorem supports epistemic aggregative democracy, and then point out several objections that can be raised against it. In the

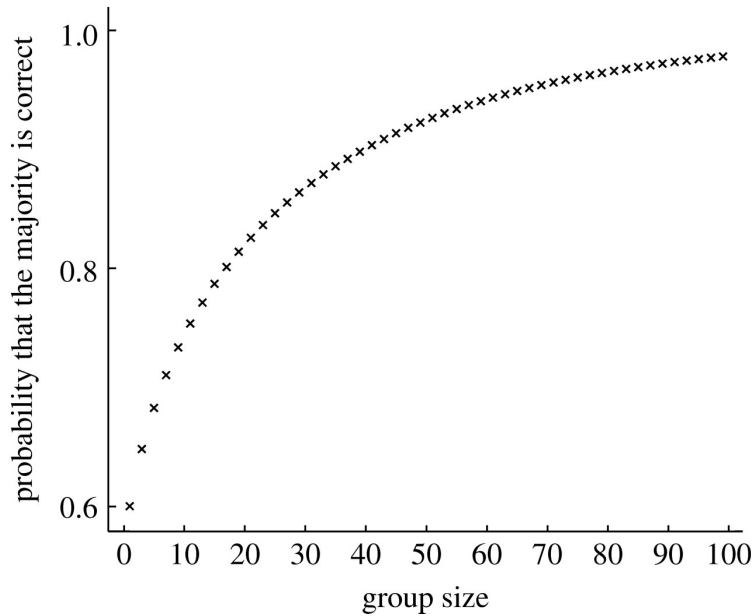
end, I shall conclude that aggregative democracy lacks the epistemic quality necessary for having legitimacy-generating potential.

### **5.2.a. Condorcet's Jury Theorem**

Suppose that a political community is facing an important binary question: it has to decide whether to build a nuclear or a coal-fired power station. One of these two options is objectively better than the other one, i.e. we can say that one option is correct, while the other is incorrect. Furthermore, suppose that each voter is, independently, 51 percent likely to choose a correct option (and 49 percent likely to choose the incorrect option). If we would adopt queen for a day as an appropriate decision-making procedure, the probability that this decision-making procedure would produce a correct decision is 51 percent. However, if we would adopt aggregative democracy (with majority rule) as an appropriate decision-making procedure, the probability of it producing a correct decision would depend on the size of the electorate. In a group of 1000 voters, this probability would be 69 percent, and in a group of 10 000, it would be 99.97 percent. This indicates that aggregative democracy has considerable epistemic value: the majority is almost certain to choose the right option, as long as each voter is independently just a little better than random (Goodin & Estlund 2004).

The probability of the majority choosing the right option depends on the size of the electorate and the average competence of each voter, as shown on the graph bellow, with the size of the electorate represented on X-axis, the probability that the majority will come to the correct decision represented on Y-axis, and the epistemic competence of each voter taken as 0.6 (List & Spiekermann, forthcoming).

Graph 5.1.



The rationale behind the jury theorem is rather simple: if we have a fair coin, when we flip it there is a 50 percent chance that it will turn heads, and a 50 percent chance it will turn tails. Of course, if we flip it two or three times, we should not be surprised if it turns heads (or tails) each time. If we flip it two times, the probability that it will turn heads both times is 25 percent, and if we flip it three times, the probability of it turning heads each time is reduced to 12.5 percent. The more times we flip the coin, the smaller the chance that it will turn heads (or tails) every time. Additionally, the more times we flip the coin, the more likely it is that the heads—tails ratio is almost exactly 50/50. Now, consider we have a non-fair coin, one that has 51 percent chance of turning heads and 49 percent of turning tails. If we flip it only two or three times, we should not be surprised if it turns tails every time. However, the more times we flip it, the greater the chance that the heads—tails ratios will almost exactly be 51/49. And if, after numerous flips, the chance that heads will be the result of exactly 51 percent of flips is huge, the chance that heads will be the result of more than 50 percent of flips is even greater. Hence the argument for epistemic aggregative democracy: if each citizen is 51 percent likely to be right regarding any particular (binary) political decision, the more citizens participate in the decision-making process, the greater the chance that the majority of them will be right. This is so even if we abandon the naive idea that all citizens are better than random—the argument for epistemic aggregative democracy stands even when we assume that the average competence is above 50 percent, with individual competences that produce this average being distributed normally around the average (some above and some below the average) (Estlund 1997, 2008).



There are several ways to argue against epistemic aggregative democracy and the jury theorem it relies upon. First of all, the jury theorem requires that citizens are mutually independent and that one's chance to come to the right decision in no way influences the chance of any other citizen to come to the right decision. If one can show that citizens cannot be expected to be independent, the jury theorem fails. Second, the jury theorem (as formulated by Condorcet) can only be applied to binary choices. If political issues cannot be reduced to binary choices, the jury theorem fails. Third, the jury theorem requires that the average competence is (at least) above 50 percent. If the average competence is below 50 percent, the more citizens participate in the decision-making process, the greater the chance that the majority will hold incorrect or untrue decision. Therefore, if the average competence is below 50 percent, or if individual competences are distributed abnormally around the average, the jury theorem fails to support the epistemic aggregative democracy. In the rest of this part of the chapter I shall consider these three objections and conclude that epistemic aggregative democracy should be rejected as a decision-making procedure with legitimacy-generating potential.

#### *Objection 1: Voter Independence*

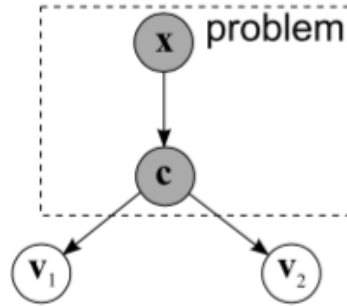
One of the key preconditions for the jury theorem is voter independence: if people tend to follow leaders or experts in their decision-making, the theorem fails to support epistemic aggregative democracy. Namely, if citizens, although their individual competence is above 50 percent, tend to follow the opinions of their political leaders or experts (who might individually be more competent than any particular citizen), the epistemic qualities of the jury theorem are lost—we are back at the queen for a day decision-making procedure, and the only change is that we collectively vote on who shall be the queen, instead of selecting the queen randomly. Furthermore, since we begin by following the political or epistemic authority of other individuals, the jury theorem cannot even be used to epistemically justify our selection of (political or epistemic) authorities. Therefore, in order for the jury theorem to be applicable, the independence of voters must be established.

This precondition might not seem very demanding—all that citizens have to do is to consider their own reasons and arguments for and against a certain decision, and to clearly say what they think is right, without discussing the decision in question with other citizens. This position is completely opposite to Talisse's deliberative democracy (Talisse 2009a)—the epistemic value of a procedure is ensured only if citizens do not deliberate and exchange reasons and arguments, but instead refrain from communication and simply vote for what they think is the right decision

(Condorcet 1994). This will ensure that citizens are independent in the voting process, and the epistemic value of the jury theorem will be preserved.

Though forming your own opinion is very important for the jury theorem, some argue that it is simply not enough to ensure the voters' independence (Dietrich & Spiekermann 2013, Ladha 1992, List & Spiekermann, forthcoming). Imagine the following scenario: in the final months of 2007, the US government wants to know whether the recession is imminent. It decides to ask its advisors and to adopt the majority view, and in order to ensure their independence, instructs secret services to keep an eye on them and to prevent them from communicating. Since we can assume that these experts are at least better than random, it should follow that, the more experts are consulted, the greater the chance that the recommendation supported by the majority vote will be correct. The problem here is the fact that the experts are very likely not independent, even though they do not communicate. First of all, they all rely on the same publicly available evidence, and hence this evidence influences them and makes them vote in the same way. If the available evidence suggests the sustainable economic growth, most (and maybe all) experts will conclude that the economic stability is not jeopardized and will vote in the same way. Though experts do not communicate, they are not independent. Furthermore, these experts are probably educated at some prestigious universities in US (e.g. Harvard Department of Economics, Chicago School of Economics) and they probably rely on the same theoretical assumptions for the interpretation of the evidence. Their similar education will make their votes dependent even though they do not communicate. Therefore, experts (and, by analogy, citizens) can be dependent even though they do not communicate and exchange reasons and arguments, and even though they do not follow some political or epistemic authority (Dietrich & Spiekermann 2013). The following sketch makes that clear by pointing out that, even though there is no casual relation between voters V1 and V2, they are both influenced by the same cause C (body of evidence or theoretical assumptions), and therefore their relation to the state of the world X is dependent on C. "Even though the votes are *causally* independent, they are not *probabilistically* independent due to the common cause C." (Dietrich & Spiekermann 2013: 94)

Diagram 5.1.



Having access to the same body of evidence, or sharing the same education and theoretical background can make the ideal of independence unachievable, thus undermining the strength of the jury theorem.

*Objection 2: Binary choices*

The jury theorem, as presented by Condorcet (1994), is limited only on binary choices, i.e. situations when we have to decide whether or not a particular law of policy is true or untrue, correct or incorrect, just or unjust. This can certainly be useful, but most political decisions are not that simple, and there is a complex decision-making process that shapes the final binary choices that citizens can vote upon. For example, if citizens have to decide whether or not to build a nuclear power station, some time before this binary question was put on the agenda, someone had to decide whether or not to include coal-fired power station (instead of nuclear power station) into the agenda. If we take a natural solution by claiming that citizens should be able to decide among multiple options, and not only among two, the epistemic value of the jury theorem is brought into question. Consider the following problem that a political community has to answer:

In order to ensure a decent power supply for the local community, having in mind the need to keep our environment clean and sustainable, we should:

- X) build a thermonuclear power station
- Y) build a coal-fired power station
- Z) limit the use of electricity and build none of the above

There are two possible voting mechanisms and decision-making methods that can be used here. First, we could break this choice into three binary questions: should we do X or Y, should we do Y or Z, and finally, should we do X or Z (Arrow 1963, 1984, Peter 2011). Since Condorcet's jury theorem should still be applicable here, this mechanism should have considerable epistemic value—

in larger political communities it would be virtually infallible. Consider the example below, borrowed from Peter (2011), having in mind that in epistemic aggregative democracy citizens do not express their preferences, but their beliefs on whether something is true, correct or just.

Table 5.1.

	INDIVIDUAL 1	INDIVIDUAL 2	INDIVIDUAL 3
<b>MOST PREFERRED / CORRECT</b>	X	Y	X
<b>MIDDLE RANKED</b>	Y	Z	Z
<b>LEAST PREFERRED / CORRECT</b>	Z	X	Y

Following the abovementioned pairwise majority voting mechanism, citizens would select the following:

$$\{X, Y\} \rightarrow X$$

$$\{Y, Z\} \rightarrow Y$$

$$\{X, Z\} \rightarrow X$$

Citizens would select X since they see it as more correct than Y and Z, and they would consider Y as a middle-ranked solution, one that is worse than X but better than Z. Finally, everyone would have good reasons to reject Z and consider it the worse option among the three—even individual 3, who considers Z to be the correct solution, would have strong epistemic reasons to embrace X, since the Condorcet's jury theorem would guarantee with a very high probability that X is correct. However, Kenneth Arrow's (1963, 1984) famous paradox of voting shows that this kind of pairwise majority voting mechanism can yield inconsistent results. Consider the following variation of the distribution of preferences / beliefs of what is correct:

Table 5.2.

	INDIVIDUAL 1	INDIVIDUAL 2	INDIVIDUAL 3
LEAST PREFERRED / CORRECT	X	Y	Z
LEAST PREFERRED / CORRECT	Y	Z	X
LEAST PREFERRED / CORRECT	Z	X	Y

Following the same pairwise majority voting mechanism, citizens would select the following:

$$\{X, Y\} \rightarrow X$$

$$\{Y, Z\} \rightarrow Y$$

$$\{X, Z\} \rightarrow Z$$

Citizens would consider X to be more correct than Y, and Y to be more correct than Z, but would nonetheless consider Z to be more correct than X<sup>54</sup>. What should citizens do in such a situation? One option is to limit the voting process to only two pairwise choices, but then the agenda (which alternatives should we consider first) determines the result of the voting process: if we first vote between X and Y, and then between the winner of the first vote and Z, we will get one result, and if we first vote between Y and Z, and then between the winner of the first vote and X, we will get different result. The epistemic value of the jury theorem will be lost since the correctness of the final outcome will depend on the agenda, i.e. on something else than the beliefs of citizens engaged in the voting process. It is clear that Condorcet's jury theorem loses its persuasive power when we

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<sup>54</sup> In order to better understand Arrow's paradox of voting, let us try to apply this abstract scheme on the power station example. Individual 1 is a person who thinks that having a lot of power is crucial for the development of the local economy, and also thinks that it would be good to preserve the environment if possible. Individual 1 thus sees nuclear power plants as having priority over other alternatives, and sees the idea of spending less electricity and not building power plants as disastrous for the economy and clearly incorrect. Individual 2 also believes that electricity is very important for the economic development, but is very afraid of the nuclear disasters like those in Chernobyl or Fukushima. Consequently, individual 2 will consider coal-fired power station as the best option, followed by no power station at all—everything is better than risking a nuclear disaster. Finally, individual 3 cares about the environment and not about economy—he considers not building any power stations as the best option, and nuclear power station as the second best, since it has lesser negative impact on the environment and he is not afraid of the disaster because those are extremely rare. Individual 3, of course, thinks that having a coal-fired power station is an environmental disaster and thus clearly incorrect. If we try to vote on a binary question, such as "Should we build a nuclear power plant?", "Should we build a coal-fired power plant?" or "Should we not build any type of a power plant?" the majority of citizens will vote negatively on all three options. Not only will we be stuck without a clear answer on what should be done, but the epistemic qualities of the jury theorem will also be lost because of the Arrow's paradox.

try to break multiple choice questions into a series of binary questions—Arrow's paradox of voting can be used to undermine the rationality and epistemic value of epistemic aggregative democracy.

There is another way of applying the jury theorem on multiple choice questions: instead of breaking them into a series of binary questions, we can prove that, if every citizen is more likely to select the correct answer than any other answer, the more people participate in the decision-making process, the greater the chance that the majority will select the correct answer (Goodin and List 2001). If we are facing a political choice with three alternatives, only one of which is correct, and if every citizen is more likely to vote for the correct alternative than for any other, then increasing the number of citizens who participate in the decision-making process will increase the chance that the alternative supported by the majority of citizens is true. If each citizen has a 34 percent chance of selecting a correct alternative (and 33 percent of selecting each of the remaining alternatives), and if a 1000 people participate in the decision-making process, the chance that the majority will select the correct alternative is almost 49 percent (Goodin and List 2001). Though this chance is not as impressive as with the binary choice questions (when with a 1000 participants the majority will be right in 69 percent of the cases), it still points out that aggregative democracy has considerable epistemic value (queen for a day would produce a correct result in 34 percent of the cases, and aggregative democracy in 49 percent). Furthermore, the larger the number of citizens who participate in the decision-making process, the greater the chance that the majority will select the correct option—for large political communities this chance rises well above 50 percent, though not as high as to suggest virtual infallibility of majority rule.

A problem with applying jury theorem on multiple choice questions is reintroduced, however, when we consider additional alternatives. While increasing the number of people who participate in the decision-making process increases the chance that the majority will select the correct option, increasing the number of alternative choices decreases this chance. It seems, however, that possible alternatives regarding some political decisions (e.g. creating the state budget) are so numerous that the jury theorem would not be a decent guarantee that the option selected by majority rule is correct. It would still make an option selected by the majority more likely to be correct than any other option, but if the number of other options is huge, then the chance that the one selected by the majority is not very impressive. Aggregative democracy would still be an epistemically better decision-making procedure than coin-flipping (or, in the case of multiple alternatives, dice-rolling), equal lotteries and queen for a day, but we would be left wondering whether there is some other fair decision-making procedure that can make our laws and policies better or more correct.

Condorcet's jury theorem is very persuasive when applied to binary choice questions. It loses its epistemic value when multiple choice questions are introduced, and though it still produces epistemically better outcomes than some other fair decision-making procedures (Goodin and List 2001), much of its persuasive strength is lost.

### *Objection 3: Individual Competence*

One of the key premises of Condorcet's jury theorem is the requirement that every voter is at least a little better than random, or the average competence is above 50 percent, with individual competences that produce this average being distributed normally around the average. However, this is by no means obvious, and it seems prudent to investigate this presumption. People have more or less systematic views about many issues. Political parties, religious communities, associations of civil society and many other organizations gather people who have, to a certain degree and regarding some (more or less general) topic, very similar views. If their system is bad (e.g. if it is grounded in a false premise) then they could easily be wrong all the time. Take for example utilitarians or Kantians; they ground their moral and political beliefs regarding numerous laws and policies in the principle of utility or the categorical imperative—if it turns out that one (or both) of these principles or ideas is false, they will end up being wrong about many moral and political issues. It seems that, at least regarding some moral and political questions, coin-flipping can be more accurate than majority rule. If we live in a society where most citizens are utilitarians, and if the principle of utility is a false moral principle, the jury theorem will only ensure that the majority produces a wrong decision (since it works both ways, if 51 percent of voters are utilitarians, in a political community of 10 000 citizens the probability that the majority will select the wrong decision would be 99.7 percent). Similarly, if we live in a society where the majority of people are racists or sexist, the jury theorem only increases the chance that the majority will come to wrong decisions on political matters involving race or sex (Estlund 2009).

The problem is that we do not know whether the utility principle or the categorical imperative are correct principles and ideas, or at least in the conditions of reasonable pluralism we cannot publicly demonstrate that to other reasonable citizens. Consequently, some reasonable citizens will have good reasons not to embrace epistemic aggregative democracy as a procedure with legitimacy-generating potential. Let us remember that the main argument for epistemic aggregative democracy was its ability to produce correct decisions in a vast majority of cases—however, if some people (e.g. Kantians or anti-racists) think that it will in fact produce wrong decisions in a vast majority of cases (because most people are biased towards race or embrace the

wrong moral principle, thus systematically making their political judgements unreliable), they will have good (epistemic) reasons to reject epistemic aggregative democracy and embrace some other fair decision-making procedure, at least when deciding about these problematic issues. However, since there are still unknown and unexplored biases and errors people might have in their systematic thinking, and since we will not be able to reach a public agreement on existing biases and errors, there will always be some citizens who will be able to reasonably reject epistemic aggregative democracy. The argumentative strategy employed here is very similar to the one I used to reject Mill's plural voting proposal—the demographic argument warns us that some systematic biases might be present in the group of well-educated citizens, and if it is not unreasonable to claim this, plural voting fails as a decision-making procedure with legitimacy-generating proposal since it is not able to meet the liberal criterion of legitimacy (i.e. it is not accepted by all reasonable citizens).

### **5.2.b. Conclusion**

In the first part of this chapter I have embraced the main thesis of the standard account of epistemic democracy—in order to have legitimacy-generating potential, a decision-making procedure has to be epistemically the best procedure from the set of fair procedures. We first discard unfair decision-making procedures, and from the set of remaining procedures select the one that has the highest chance to produce correct outcomes. In this part of the chapter I have analyzed epistemic aggregative democracy, a decision-making procedure that embodies public equality by giving every citizen an equal chance to participate in the process of making and authorizing political decisions, and a procedure that might have considerable epistemic value if Condorcet's jury theorem can be applied to political decision-making. The jury theorem shows that aggregative democracy can be epistemically more reliable than other fair decision-making procedures. However, the jury theorem has very demanding assumptions: first, voters should be probabilistically independent, second, all political choices have to be binary, and third, citizens should be better than random. I have rejected Condorcet's jury theorem by arguing that none of the abovementioned assumptions can be publicly realized: because of common evidence and background citizens are not independent, political problems often (almost always) take the form of multiple choice questions, and at least in certain situations citizens can be worse than random. Though epistemic aggregative democracy meets the first criteria of legitimacy (i.e. it is a fair decision-making procedure), it fails to adequately meet the second criteria (i.e. its epistemic qualities are not sufficient to give it legitimacy-generating potential). We should instead turn to a different model of democratic decision-making and analyze the epistemic value of public deliberation—if public deliberation can help us come to correct



decisions more often than any other fair decision-making procedure, then epistemic deliberative democracy must be the procedure with legitimacy-generating potential.

### **5.3. EPISTEMIC DELIBERATIVE DEMOCRACY**

I have begun this chapter by accepting the central thesis of the standard account of epistemic democracy: in order to have legitimacy-generating potential, a decision-making procedure has to be fair (a moral requirement) and has to be able to produce substantively better outcomes than any other fair decision-making procedure (an epistemic requirement). In the second part of this chapter I have analyzed whether aggregative democracy can have sufficient epistemic value to meet this requirement: though the level of necessary epistemic quality is not very high (it has to be better than other fair decision-making procedures, like coin-flipping or equal lotteries), aggregative democracy supported by Condorcet's jury theorem is not able to adequately meet this challenge. It might be better than coin-flipping and equal lotteries, but is it epistemically better than other forms of democratic decision-making? In this part of the chapter I discuss the instrumental epistemic value of deliberative democracy, claiming that it is epistemically the best decision-making procedure among the set of fair decision-making procedures.

The literature on the epistemic qualities of deliberative democracy is vast and I do not want to discuss much of it in this part of the chapter. Many of these qualities have already been discussed and endorsed in the third chapter where I analyzed the pragmatist account of deliberative democracy. Instead, here I want to specify how a public account of epistemic value of deliberative democracy should look like. It is not enough that deliberative democracy has a tendency to produce correct decisions—all (reasonable) citizens have to be able to see and understand this tendency, i.e. everyone must be able to see the epistemic value of deliberative democracy. Having established how a public justification of epistemic value of deliberative democracy should look like, I consider two comparative advantages it has over aggregative democracy: first of all, I analyze how it helps citizens assemble information dispersed throughout the political community, thus making better informed and better supported decisions, and second, I discuss its ability to discover and counter epistemic injustice, something that aggregative democracy fails to achieve.

#### **5.3.a. Public Justification of (Instrumental) Epistemic Value of Deliberative Democracy**

Before we can start discussing how the epistemic value of deliberative democracy should be justified, it is useful to stress once again what level of epistemic value is necessary for a procedure

to have legitimacy-generating potential. Deliberative democracy is not challenged by epistocracy, scholocracy and other expert-oriented decision-making procedures since these are not fair decision-making procedures—they fail to meet the liberal criterion of legitimacy (Rawls 1993) or the qualified acceptability requirement (Estlund 2008), i.e. they are not acceptable to all reasonable (or qualified) citizens. Therefore, deliberative democracy does not have to have strong epistemic value—moderate epistemic value is sufficient since it has to be better than other fair procedures (including coin-flipping, equal lotteries and queen for a day), and not better than all (fair or unfair) procedures. I follow Estlund (1997, 2008) in claiming that deliberative democracy does not have to show that it is epistemically the best procedure (as pragmatist deliberative democrats want to show), but instead it only has to prove that it is better than other fair procedures. Let us now consider two possible approaches to the justification of deliberative democracy.

*(i) Substantive Justification*

Having established what it means that a procedure has sufficient epistemic value, I want to turn to the process of measuring this epistemic value. One way of proving that a procedure has instrumental epistemic value (that it is good in producing correct decisions) is to define some substantial standard or correctness, and then to check how often the procedure produces decisions that meet this standard. We say that correct decisions are those that maximize the overall utility, or those that respect and follow God's will, and then check which decision-making procedure is the best in meeting this independent standard of correctness, i.e. which procedure is the best in producing correct or true decisions. The problem, of course, arises when we have to define this independent standard of correctness, since in the conditions of reasonable pluralism we cannot have a public agreement on what represents a correct, true or just decisions. This is the main reason why Thomas Christiano (1996, 2008), whose position is discussed in detail in the second chapter, rejects the idea that we can have an instrumental justification of democracy—if a procedure is justified because it represents good means to achieve a desired end, we need to be able to define this desired end, and it has to be seen as desirable by all citizens in order to establish a public instrumental justification of that procedure. Since we cannot have a public agreement on any substantial standard of correctness (i.e. any desirable end state), we cannot have a public instrumental justification of democracy. I recognize the strength of Christiano's argument and agree that we cannot use any particular moral or religious doctrine to establish the standard of correctness, though I think that some basic ideas (like Christiano's own idea that more well-being is better than less) can be used to establish a public instrumental justification of deliberative democracy.

It is clear that not all reasonable citizens will agree on a certain comprehensive doctrine or a certain conception of the good. Are there, however, some interests and values so basic that all reasonable people will be able to recognize them? Consider, for example, Rawls' idea of primary goods, things that every rational man is presumed to want (Rawls 1971), including certain civil and political rights, but also health and wealth, as well as the social bases of self-respect. We can instrumentally prefer a decision-making procedure if we can show that it is better in producing more primary goods than some other decision-making procedure. Similarly, well-being seems to be something that is desired by (and due to) all citizens (Christiano 2008), and if we can show that a certain decision-making procedure produces more well-being than some other procedure, we can say that it is instrumentally better than the other procedure. Alternatively, we can try to define some primary bads (Estlund 2008) or evils (Edyvane 2013), like war, famine, epidemic and genocide, which every reasonable person should be able to recognize as something undesirable. We can thus say that a decision-making procedure has instrumental epistemic value if it produces decisions that avoid these primary bads or evils.

Some might argue that the epistemic value democracy has is then relatively small: after all, democratic regimes have started (unjust) wars, suffered from famine and epidemic, and sometimes even committed genocide. I have to agree—the epistemic value of deliberative democracy is not amazing, but it also does not have to be amazing. Deliberative democracy has to show that its epistemic value is greater than the epistemic value of other fair decision-making procedures, like coin-flipping, equal lotteries and queen for a day. This immediately puts opponents in an awkward position. To challenge this thesis is to deny that any democratic arrangement could tend to perform<sup>55</sup> better than random (Estlund 2008). That is, I believe, clearly wrong: though democratic

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<sup>55</sup> Queen for a day can actually be a fair decision-making procedure that is better than random, at least as long as the majority of people are more often correct than not. Therefore, deliberative democracy has to prove that it is better than queen for a day, not simply better than random. I do not consider this particularly difficult, since queen for a day suffers from a serious deficit. When considering the epistemic value of decision-making procedures, we should not focus only on their ability to produce correct decisions, but also on the damage they can cause by selecting wrong decisions (Estlund 1997). In a decision-making procedure that incorporates voting and majority rule, a few evil or extremely incompetent citizens will not have a significant impact on the quality of final decisions. However, in queen for a day procedure such evil or incompetent citizens might be selected to make a decision, and the damage they might cause will be far greater than the damage caused when democracy makes a wrong decision. Queen for a day is a fair decision-making procedure (it meets the moral requirement) that might be better than random, but it is still not better than any other fair decision-making procedure (it fails to meet the epistemic requirement). Namely, deliberative democracy has greater epistemic value than queen for a day.

decisions can sometimes be wrong, they are generally considerably better than randomly made decisions<sup>56</sup>.

*(ii) Formal Justification*

Another way of proving that a procedure has instrumental epistemic value (that it is good in producing correct decisions) is by claiming that it is composed of elements that usually help in (or contribute to) producing correct outcomes. This way we can say that someone who has studied for an exam will produce better answers than someone who has not studied, though we do not know neither questions nor answers in that exam (Estlund 2008). We can thus claim that deliberative democracy will tend to produce correct decisions since deliberation generally helps us come to right answers. This is an argumentative strategy employed by many defenders of deliberative democracy, including Robert Talisse (2009a, 2009b) and Cheryl Misak (2004, 2009), whose positions are discussed in the third chapter. They avoid the appeal to any specific conception of the good and ground their argumentation in certain fundamental epistemic principles, pointing out that responsiveness to reasons, evidence and arguments is the constitutive norm of a belief, and the best guarantee that our beliefs will be responsive to best reasons and evidence is to engage in public deliberation and establish political conditions that will foster and protect public deliberation. Misak and Talisse offer an instrumentalist justification of deliberation, and they avoid Christiano's objection since they do not appeal to any specific conception of the good.

Both the substantive and the formal approach suffer from certain deficits: substantive approach cannot say anything about the democracy's ability to produce correct decisions regarding something other than primary goods or primary bads, while the formal approach lacks any means to verify whether deliberative procedure contributes to the quality of the decisions produced. However, if we take these two approaches as compatible and combine them together, we can remedy deficits arising from both sides. We can support the formal approach by claiming that there are some cases (primary goods or bads) where democracy performs better than any other fair decision-making procedure. We can simultaneously support the substantive approach by claiming

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<sup>56</sup> Imagine that a political community has to decide what will be the value added tax (VAT) for some basic product. One way is to deliberate about the tax rate and reach the final decision by voting after deliberation (deliberative democracy). Another way is to throw a 100-sided die and let the chance decide the tax rate (coin-flipping). Yet another is to let citizens cast their votes, and then randomly select one of the votes and set the tax rate according to that vote (random lotteries), or to randomly select one citizen and give it authority to decide what should be done (queen for a day). While throwing a 100-sided die can make terrible decisions (like 100% tax rate), and equal lotteries and queen for a day can allow particular interests to shape the future of a political community, deliberative democracy guarantees, at least to a certain extent, that the decision in question will not be disastrous for the community nor will it explicitly promote interests of only a certain individual or group.

that, since deliberative democracy performs well on the issues regarding primary goods or bads, the same procedure would tend to perform well on other matters (Estlund 2008).

Deliberative democracy can thus be publicly justified: every reasonable (qualified) citizen should be able to see and recognize its epistemic value when discussing issues regarding primary goods or bads, and everyone should be able to conclude that it tends to perform well on other matters. In the rest of this part of the chapter I shall discuss two formal cases for deliberative democracy, i.e. I shall argue that, unlike aggregative democracy, deliberative democracy is composed of elements that usually help in (or contribute to) producing correct outcomes.

### **5.3.b. Advantage 1: Assessing Information Dispersed Throughout the Political Community**

In the third chapter I have discussed Fabienne Peter's new theory of epistemic democracy, one grounded in the idea of epistemic peerhood and second-personal epistemic authority. Peter rejects the knowledge tenet by claiming that political issues are often too wide-ranging or complex, or that relevant information is dispersed among the members of political community (Peter 2012). Though I have argued that the knowledge tenet should be granted, I follow Peter's idea that relevant information is dispersed throughout the political community and emphasize that a decision-making procedure with epistemic value sufficient for having legitimacy-generating potential should be able to assess and organize the dispersed information. This is clearly something coin-flipping, equal lotteries and queen for a day are unable to achieve—in order to have this epistemic value, a decision-making procedure has to rely on collective intelligence and the idea that something epistemically valuable is gained when a group (instead of an individual) makes a political decision. This idea was put forward by Aristotle (1984), who used it to counter Plato's (2000) epistocratic views. It is important to note that the idea that something epistemically valuable is gained when a group makes a political decision can support both aggregative and deliberative democracy. Condorcet's jury theorem, for example, clearly states that a large group of individuals who are better than random (at least regarding binary questions) will perform better than an individual. In fact, the larger the group, the greater the chance that it will produce correct decisions. Though the jury theorem mathematically shows that, if some conditions are met, a group will tend to produce better decisions than an individual, it says nothing on how the information dispersed throughout the political community can be collectively assessed. Each citizen is expected to vote independently, while deliberation and exchange of reasons and evidence are not considered as something valuable or necessary for the epistemic quality of the procedure. Even if we consider a weaker version of epistemic aggregative democracy, one not grounded in Condorcet's jury theorem, this problem

cannot be avoided. A weaker version of aggregative democracy could allow that we learn from the choices other people make<sup>57</sup> (e.g. I can learn that you do not support nuclear power stations by noticing that you have voted against the proposal that includes building a nuclear power station in our region), but this still does not allow us to understand the underlying reasons for those choices. Assuming that relevant information is dispersed throughout the political community, the only way to collectively assess this information is to enter a public deliberation and see what reasons, arguments and evidence other people used to make their choice regarding a particular political question.

David Estlund introduces a useful analogy that might help us understand how public deliberation helps us collectively assess the dispersed information:

Consider the proverbial blind men and the elephant. Each can touch a different part, but this is not enough to identify the animal before them. [...] If the blind men can talk with each other, there is some hope that they can figure out that the object is an elephant, though no one could do this alone. (Estlund 2008: 229-231)

Deliberation can be seen as a process of putting together different parts of a puzzle, and these valuable parts of a puzzle are pieces of information that one has, featured in reasons, arguments and evidence one has to support his or her vote. Democracy is epistemically valuable primarily because it enables sharing and assessing diverse perspectives (Bohman 2006). This can only be achieved through public deliberation: mere aggregation of preferences or beliefs regarding what is right is not enough. Aggregative democracy is thus epistemically inferior to deliberative democracy: it fails to incorporate the epistemic value of diverse perspectives, which can only be realized through public deliberation.

Of course, besides incorporating the epistemic value of diverse perspectives, deliberative democracy can help us detect when individual beliefs or votes are biased, self-interested or epistemically flawed in some other way (Talisso 2009, Peter 2008). In the final part of this chapter I shall focus on one particular example and try to demonstrate how deliberative democracy can remedy epistemic injustice, i.e. correct systematic and persistent biases and prejudices that cause a hearer to give a deflated level of credibility to a speaker's word (Fricker 2007, 2013). Besides being a serious moral problem, epistemic injustice is also an epistemic flaw, and a decision-making procedure that is unable to discover and remedy epistemic injustice will, other things equal, have

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<sup>57</sup> Since this version of epistemic aggregative democracy does not include voter independence (because citizens tend to learn by observing the choices of others), it cannot be supported by Condorcet's jury theorem (Goodin 2003).

lesser epistemic value than a procedure that can remedy it more successfully. In the next section I shall argue that aggregative democracy cannot remedy epistemic injustice, which can only be recognized and removed (though not always successfully) through public deliberation.

### **5.3.c. Advantage 2: Remediating Epistemic Injustice**

Epistemic injustice might be about distributive unfairness in respect of epistemic goods (such as access to information or education). This kind of injustice can seriously damage the legitimacy-generating potential of a decision-making procedure, making it fail both the moral (fairness of procedure) and the epistemic (correctness of outcomes) requirement. I shall discuss these kinds of epistemic injustice, as well as how they can be remedied, in the sixth chapter. Here I want to focus on the distinctively epistemic (and not distributive) kinds of injustice described and analyzed by Miranda Fricker (2007, 2013). Testimonial injustice is a kind of epistemic injustice when a prejudice or bias causes a hearer to give a deflated level of credibility to a speaker's word. Police not believing a black person can be an example of testimonial injustice. This injustice is caused by the prejudice in the economy of credibility. Another distinctively epistemic kind of injustice Fricker calls hermeneutical injustice, which happens when one is in an unfair disadvantage because of the social interpretative resources. Consider a female secretary being sexually harassed in 1960's, before the concept "sexual harassment" was coined. Though she was able to realize that something wrong had been done to her, she was unable to clearly express it to others since the appropriate concept was missing. Hermeneutical injustice is thus caused by a structural prejudice in the economy of collective hermeneutical resources (Fricker 2007). Just like unfair access to information or education, these distinctively epistemic kinds of injustice can seriously damage the legitimacy-generating potential of a decision-making procedure, threatening both its fairness and its ability to produce true, correct or just decisions.

In the rest of this part of the chapter I shall focus on testimonial injustice, a kind of epistemic injustice that is easier to detect and remove. Though testimonial injustice takes a form of credibility deficit, not every credibility deficit is a case of testimonial injustice. One can make an innocent error, have bad epistemic luck or simply have a false belief about the speaker, thus attributing the speaker lesser credibility than what is due to him<sup>58</sup>. This is a case of credibility

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<sup>58</sup> Imagine an ethicist searching the Internet for information about the author of a scientific article. She finds out that the author of the article works at the School of Medicine, and concludes that the author is not an expert in ethics. However, it might be that the author is also an ethicist or a bioethicist, teaching medicine students bioethics or practical ethics and thus being affiliated to the School of Medicine. This is clearly a case of credibility deficit since the first ethicist attributed inadequate credibility to the second, but this is not a case of epistemic injustice (Fricker 2007: 22).

deficit, but there is no ethical or epistemic culpability. Similarly, if a hearer makes a careless search and ends up having a false belief about the speaker (and attributes him credibility on the basis of that false belief), we might find this error epistemically culpable, but there is still no ethical culpability, and an ethically non-culpable mistake cannot wrong the speaker. Ethical poison of testimonial injustice comes from the bias or prejudice in the judgment of the hearer (Fricker 2007). Furthermore, most cases of testimonial (epistemic) injustice are systematic: they are created by identity prejudices that 'track' the subject through different dimensions of social activity (economic, educational, professional, legal, political, etc.). They are an operation of identity power—one party effectively controls what the other party does in the way that depends upon collective conceptions of social identities in play. Similarly, cases of hermeneutical injustice are also an operation of identity power—a group's disadvantage and inability to conceptualize its social experiences derives from a group participating unequally in the practices through which social meanings are generated (i.e. group is hermeneutically marginalized).

Epistemic injustice can thus endanger the fairness of the decision-making process by subjecting some to the identity power of others, but it can also endanger the epistemic quality of the decision-making process by not attributing adequate epistemic credibility to some groups. Though it might seem that aggregative democracy has an advantage over deliberative democracy since citizens no longer have to assess the credibility of the speakers (decisions are made by voting and no deliberation is needed, and thus it seems that the prejudices in the economy of credibility do not enter the decision-making process), we should not forget that most cases of epistemic injustice are systematic and 'track' the subject through different dimensions of social activity. A group with greater identity power will, because of certain biases and prejudices, systematically outvote a weaker group. Aggregative democracy lacks the mechanism to remove the negative epistemic effect biases and prejudices have on the decision-making process. The only way of remedying epistemic injustice is to try to detect and become aware of biases and prejudices in our economy of credibility, and to remove them from our decision-making processes. This can be done at the individual level or at the institutional level. Fricker originally takes an individualistic approach—we must be virtuous hearers and try to see the issue at hand from someone else's perspective (Fricker 2007). This is a praiseworthy task, but when faced with massive structural injustice, individual epistemic virtue cannot solve the problem at hand. Just like the practice of individual charity in the context of massive structural poverty cannot be as effective solution as economic policies and economic institutions that redistribute wealth and prevent mass poverty in the first place, individual epistemic



virtue cannot be as effective as epistemic institutions that prevent epistemic injustice from arising. Structural injustices call for structural remedies (Anderson 2012).

We should seek for the best structural solution to the abovementioned problem, i.e. we should look how to organize our social and political institutions, but the decision-making practices as well, in order to remedy epistemic injustice. Epistemic aggregative democracy seems to be unable to serve this purpose: since it disregards public deliberation and focuses on voting mechanisms, existing biases and prejudices are not detected and the existing relations of power—those that have caused the epistemic injustice in the first place—are maintained and supported. Even forms of aggregative democracy that rely on Bayes' theorem, as described but not endorsed by Goodin (2003), where we should adjust and revise our belief (or vote) according to beliefs (or votes) of others, do not adequately answer this problem. Namely, Bayesian approach takes that we should see the fact that many citizens voted for  $p$  as an evidence for  $p$ , and we should therefore adjust our own vote towards  $p$ . Though this approach embodies some form of belief revision, it does not evaluate the content of a particular decision nor the substantive reasons supporting it, but simply maintains the rule of the majority group. The majority group does not owe reasons to anyone, and the voting mechanism does not allow minority groups to present reasons and arguments in favor of their own beliefs.

Epistemic deliberative democracy seems to be better equipped to answer this problem: universal participation on terms of equality of all inquirers, supported by deliberative values of inclusion and toleration, can be a decent ground for establishing epistemic justice (Anderson 2006). Furthermore, displaying pragmatist deliberative virtues can be useful for establishing trustworthiness: by requiring from every citizen to be ready to articulate reasons and evidence that support his or her belief, as well as to answer criticism by others, we are creating a system that will be able to detect biases and prejudices, but also to remove them, since engaging in the deliberative process enables us to better evaluate epistemic credibility of others (Talisso 2009a, Festenstein 2009). Finally, biases can be seen as valuable resources for detecting other biases. By allowing biased people to enter the process of public deliberation and by facilitating contestation from a multitude of perspectives, we can become aware of our own biases and thus reduce their negative impact on the epistemic value of the collective decision-making procedure (Catala 2015, Goodin 2006). Deliberation certainly cannot detect each and every bias or prejudice present in our decision-making procedures and remedy every instance of epistemic injustice, but it can detect and remedy at least some of them, which is still a better result than one produced by any aggregative mechanism.

### **5.3.d. Conclusion**

I have generally accepted that every democratic decision-making procedure meets the first requirement for having legitimacy-generating potential (procedural fairness). Furthermore, some non-democratic procedures, like coin-flipping, equal lotteries and queen for a day, are also able to meet this requirement. We should differentiate among fair decision-making procedures on the basis of their epistemic qualities, i.e. on their ability to produce correct outcomes. Furthermore, public justification of the procedure's epistemic value must be given in order for that procedure to have legitimacy-generating potential—every reasonable (qualified) citizen should be able to see and recognize this epistemic value. Following Estlund (2008), I have concluded that there are at least some end states (like famine and genocide) that all reasonable citizens should be able to recognize as undesirable, and claimed that deliberative democracy can be substantively justified by appealing to its ability to prevent these end states. Furthermore, since deliberation generally contributes to the quality of the results produced (which is proved by its performance regarding some end states everyone can see as undesirable), deliberative democracy can be formally justified as well.

Furthermore, I have analyzed two advantages deliberative democracy has over aggregative democracy. First, it enables us to combine our knowledge and the available evidence (like pieces of a puzzle) in order to produce decisions of greater epistemic quality, and second, it enables us to remedy epistemic injustice, a serious moral and epistemic defect that aggregative democracy is unable to avoid.

Up to now, I have been trying to answer which requirements a decision-making procedure has to meet in order to have legitimacy-generating potential and, having determined these requirements, I have discussed which decision-making procedure is best in meeting these requirements. I have ended by claiming that epistemic deliberative democracy is the procedure with legitimacy-generating potential. However, certain social and economic conditions have to be met in order for deliberative democracy to have this legitimacy-generating potential once it is applied to real-life politics. In the next chapter I discuss the social and economic conditions that have to be in place in order to ensure the procedural fairness and the substantive epistemic quality of deliberative democratic decision-making procedures.

## CHAPTER VI

# INSTITUTIONALIZING EPISTEMIC DEMOCRACY

The primary focus of my thesis is to build an epistemic justification of democratic procedures. This task is addressed in the first five chapters: having endorsed the truth and the knowledge tenet, and having rejected the authority tenet, I have concluded that the justification of democratic legitimacy has to rest (in part) on its epistemic value, because otherwise it would have equal legitimacy-generating potential as other fair decision-making procedures (like coin-flipping or equal lotteries). Finally, following Estlund (2008), I have emphasized that democracy's epistemic value does not have to be very strong—democracy does not have to produce correct decisions every time or almost every time, it is enough that it performs better than any other fair decision-making procedure. However, democracy can take many different forms, and different democratic procedures can have (and do have) different (instrumental) epistemic value. I have finished the fifth chapter by arguing that public deliberation has greater epistemic value than the simple aggregation of political preferences or claims through a voting mechanism, thus concluding that epistemic deliberative democracy represents the procedure with legitimacy-generating potential.

However, many questions still remain unanswered. Should political decisions be made through deliberation of all citizens, or should their political representatives make political decisions for them? What is the role of experts in a democratic decision-making process? Can epistemic democracy function properly in any socioeconomic system, and if not, what are the appropriate social and economic conditions for epistemic democracy? These are some of the questions I shall try to answer in this chapter. Of course, many other important questions will have to remain unanswered: as it was said earlier, this research is primarily focused on the epistemic value of democracy and the epistemic account of political legitimacy.

In the first part of this chapter I discuss the role of experts in a democratic decision-making process. Having endorsed the knowledge tenet in the third chapter, I have claimed that there are those who know better what should be done in politics. Democratic procedure would lose much of its appeal if it would be unable to take advantage of the experts' knowledge. I follow Kitcher (2011) and Christiano (2012) in embracing a form of division of epistemic (and political) labor—citizens and their political representatives should deliberate and set aims that the political community is to pursue, while experts and policy-makers should devise means (laws, public policies and political decisions) needed to achieve the aims set by citizens. Of course, I also claim that the process should

not be unidirectional: experts should be able to help citizens select feasible and coherent aims, while citizens should be able to help experts in creating policies and decisions. Deliberative democracy is an appropriate political setting for this kind of bidirectional communication.

Social and economic conditions necessary for the epistemic (but also moral) value of democracy are discussed in the second part of this chapter. I claim that it is not enough to ensure equal *formal* participation of all citizens in the process of making and authorizing political decisions—we should go deeper and ensure *substantial* political equality, which requires imposing relatively strict deliberative norms not only on formal, but also on informal political sphere. In order to ensure moral and epistemic value of democracy, we should favor social and economic arrangements characterized by wide dispersion of capital, having in mind that substantial inequalities in wealth and social status can cause political inequalities and unequal participation of citizens in a democratic decision-making process, thus endangering the legitimacy-generating potential of democratic procedures.

### **6.1. THE ROLE OF EXPERTS IN A DEMOCRATIC SOCIETY**

John Dewey (1987) took an optimistic view of democracy—he saw it as a 'method of organized intelligence', or as a method by which information dispersed throughout the political community can be assessed and used to make better decisions about issues of public interest. Similar views are held by many other defenders of pragmatist deliberative democracy (Talisso 2009a, 2009b, Misak 2000, 2009) discussed in the third chapter of this thesis. Citizens should present the arguments, reasons and evidence for their political claims, they should engage each other in public deliberation and evaluate the presented reasons and evidence, and finally they should collectively decide what should be done. Dewey and other pragmatists believe that decisions produced by this deliberative process will have greater instrumental epistemic value than those produced by voting (aggregative democracy) or equal lotteries, but even greater instrumental epistemic value than decisions produced by epistocracy and other forms of the rule of experts.

One of the problems of this approach is the fact that politics regards numerous complex issues, many of which we know very little (or virtually nothing) about. Political decisions regarding genetically modified organisms, climate change or the consequences of joining the Eurozone are so complex that we cannot have informed and critical judgments about these issues without receiving extensive education. Of course, some people (those who have received such education) will be able to make informed and critical judgments (this is why I think that the knowledge tenet should be

granted), but we will not be able to understand and evaluate the reasons, arguments and evidence they use to support their claims. As John O'Neill (2002: 259) puts it, " [...] the arguments pass me and most other citizens by. I simply would not know how to appraise the evidence even if you gave me all the detail. I want to know not if the evidence supports this or that conclusion, but whether I have good reasons to trust those who offer it." It turns out that we are not as independent epistemic agents as it was thought during the Enlightenment—we heavily rely on others when we form, justify and defend our beliefs. Furthermore, because of the division of epistemic labor, we cannot expect every citizen to equally be able to make informed and critical judgments regarding different political issues: owing to their extensive education, some will be able to present better reasons and evidence, and those who have not received such an education will not be able to evaluate or even understand these reasons and evidence. If we want to have a decision-making procedure that can make decisions of decent epistemic quality, we should acknowledge the fact of epistemic inequality and find a way using superior knowledge of the few.

I have claimed in the third chapter that the knowledge tenet should be granted—there are some people who, with respect to some issues, know more than others. Furthermore, I have argued in the fourth chapter that the authority tenet should be rejected—even if someone is an expert, this fact does not make one a boss. Finally, in the fifth chapter, I have argued that the legitimacy-generating potential of collective decision-making procedures should partly depend on their ability to produce correct or true decisions. This brings us to a difficult question: if there are those who know better and if the legitimacy-generating potential of decision-making procedures depends in part on their ability to produce correct decisions, but those who know better should not have greater political authority than those who know worse, what should be the role of those who know better? What should be the role of experts<sup>59</sup> in a democratic society?

There are two straightforward answers to this question, and they have both been discussed in the previous chapters. One extreme way to solve this problem is to deny the plausible suggestion of unequal knowledge (Peter 2012) or to deny that unequal knowledge matters (Talisso 2009a), i.e. to reject the knowledge tenet. Another extreme way to solve it is to deny the plausible idea of political and moral equality (Plato 2000, Mill 1977a), i.e. to endorse some form of the authority tenet. I have

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<sup>59</sup> Alvin Goldman (2001) defines an expert in an area as someone who has (1) an amount of true beliefs that is considerably greater than ordinary people and that meets a threshold with respect to: (i) the subject matter in a domain; and (ii) the ideas and arguments within the community of persons who have a lot of true primary beliefs concerning the subject matter in the domain; and (2) a set of skills that enable that person to test the ideas and arguments as well as extend the ideas and arguments of the community to new problems and objects within the domain.

discussed and rejected both polar alternatives in the third and fourth chapter, and now I want to argue in favor of some form of a middle ground, i.e. in favor of *some* division of epistemic labor.

### 6.1.a. Technical vs. Moral Knowledge

To claim that, regarding *some* issues, there are those who know what should be done better than others is not to claim that for *every* issue there is a group of people who are experts. Thomas Christiano (2008) introduces a useful differentiation between technical and moral knowledge. *Technical knowledge* regards crafts, skills and disciplines like engineering, medicine, carpentry, physics or computer sciences. Most people can see this knowledge as useful and some educational institutions can be publicly seen as reliable sources of this knowledge. We can agree that we want to be medically treated by doctors (and not engineers) and that we want our bridges to be designed and built by engineers (and not doctors). Regarding these crafts, skills and disciplines we can publicly agree (at least to a certain degree) whether someone is an expert. However, there is another kind of knowledge, one that regards what is right and what is wrong. This *moral knowledge* is not public as technical knowledge is, and we have a widespread disagreement on both the moral issues and the experts in morality. While we can publicly agree that we want to be medically treated by doctors, we cannot publicly agree on who should make our laws regarding euthanasia or abortion. Some will favor ethics professors (though they will also disagree since some are Kantians, some utilitarians and some might employ virtue ethics), others will favor their religious leaders (who might also disagree depending on the religion they represent), and yet some might favor scientists (doctors, evolutionary biologists, sociologists) or even other public figures (singers, actors, football players).

Though Christiano's differentiation can be useful, it can hardly be applied to most political issues. Namely, political questions usually ask what should be done regarding a certain problem or state of things, which inevitably invokes the normative approach and moral knowledge. Climate change, genetically modified organisms and nuclear energy might at first seem as purely scientific issues (technical knowledge), but as soon as we ask what should we, as a political community, do about them, we are introducing the political dimension (moral knowledge)<sup>60</sup>. Namely, these policies bring costs that some citizens have to bear, but also bring benefits that some citizens will probably

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<sup>60</sup> Carl Schmitt (2007) writes that scientific claims are incomprehensible if one does not know who exactly is affected, combated, refuted or negated by such claims. Since scientific claims affect, refute or negate someone or some groups of persons (e.g. proclaiming the truth of Darwinism refutes the Christian view of creation, claims about the human contribution to the climate change refute those who think that government should not regulate the economy). Making something scientific does not make it non-political (Turner 2007).

enjoy more than others. How should these costs and benefits be distributed is definitively not a purely scientific issue.

This brings us to an interesting position: we can publicly agree that someone is an expert in nuclear physics (technical knowledge), but we cannot publicly agree that the same person is an expert regarding whether we should build a nuclear power station (moral or political knowledge)<sup>61</sup>. However, we still believe that the knowledge in nuclear physics somehow helps us make better decisions on nuclear power stations and better energy policies. If all members of a political community gained the relevant technical knowledge in nuclear physics, it is reasonable to expect that the decisions on nuclear power stations would improve. Having this technical knowledge would help us formulate and pursue our freely chosen projects more effectively. However, since we do not have this technical knowledge, and yet some people (experts) do, our deference to experts might be appropriate since experts help us overcome the limitations of our own knowledge (Kitcher 2001, 2011, Zagzebski 2012).

How can we reconcile the former idea that experts with technical knowledge cannot be (publicly) considered as experts regarding moral or political knowledge with the latter idea that certain form of deference to experts might be appropriate? To understand how this can be done, we should look more closely into different stages of the decision-making process.

### **6.1.b. The Strict Division of Epistemic Labor**

There are some theories of democracy that rely on a strict division of epistemic labor. They recognize the need for laws and policies to be authorized by all reasonable (or qualified) citizens, and want to achieve the quality of outcomes by including only the experts in the decision-making process. This is still a democratic rule since laws and policies are democratically authorized, but the content of laws and policies is shaped by experts, selected by people to represent them and to make decisions for them. This is (to a certain degree) a case with most modern Western democracies—those participating in the process of shaping the laws and policies and usually experts and politicians, and not ordinary citizens. However, some scholars tend to overemphasize the division of labor, basically dividing citizens into two groups: those who make laws and policies (politicians and experts) and those who do not participate in the decision-making process, but only in the process of authorization. Joseph Schumpeter (2008) and Anthony Downs (1957) thus portray citizens as

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<sup>61</sup> Note that this does not imply that there are no experts regarding moral or political issues, as Peter (2012) would have it. There might be experts regarding these issues. The only problem is that we cannot publicly agree on who the experts are. There is no such group of experts regarding moral and political issues that can be seen and recognized as such by every member of the political community.

rationally ignorant of the facts of the society and lacking the knowledge necessary to make reasonable policies. There is nothing fundamentally wrong with citizens in general—they simply decided to specialize in other fields (engineering, philosophy, carpentry, etc.) and not in politics. We cannot be experts regarding everything. Since there are those who specialize in politics (i.e. politicians), they should make laws and public policies, and their right to make these decisions does not come from their expertise (that would call for the authority tenet and some form of epistocracy), but from our choice that these experts in politics should rule. Of course, if we are not satisfied with their performance, we can remove these experts from power in the next elections, and select new experts in politics—those we believe will perform better and produce better decisions. While Schumpeter requires that the citizens evaluate the performance of politicians directly (by evaluating the quality of the results their rule has produced), Downs allows that citizens can use cognitive short cuts (like party affiliation) for determining how their interests and concerns can be advanced. Both positions, however, perceive society as divided into two groups: those who make decisions (politicians) and those who authorize them (citizens).

The problem with this approach is that it gives us an oversimplified account of what is going on in a democratic society. Their accounts omit group associations, media, universities, think tanks and lobbying and interest groups. Many of these groups are devoted to political issues, and usually they make a certain difference in the policies and laws that are enacted in a political community (Christiano 2012). For instance, trade unions usually have a strong opinion on minimum wage policies or labor laws in general, and workers organize in trade unions because thus they can influence the decision-making process. Schumpeter and Downs embrace too strong an interpretation of the division of epistemic labor, dividing society into two groups and failing to explain the role of many other political actors in a political community. Their accounts seem to be epistemically flawed—a division of epistemic labor that is too strong can lead to the loss of the value of diverse perspectives (Bohman 2006), but can also turn out to be incompatible with political equality (Christiano 2012). We should try to find a different model of decision-making, one that also rests on the division of epistemic labor, but is nonetheless able to include political equality and the epistemic value of diverse perspectives in the decision-making process.

### **6.1.c. The Appropriate Division of Epistemic Labor**

Kitcher (2011) and Christiano (2008, 2012) present a different account of the division of epistemic labor. This account of the division of epistemic labor should be "compatible with the idea that citizens are essentially in the driver's seat with regard to the society and equals in the process of



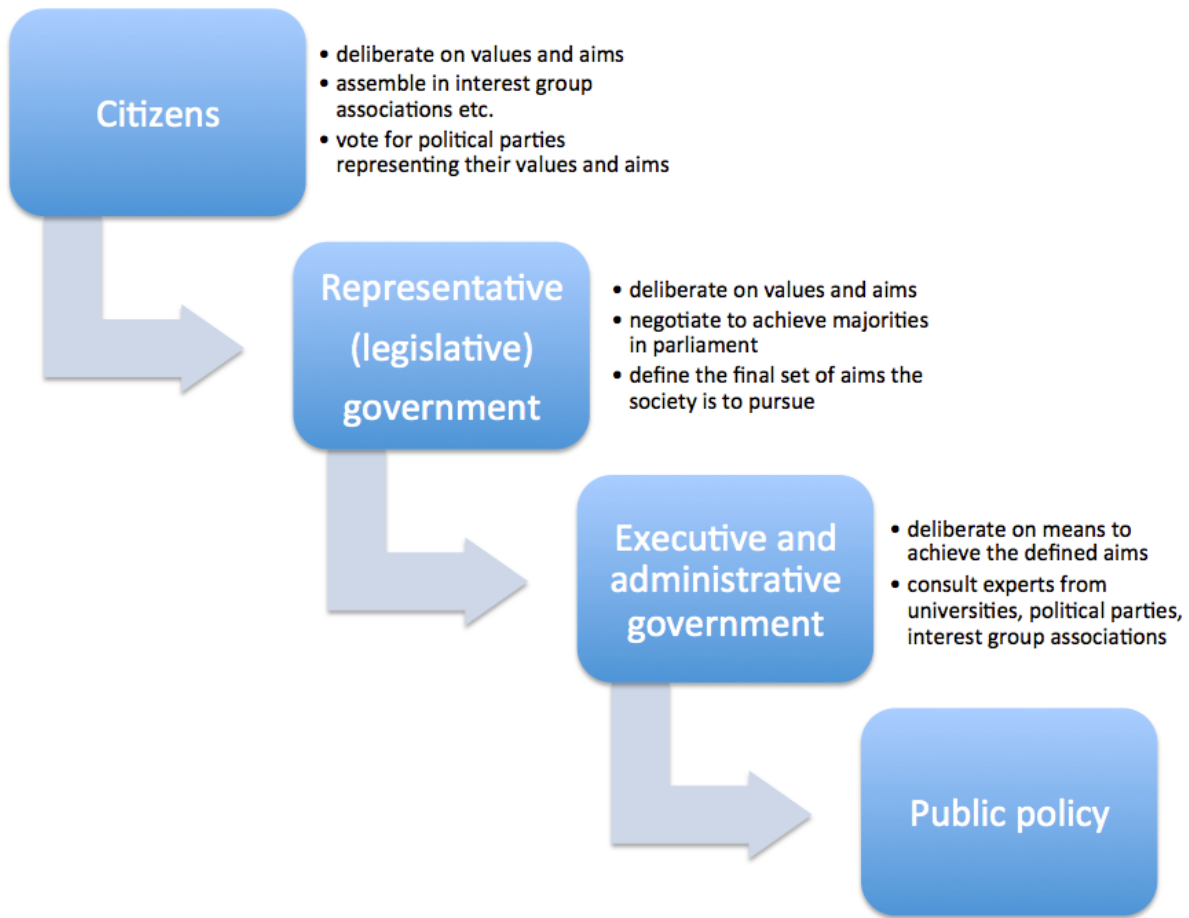
driving the society." (Christiano 2012: 33) Citizens are "in the driver's seat of the society" as long as they, as free and equal, choose the basic aims that society should pursue. Citizens select basic values and the trade-offs among those values, and they select their political representatives respectively. In other words, citizens choose in what kind of a world they want to live (i.e. they choose a package of political aims), and political representatives offer different end states that citizens can vote for. Of course, citizens have different values and will set different aims, and political representatives (as well as citizens and interest groups) can deliberate and negotiate to form workable majorities in the legislature. Deliberation and (in part) negotiation are activities performed by the representative government (e.g. the parliament). After the majority in the representative government has defined the aims the society should strive for, the first step in the decision-making process is over. The next step is the process of making laws and public policies that will enable the realization of the selected aims. Finding the best means to meet the desired and defined aims is the function of the executive and administrative parts of the government (Christiano 2012, Mill 1977a).

I follow Christiano (2012: 34) in claiming that "the rationale for this division of labor is that expertise is not as fundamental to the choice of aims as it is to the development of legislation and policy." Citizens are able to deliberate on values and to understand their own interests, often better than the experts can, and if we want political decisions to promote interests of all citizens equally (Christiano 2008), we should favor a decision-making system in which citizens (as free and equal) select aims the society is to pursue<sup>62</sup>. If citizens choose the aims of the society (through representative bodies with a legislative role), and if the executive and administrative parts of the government properly perform their function, we can say that the citizens are (in a large part) in control of the society. Of course, since politicians and civil servants in the executive and administrative parts of the government need not necessarily be experts in all the relevant issues they have to make decisions about, experts from universities, political parties, interest group associations and parts of the administration are invited to participate in the deliberation and the policy-making process. It is important to emphasize, however, that their role is no longer defining valuable aims the society is to pursue, but devising means and trade-offs necessary for achieving the already defined aims.

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<sup>62</sup> There are two arguments in favor of citizens choosing aims the society is to pursue. The first one is the moral argument, claiming that the interests of all citizens can be publicly equally improved only if the political aims are selected by a procedure that gives everyone an equal chance to participate in the process of selecting these aims (Christiano 2003, 2008). The second one is the epistemic argument, claiming that a wise and benevolent despot would be unable to perceive and understand everyone's interests (and thus make correct political decisions), so we should favor an aim-defining procedure that gives everyone a chance to participate in the process of choosing aims the society is to pursue (Mill 1977a, 1977b).

Diagram 6.1.



The model of democratic decision-making presented above seems to be able to incorporate both the moral demand for equality of all citizens (which enters in the first stage of the process) and the epistemic demand for the quality of results (which enters partly in the second and mostly in the third stage of the process). If we apply this model to Plato's ship analogy from the fourth chapter of this thesis (Plato 2000), we are no longer facing a problem of democracy corresponding to the rule of passengers who lack the necessary knowledge about navigation, but still want to command the ship. Instead, the passengers now choose the destination they want to arrive at, and the passengers (or their representatives) select experts (the captain and his crew) who will take them to the destination they have chosen earlier.

Although I endorse the solution described in the previous paragraph, I acknowledge that it faces a serious challenge. I have granted that the citizens lack relevant technical knowledge to make public policies directly and to devise methods (laws, policies, decisions) for realizing desired aims. But, if they lack technical knowledge to make public policies directly, can they have sufficient

technical knowledge to determine who are (and who are not) the relevant experts in the field? Or should they trust experts blindly?

#### **6.1.d. Do Experts Have Fundamental or Derivative Epistemic Authority?**

To trust someone is to simply treat him or her as a source of knowledge (Faulkner 2002). We often tend to evaluate our sources of knowledge to see how reliable they are and whether they should be considered sources of knowledge at all. This is where we face a serious challenge: arguments and reasons offered by experts are often so complex that we cannot comprehend them, or at least we cannot evaluate them properly. If we cannot evaluate the reasons and arguments experts use to defend their claims, can we evaluate their expertise?

Expertism is a position that claims that we, as non-experts, cannot possess enough evidence to evaluate an expert's testimony as credible or non-credible. Furthermore, since we lack the relevant knowledge and experience in the field, we are not only unable to assess the truth of the expert's testimony, but unable to assess the expert's reliability as well. All we can do is to trust experts blindly, and that need not be epistemically inappropriate: blindly trusting experts can be seen as desirable epistemic behavior or even as an epistemically virtuous behavior. After all, the majority of our beliefs (including our beliefs about medicine, geography, history, astronomy, biology, physics, etc.) are based on the testimony of experts (Lehrer 2006). According to this position, the experts' epistemic authority is fundamental, and (since we depend on their knowledge) we have an epistemic right to trust them without evidence. Expertism thus takes a form of social foundationalism, a position that takes experts' beliefs to be basic and fundamental<sup>63</sup> (Goldman 1987).

Evidentialism, on the other hand, claims that we should have some form of evidence of the experts' reliability—we should not trust experts blindly, even though we cannot directly evaluate experts' reasons and arguments. Experts thus have a derivative authority, which requires the hearer to give his reasons for thinking that the source of information is reliable (has relevant knowledge and skills, or is acting under favorable conditions) and is in a good position to make an accurate claim (Foley 1994). One does not have an epistemic right to trust experts without adequate evidence of their expertise, but also without adequate evidence of the experts' impartiality towards the issue at hand (Festenstein 2009). In order for an expert to have (derivative) authority, a hearer must have evidence that there is a particular standing practice in a community to trust experts, that there are

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<sup>63</sup> Social foundationalism is in this case analogous to foundationalism in individualist epistemology.

some epistemic reasons why this is the standing practice in a community, that this very expert has special expertise in this very domain, and that in these very circumstances an expert has no interest to deceive us (Prijić-Samaržija 2011).

I believe that expertism should be rejected: while I agree that we cannot often possess enough evidence to qualify the experts' testimony as credible or non-credible, I do not think that this undermines our ability to assess the experts' reliability. Many negative effects can influence the experts' ability to produce correct beliefs, and we can assess the experts' reliability by checking whether some of these effects were in place when the experts made their belief. Furthermore, experts' beliefs are often confronted by opposite beliefs by some other experts (e.g. beliefs regarding climate change, genetically modified organisms and nuclear energy<sup>64</sup>) and eventually we are those who have to decide which group of experts shall we follow.

We (or members of representative government) cannot directly assess whether the means suggested by experts and the administrative and executive government will achieve the desired end, i.e. whether the laws and policies that are about to be enacted will lead our society toward the aims we have collectively put forward through a democratic procedure. However, we can assess the reliability of the experts who have created these laws and policies, and we can decide whether or not to authorize them. Consider another jury analogy: members of a jury are not experts in forensics and are unable to properly assess the evidence found at the crime scene. However, one or more experts in forensics are called to testify before the court, and the members of a jury assess the experts' reliability, and not the evidence presented by experts directly.

It is a feature of juries that they do not for the most part if at all consider the truth or falsity of the evidence directly, but the trustworthiness of those who present it. Thus it is with the citizens' jury: often, it is the character of those on whose testimony we call, their capacity to speak on the issue in question, their reliability, independence and disinterestedness that is at issue. The model provides the best we can hope for in the institutional dimension to answerability. (O'Neill 1998: 100)

The process I have described this far puts a heavy emphasis on the role of experts in decision-making: citizens (and their representatives) choose the basic aims that society is to pursue, and citizens (and their representatives) decide who will be entrusted with the task of creating public policies and laws that are to realize these aims. People recognized as experts (regarding moral and

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<sup>64</sup> One way of assessing the expert's reliability is checking whether the expert is biased or has an interest to deceive us. This can, among other things, be done by checking who is funding the research the expert is working on. If an expert is claiming that the climate change is not happening, we will rightfully tend to trust him less if he is financed by petrol industries than if he is financed by the state.

technical knowledge) then use their superior knowledge and skills to create policies and laws, which are authorized by the citizens (or their representatives). It is important to notice that this is not a form of epistocracy (since those who make laws are chosen by citizens, and the laws are authorized by citizens, and not by the mere fact of expertise of those who made them). Furthermore, deliberation among citizens and various interest groups regarding the aims the society is to pursue is encouraged, and citizens are essentially in the driver's seat with regard to the society (Christiano 2012). I find this model of the division of epistemic (and political) labor appealing, though I believe that it can be further improved by introducing the deliberation between experts and citizens.

### **6.1.e. Interaction between Experts and Citizens**

The decision-making process I have described in this part of the chapter seems to be unidirectional. The citizens discuss which aims the society should pursue and they select political representatives who also deliberate and negotiate until these aims are clearly defined. Then the executive government proceeds to devise means (laws, public policies and political decisions) needed to achieve these aims, and it consults and rests heavily on the guidance of experts in various fields. Though I think that this scheme represents a decent depiction of the role of experts in a democratic society, I find it oversimplified and lacking the bidirectional character necessary for constituting the epistemic value of democracy. Namely, it seems that experts should be able to contribute to the first stage of decision-making process (selection of aims), from which they are normally excluded, and it also seems that citizens should be able to contribute to the second stage of the process (creation of laws and policies) from which they are normally excluded. A decision-making procedure that is able to integrate the epistemic value of bidirectional deliberation between citizens and experts, while simultaneously keeping the citizens in the driver's seat of the society, should be epistemically better than a unidirectional procedure.

#### *(i) Communication from Experts to Citizens*

Since we live in a society characterized by the plurality of reasonable (yet often incompatible) doctrines, the aims advocated by citizens will be diverse and often incompatible. Sometimes the incompatibility of our aims will be clear to us and we will be aware that at least some aims should be changed in order to reach a compromise. However, sometimes the aims selected by citizens can seem compatible to them, yet experts might know that in fact they are not. Citizens might agree that they want to live in a society characterized with full employment, some form of equality of wages and the fiscal discipline. All these aims can be considered valuable and consistent by citizens, yet

economic experts will rather quickly agree that the three aims are not compatible—they cannot be achieved simultaneously (Iversen & Wren 1998, Hemerijck 2013). If the experts cannot influence the process of selecting aims the society is to pursue, they might receive a task of creating laws and policies that serve to achieve incompatible political aims. Such laws and policies will be epistemically crippled (since laws and policies supporting one political aim will damage or jeopardize another aim) and the epistemic value of such decision-making procedure will be brought into question.

Furthermore, though citizens might advocate some aims categorically, many other aims will be advocated because they are seen as desirable, yet their desirability might change if the cost for achieving them is too high. One might hold that supporting traditional agriculture is a valuable aim that society should pursue, but one might also be ready to abandon this aim if the cost for achieving it are protectionist laws that lead to international isolation or substantial transfers (in form of taxes) from successful branches of the economy to agriculture practices with small cost-efficiency. In order for citizens to understand the cost for achieving some political aims, citizens should understand the means (laws, policies and decisions) necessary for the achievement of these aims. Since means are devised by experts, the communication between experts and citizens is essential for selecting eligible political aims. Deliberation should not persist only within separate stages of the decision-making process (e.g. the deliberation among citizens and representatives in the first stage and the deliberation among experts and policy-makers in the second stage), but between different stages of decision-making process as well.

#### *(ii) Communication from Citizens to Experts*

Can citizens help the experts in the process of making political decisions, laws and policies? Of course, citizens select aims the society is to pursue, but can their participation in the decision-making process (i.e. in the process of devising means to achieve the desired aims) improve the epistemic quality of decisions, laws and policies? There are many examples that point out instances when experts would have produced a better decision had they listened to reasons and arguments citizens had to offer. Whyte and Crease (2010) analyze a case of radioactive material (including cesium) deposited by rain on portions of Great Britain after the Chernobyl meltdown in April 1986. Sheep ingested contaminated grass, and since the level of radiation found in samples of lamb meat was well beyond the maximum permissible level, the regulatory agencies ordered that the sheep should be slaughtered. Scientists, who did not consult the sheep farmers, predicted that the grass will be radioactive for three weeks, but they conducted several serious mistakes: they based their

research on the absorption of cesium in human digestive system (instead of the digestive system of sheep), they thought that the level of radioactivity will correspond to the level of rainfall (forgetting that, once the rain falls, the water is not evenly accumulated and thus some areas will receive much higher level of radiation than other areas), and they conducted experiments regarding the cesium absorption in fenced lawns (disregarding the fact that sheep do not eat an equal amount of grass when they are fenced and when they are in the open, among other things because they do not do the same level of physical activity). Local farmers (who were, of course, ignorant regarding the nuclear physics) tried to warn scientists and experts about these errors and negligence, but the scientists were unwilling to consider the sheep farmers' knowledge. This was caused by some actors having too narrow a conception of scientific expertise: some actors with relevant knowledge and competences, but no formal credentials, were not recognized as potential contributors—credentialed scientists overlooked relevant types of knowledge and competences (Whyte and Crease 2010). This was an instance of epistemic (testimonial) injustice, discussed in the fifth chapter of this thesis: a prejudice or bias caused a hearer (scientist) to give a deflated level of credibility to a speaker's (sheep farmer's) word (Fricker 2007, 2013). Furthermore, this practice jeopardized the trust the local population had in the credentialed experts—since scientists acted arrogantly and refused to even listen to what sheep farmers had to say, they were unable to produce decisions of adequate epistemic quality, but they also threw away the chance to demonstrate the (epistemic) value of experts' methods to the local population.

In order to have the desired epistemic value, the decision-making process should be bidirectional—though it is primarily the role of the people (and their representatives) to determine the aims the society is to pursue, experts should participate in public deliberation and give insights on how difficult it is to achieve those aims, and though it is primarily the role of experts (and the executive government) to devise means (laws, policies, decisions) that will help us achieve the desired aims, citizens (and NGO's and other interest groups) should participate in the deliberation with experts and give their epistemic contribution regarding the decisions, policies and laws that will be enacted to promote desired aims. The role of policy-makers (the executive and the administrative government) is to moderate the deliberation between experts and citizens and to analyze the different kinds of epistemic contributions that different actors can bring into deliberation<sup>65</sup> (Douglas 2005).

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<sup>65</sup> The role of philosophers (and in particular philosophers of science) might be to help them moderate these discussions, and thus they might be seen as interactional experts (Whyte and Crease 2010).

### **6.1.f. Conclusion**

In this part of the chapter I have claimed that the epistemic individualist's view, typical for the Age of Enlightenment, is not appropriate for contemporary societies. Reasons, arguments and evidence supporting some scientific claims can be so complex that we cannot understand and evaluate them properly—we would need extensive education and specialization that would take years or even decades to understand and properly evaluate only a small set of political decisions. There are epistemic authorities and we should trust them, but this trust should not be blind. When we are unable to evaluate the experts' claims (or reasons and evidence supporting these claims), we should evaluate the experts' credibility instead. Scientists' impact factor, as well as their reputation within the scientific community and their interests regarding the issue at hand must be assessed in order to put our trust in them. In order for a decision-making procedure to have a satisfying level of epistemic value, it should incorporate the idea of division of epistemic (and political) labor. Citizens should select aims and values the society is to pursue, and experts should devise means (laws, policies and political decisions) that will help us achieve those aims. However, the process should not be unidirectional: experts can help the citizens to select better (more consistent or more feasible) aims, while the citizens can help experts by introducing new perspectives and missing information into the decision-making process. This part of the chapter does not try to establish the final account of the division of epistemic labor—it only sketches what should be the role of experts in epistemic democracy.

## **6.2. EPISTEMIC DEMOCRACY AND INFORMAL POLITICAL SPHERE**

I have claimed that, in order to have legitimacy-generating potential, a decision-making procedure has to be justified on the basis of reasons and arguments all qualified (or reasonable) citizens can endorse. The standard account of epistemic democracy is characterized as a non-monistic position: a procedure has to have both purely procedural and instrumental (non-procedural) qualities in order to be able to generate legitimate decisions. It has to give every qualified citizen an equal chance to participate in the process of making and authorizing political decisions<sup>66</sup> (moral or purely procedural requirement) and it has to perform better and produce better results than any other fair decision-making procedure (epistemic or instrumental requirement).

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<sup>66</sup> Eventually, the procedure can give some citizens a greater chance to participate in the decision-making process, but this has to be justified on the grounds which all reasonable (or qualified) citizens can understand and endorse. The invidious comparisons objection successfully blocks any such attempt, so the equal and universal suffrage can be seen as a default position, with any unequal distribution introducing extra burden of justification.



A decision-making procedure takes place in real societies, where social and economic factors can significantly shape the procedure's ability to meet the two criteria. If a single group sharing the same worldviews or interests controls the political and the public sphere, or if a small group of people has control over the media or science, we can expect that epistemic qualities of the democratic decision-making procedure will be damaged. Sometimes the damage will be so extensive that coin-flipping will be an epistemically more reliable decision-making procedure than the majority rule (e.g. racial laws in Texas in 1920s and 1930s). It is clear that, in such conditions, the procedure's epistemic qualities are damaged and democracy cannot have a legitimacy-generating potential. Similarly, if a single group sharing the same worldview controls the political and the public sphere, or if a small group of people has control over the media or science, we can expect that the moral qualities of the democratic decision-making procedure will be damaged as well. Some citizens will have greater chance to influence and shape the final decisions, and this greater chance will be based on something not everyone can accept as relevant or appropriate. Greater political authority of some will be justified by reasons and arguments not all reasonable citizens can affirm and endorse. Again, in such conditions the procedure's moral qualities are damaged and democracy cannot have a legitimacy-generating potential.

In this part of the chapter I want to point out that, in order to have legitimacy-generating potential, epistemic democracy has to incorporate many egalitarian ideas and policies. Though there are many factors that contribute to the unequal distribution of political (and epistemic) power, I shall focus on the unequal distribution of wealth as the central problem that damages epistemic and moral qualities of a democratic decision-making procedure. In order to prove my point, I shall first describe and analyze a few examples that clearly show how the unequal distribution of wealth causes the unequal distribution of political power. I shall then analyze and eventually reject David Estlund's solution to this problem. Estlund (2008) claims that, at least regarding some sorts of input in political process (e.g. financing the political campaigns), we should apply a form of Rawlsian difference principle (Rawls 2001)—we should allow unequal inputs in the decision-making process if (and only if) these unequal inputs will lead to a greater level of input altogether, and a greater chance to influence the final decisions for those who are worst-off. Having rejected Estlund's proposal, in the final section I claim that only a truly egalitarian state can guarantee favorable social and economic conditions for democracy's legitimacy-generating potential.

### **6.2.a. How Does Wealth Inequality Cause Political Inequality?**

There is more than one way how a citizen can participate in a decision-making process and shape the final decisions produced by a democratic procedure. Voting is one way of participating in a decision-making process, and most forms of democracy endorse the idea 'one person—one vote'. Strong egalitarian requirement is uncontested here. However, one can also participate in a decision-making process by contributing money to campaigns. Of course, contributions cannot influence outcomes directly—votes are what wins elections. Contributions can be used by parties to influence voting behavior by paying for things that increase the likelihood that their supporters will outnumber those of other parties (e.g. using "get out the vote" operations, registration drives and advertisements) (Rosenstone & Hansen 1996). Running for an office or trying to present and explain one's reasons and arguments to others is not a cheap or easy task, especially in large political communities. Paid advertisements, public relation experts, appearances in the media and public rallies can greatly help one to convey one's political message and one's agenda. However, these means are not equally available to every citizen: wealthier candidates and candidates supported by wealthy contributors will, other things equal, have access to better means for conveying their political messages to the public than poor candidates and candidates supported by poor contributors. Though not a single donation can be regarded as decisive, "the presence of campaign contributions leads to an endogenous wealth bias in the political process since the decisive agent whose preferences will prevail in equilibrium will be wealthier than the median." (Campante 2011)

The presence of campaign contributions can thus be problematic for two reasons: first, it effectively gives wealthier citizens a greater (indirect) chance to influence the outcomes of decision-making processes, thus not treating all citizens as equals (a moral problem), and second, it forces parties to adopt platforms to attract the wealthy in order to receive more contributions that can be used to pay to convey the party's political message to the public, thus shaping laws and policies which are not in the interest of the people (or on the basis of best reasons), but in the interest of the wealthiest (or towards those who are able to fund their campaigns) (an epistemic problem).

If campaign contributions are a source of unequal distribution of political power, then they should be forbidden in order to preserve democracy's legitimacy-generating potential. Though the antecedent of the former claim is generally accepted and supported by numerous independent

studies<sup>67</sup>, the consequent is still an object of an extensive debate. Namely, many scholars think that limiting our right to financially (or in some other relevant way) support a candidate limits our basic liberal rights and the freedom of speech. However, sometimes the freedom of speech has to be restricted to be protected. Imagine a deliberative assembly in which anyone could speak as long as one wanted to, talk out of turn, disobey the moderator, etc. The epistemic quality of such deliberation would be damaged, and we might even want to place restrictions on such deliberation in order to give everyone a chance to exercise his or her freedom of speech (Meiklejohn 1960). We have strong (public) epistemic and moral reasons to place certain restriction on the freedom of speech, and we might also have strong (public) moral and epistemic reasons to place certain restrictions on campaign contributions.

In the next section I shall discuss David Estlund's proposal: Estlund claims that, regarding informal political sphere, political egalitarianism can be considered a crude and implausible principle since it might be targeted by a special kind of leveling-down objection (similar to one described in the second chapter of this thesis, where I discussed Thomas Christino's position).

### **6.2.b. Estlund and the Leveling-down Objection**

Estlund (2000, 2008) makes a clear distinction between the formal political sphere, the informal political sphere and the non-political sphere. The norms that should rule each of these spheres are not equally demanding: while formal politics should try to resemble the ideal deliberative procedure, the informal politics includes so many elements (political campaigns and advertising, political art, public rallies and so on) that we simply cannot hope that it can mirror the ideal deliberative procedure. This leads us to the problem of the second best: Estlund claims that, once we know that a political ideal cannot be met, aiming for the second-best approximation of that ideal need not be the right thing to do. If the ideal is to exclude power from politics, but one party nonetheless uses power to achieve its political aims (and so the ideal cannot be achieved), maybe we should abandon the ideal altogether and use power ourselves to confront that particular party (i.e. maybe abandoning the ideal will yield better results than holding it no matter what). We should aim for equal political participation in the formal political sphere, but since equal political participation cannot be achieved in the informal political sphere, we should not shape all laws and policies to try to approximate the ideal where it cannot be properly mirrored. Therefore, Estlund

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<sup>67</sup> Campante (2011) and Lijphart (1997) offer a large list of researchers and scholars who have verified the claim that unequal distribution of wealth causes (through campaign contributions, but also through lobbying, private media, etc.) an unequal distribution of political influence.

claims, we can abandon the ideal of equal participation in the informal political sphere in favor of some other ideals and values. One such ideal is the epistemic value of political participation, and the modified version of the leveling-down objection can help us see why a system with unequally distributed political participation (in the informal political sphere) is better than the system with equally distributed political participation (Estlund 2008).

Egalitarians generally favor the equal distribution of the good that is being distributed. The leveling-down objection states that, in some situations, egalitarianism thus has to favor the state S1, in which everyone is equally well-off, over S2, in which some are better than others, but nonetheless everyone is better than he or she would be in S1. Consider the example from the second chapter of this thesis, originally presented by Thomas Christiano (2008).

Table 6.1.

	S1	S2	S3
A	2	3	5
B	2	7	5

When applied to the distribution of *well-being*, the leveling-down objection points out that egalitarianism has some implausible implication—namely, it seems that egalitarians should prefer S1 over S2, but in S1 everyone is worse-off than in S2. Furthermore, if we introduce an alternative state S3, in which everyone is equally well-off, and everyone is better-off than in S1, it might seem that the principle of equality should be indifferent towards S1 and S3. Christiano (2000, 2008) disagrees and claims that there is an internal connection between rationale for equality and the value of the relevant fundamental good that is equalized. We want well-being to be distributed equally because we care about well-being: egalitarians should therefore favor S3, and if S3 is not feasible, they should favor the state of inequality in which everyone is better-off than in the best feasible state of equality (i.e. egalitarians should favor S2 over S1).

Estlund uses similar argumentation and applies it to the distribution of citizens' *political inputs* (or campaign contributions)<sup>68</sup>. He claims that "unequal opportunity for input should be

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<sup>68</sup> It is very important to emphasize that Estlund defends equal political participation in the formal political sphere. 'One person—one vote' is not a principle Estlund would consider rejecting, since it falls within the formal political sphere. His argumentation presented in this chapter is directed only toward political participation in the informal political sphere.

allowed, to some extent, if by doing so the overall amount of input is increased and as a result the expected epistemic value of the overall arrangement is improved." (Estlund 2008: 195) Inequality of inputs can thus be epistemically justified—since more input opportunities for everyone is epistemically better than less, we should favor the state of inequality in which the level of input of every citizen is greater than in the state of the best feasible equality of input. Of course, Estlund claims, the inequality should not be so great that it negatively influences the epistemic qualities of a decision-making procedure. It is important to emphasize that he does not see the total quantity of political input as a zero-sum game—just like wealth, political input of some citizens can be increased without decreasing the political input of others. "If everyone wrote more letters to their congressional representative annually than they now do, the total quantity of input would increase, and no one's persons absolute quantity of input would decrease." (Estlund 2008: 197)

Estlund does not want to justify any level of political inputs: we should limit the amount of input any citizen can have (i.e. limit the amount of money one can donate or contribute to a political campaign). Within these limits, citizens can have different levels of input, but such unequal distribution must lead to the increase of the level of inputs of those who are worst-off.

Assume everyone is supplied with resources for political use at the highest level compatible with everyone having an equal amount. Now allow additional expenditures through (and only through) government-supplied vouchers. These have cash value when contributed to certain political endeavors such as election campaigns, and no value otherwise. Each next or marginal voucher a person buys costs more than the previous, but has only the same value as the last. [...] the extra amount retained by the agency goes into a fund and is then distributed among all those who are happy to receive only their one government-supplied voucher. They are available for free [...]. (Estlund 2008: 196-197)

In a town of 200 000 voters, Estlund assumes that the maximum equal level of political input without vouchers would be \$5 per voter, for a total expenditure of \$1 million. Those who want to have greater political input can buy vouchers, which are worth \$50 (this is the money that will be contributed to a political campaign for each voucher), but their cost increases so that the first one costs \$50, the second one \$88, the third one \$153, the fourth one \$268 and the fifth and final voucher costs \$469 (this is the money one has to give in order to get additional vouchers). Those who bought five vouchers will contribute \$250 to a particular political campaign, but will have to pay \$1028 to the agency. The remaining cash is then distributed among those who did not buy any vouchers, so that (providing that only 5% of votes bought vouchers) the maximum equal level of input for those who did not buy vouchers would be \$19 and not \$5 per voter, and the total

expenditure would be over \$3.5 million, instead of the original \$1 million. Part of this fund would be covered by the government (the original \$1 million), and the additional \$2.5 would be added to the original fund thanks to the difference between the value and the cost of each voucher.

Table 6.2.

	Voucher value	Voucher value	Voucher value	Voucher value	Difference paid to the agency
1	\$50	\$50	\$50 (1 x 50)	\$50	\$0
2	\$50	\$88	\$100 (2 x 50)	\$138	\$38
3	\$50	\$153	\$150 (3 x 50)	\$291	\$141
4	\$50	\$268	\$200 (4 x 50)	\$559	\$359
5	\$50	\$469	\$250 (5 x 50)	\$1028	\$778

This model introduces some interesting considerations. While previously no voter contributed more than \$5, now every voter contributes at least \$19—everyone contributes more now than they did before. Furthermore, the inequality of input has been introduced—while some contribute only \$19, some contribute \$250—the highest contribution is more than thirteen times the lowest. Finally, the total contribution is far greater than before: while the total contribution was \$1 million before the vouchers had been introduced, it is now over \$5 million. Estlund assumes that this greater quantity will have positive consequences for the epistemic value of the decision-making procedure, provided that inequalities are not too great (Estlund 2000, 2008).

### 6.2.c. Rejecting Estlund's View

I agree with Estlund that informal politics does not have to try to approximate the ideal deliberative situation, disregarding the potential costs and risks. We should not try to introduce equality no matter what, but we should, nonetheless, care for the epistemic qualities of a decision-making procedure. However, I disagree with Estlund regarding how this epistemic quality of the procedure can be preserved in the informal political sphere. I want to construct an epistemic account of egalitarian policies regarding political participation in the informal political sphere.

There are two objections I rise against the idea that unequal distribution of political inputs can be justified on the epistemic grounds. My first objection claims that the leveling-down objection cannot be successfully applied to the case of unequal political inputs—while unequal levels of wealth might motivate those who are more capable to be more productive, thus creating

additional resources, it is dubious what would unequal distribution of political inputs motivate them to do, and how would this create additional resources (i.e. political inputs)? Why not simply tax those who are better-off, and use that money to equally improve everyone's level of political inputs. My second objection claims that the unequal distribution of political inputs can be reasonably rejected, and thus cannot be a part of a legitimacy-generating decision-making procedure. Namely, vouchers give greater political power to a certain class or group of people (e.g. those who are wealthy enough to buy them), and this might introduce some biases and other epistemically damaging features into the procedure, making it less likely to produce a correct outcome than a democratic procedure (one in which everyone makes an equal political input). Though this need not be true, it is not unreasonable to think that some epistemically damaging features might be introduced into the decision-making process, just like they would be introduced if we adopted some form of scholocracy characterized by the plural-voting system. Estlund's argument against scholocracy discussed in the fourth chapter of this thesis can thus, it seems, be used against his own voucher proposal.

*(i) Leveling-down Objection and Political Inputs*

Though some might argue that the total quantity of political input is a zero-sum game, where giving more political input to some necessarily reduces the input of others<sup>69</sup>, Estlund argues that political input should be treated as wealth—more wealth for some does not necessarily mean less wealth for others, and similarly more political input by some does not necessarily result with less political input by others. Political input, and not political influence, is considered as something with an epistemic value, and thus the more political input the decision-making procedure entails, the greater its epistemic value (of course, provided that the political influence is not too unequally distributed) (Estlund 2008). I am going to endorse, for the sake of the argument, Estlund's claim that the political input is not a zero-sum game. However, I believe that, even if more political input by some does not necessarily result with less political input by others, the leveling-down objection cannot be used against (strict) political egalitarians.

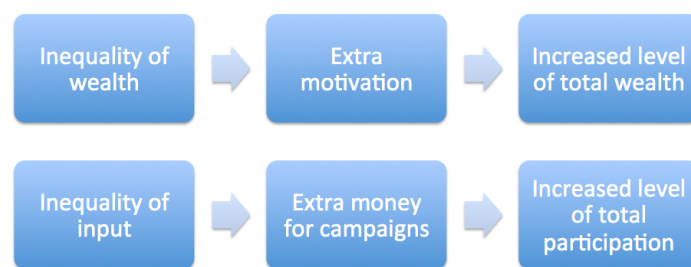
The leveling-down objection can be used against egalitarians when the distribution of wealth is in question: unequal distribution of wealth can indeed motivate those skilled and competent to produce more than they would have produced if wealth was equally distributed, and this difference

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<sup>69</sup> We should distinguish between input and influence. *Input* is an individual's absolute quantity of political participation, while *influence* stands for a person's fraction of the total political input. Estlund claims that, even if influence is defined as a constant sum, the quantity of input is not (Estlund 2008).

in production can lead to a state in which the total wealth is greater when it is unequally distributed than when it is equally distributed. In such situations, it makes sense to follow Rawls' difference principle (Rawls 2001) or Christiano's principle of public equality (Christiano 2008) and conclude that inequalities should be allowed as long as the wealth of those who are worst-off is greater in the conditions of inequality than it would be in the conditions of best feasible equality. Can the same argumentative strategy be applied on the distribution of political input? I do not think it can. Namely, I do not see how giving some citizens greater political input can directly cause the increase in the total level of political input. Of course, the total level of political input will be increased because there is a difference between the cost of the voucher and its value, and this difference is invested to increase the political input of those who did not buy a single voucher. However, there is no direct connection between the unequal distribution of political input and the increased level of total political input, while there is such direct connection between the unequal distribution of wealth and the increased level of total wealth.

Diagram 6.2.



Consider the first case: our aim is to increase the level of total wealth (and to increase the wealth of those who are worst-off), and the means we want to use is additional motivation for all citizens, especially those who are skilled and competent. There are several ways to increase the motivation of all citizens, but we can all agree that equal wages and equal rewards have the opposite effect, i.e. they tend to decrease the motivation of citizens. Though we can disagree on what is the best way to increase the motivation and productiveness, we can agree that if we treat different work results and achievements equally, this tends to decrease the motivation of those who work.

Now, consider the second case: our aim is to increase the level of total input (and to increase the input of those who are worst-off), and the means we want to use is additional money for political campaigns. There are several ways to get additional money for political campaigns (e.g. additional taxation), and it is not so clear why the equality of political input would have the opposite effect, i.e. why it would decrease the available money for political campaigns. Money is out there



regardless of whether a political system is based on equal or unequal inputs, since it is inequality of wealth that causes additional motivation and productivity, not inequality of political inputs. Furthermore, though we might argue that the increase of political input will have beneficial epistemic consequences and will result with better decisions, thus (among other things) generating a better economic situation and more money that can be invested to increase the political input, this account does not need inequality of political inputs. If everyone has an equal political input, the increase of the total political input will increase the amount of resources available for political campaigns, thus again increasing the total level of political input. On the other hand, unequal distribution of wealth seems to be needed—even if the total level of wealth is somehow increased, this will not have the desired motivational effect unless those who have contributed more are rewarded more. If everyone has an equal level of wealth, the increase of the total wealth will not increase the motivation of workers and employers, and the total wealth will not be increased again<sup>70</sup>.

There is an important distinction between political input and wealth. When we discuss wealth, S2, a state of unequal distribution, seems to be better than S1, the best feasible state of equality, precisely because equal distribution of wealth decreases motivation and productivity. The leveling-down objection targets precisely this incompatibility between equal distribution of wealth and high levels of total wealth. It claims that, if you want to have a high level of total wealth, you should abandon the idea of the equal distribution of wealth. However, when we discuss political input, S2, a state of unequal distribution, seems to be better than S1, but S1 is not the best feasible state of equality. Namely, since there is no incompatibility between equal distribution of political input and high levels of total input, S3 is considered to be the best feasible equality. The leveling-down objection does not target political input because there is no need to level it down to achieve

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<sup>70</sup> To further elaborate on this idea, imagine a town meeting that takes place every week at the local stadium. Citizens deliberate and exchange reasons and arguments, and after the deliberation they vote for the decision or policy they find best. Since the stadium is not covered by a roof, the total time citizens can use to deliberate and make decisions is 2 hours a week, which gives every citizen 5 seconds to talk and present his reasons and arguments. Of course, not all citizens participate in the discussions, and every citizen can donate his 5 seconds to his political representative or a particular party, which then gets more time to present its arguments. Imagine, furthermore, that someone suggests that a roof should be built, and this will ensure that deliberation can take place even during rainy days. If a roof is built over the stadium, the total time citizens can use to deliberate and make decisions is no longer 2 hours, but instead 10 hours a week. Since the construction of the roof is expensive, it is suggested that vouchers with additional seconds will be sold in order to finance the construction of the roof. Some citizens (those who had bought the maximal number of vouchers) will have 2 minutes to present their arguments or to donate them to their representatives or parties, while some (those who had not bought vouchers) will have 20 seconds. The total time citizens have to deliberate, as well as the time every citizen has to present his arguments, is increased, though a form of inequality has been introduced. An alternative way of financing the construction of the roof would be to introduce a new (progressive) tax, one that would allow the community to build a new roof over the stadium. The total time citizens have to deliberate would again be 10 hours, and we could preserve the equality of input by giving every citizen 30 seconds that can be used to present one's arguments or to donate them to a political representative or party. It is unclear why would the voucher system be able to collect more funds than the system of progressive taxation.

equality—provided that the equality of political input does not affect the productivity of citizens, there will be an equal amount of money for funding political campaigns in both the state of equal and the state of unequal political input. One way to get the money (and thus to increase the level of total political input) is to sell vouchers; another is to introduce additional (progressive) taxation. Looking from an epistemic point of view, it might even be better to fund political campaigns through progressive taxation, since this would enable us to collect more money and thus to increase the level of total input, increasing the epistemic value of a decision-making procedure.

*(ii) Unequal distribution of political inputs and the demographic objection*

Estlund emphasizes that there is an important distinction between the formal and the informal political sphere. *Formal politics* (e.g. deliberation in the parliament) can come closer to the deliberative ideal than other settings. Narrower deliberative norms should be applied in formal political settings since there they will likely have more epistemic benefits than costs (Estlund 2008). On the other hand, it would be a good thing if the *informal political public sphere* (political speeches, candidate debates, political campaigns) could incorporate the narrower deliberative norms. However, Estlund claims, it is very unlikely that it can even approximate these norms. Facing the problem of the second best, Estlund claims that we should no longer try to implement the narrow deliberative norms on the informal political sphere, but should instead search for different norms appropriate for the informal political sphere. These norms should be stricter than those appropriate for the non-political sphere, but should be less strict than those appropriate for the formal political sphere (Estlund 2008). I generally agree with Estlund, but I think that applying norms that are too weak on the informal political sphere can cause serious damage to the epistemic value of a decision-making procedure. In order to support this claim, I discuss and reject Estlund's voucher proposal, which represents a norm in the informal political sphere.

Though Estlund's proposal does not allow great inequality of political input (since it sets the maximal number of vouchers one can buy to five), it still represents a significant departure from equality. Small group of citizens (those who had bought vouchers, approximately 5% of all voters) will contribute \$1.5 million to the political campaign of their parties and representatives, and the other voters (9%) will contribute \$3.5 million. This means that 5% of voters will contribute with 30% of the total political input. Though most people can afford to buy vouchers, we can assume that they will be bought by richer citizens, or we can at least assume that not many poor citizens will buy vouchers. Since it is clear that the party's success on elections depends, to a great extent, on the money invested in political campaign and advertising, we can conclude that greater political input

in the informal political sphere results with greater political influence. This introduces a form of political inequality, but Estlund can argue that this inequality can be epistemically justified, since it increases the level of the total political input, which is considered an epistemically valuable feature. However, this practice can also have considerable epistemic defects and reduce the epistemic value of a decision-making procedure.

Consider the epistemic argument against Mill's plural-voting proposal, discussed in the fourth chapter of this thesis. This argument, often referred to as the demographic objection, states that there might be some epistemically damaging features, characteristic for the group that has greater political influence, that countervail the admitted epistemic benefits of a greater level of the total political input. If buying the vouchers is disproportionately a privilege of certain races, classes or genders, these might be seen as biases that damage the quality of collective decisions. Voucher system will give greater political power to a certain class or group of people (or reduce the political power of some other class or group), and this might introduce some biases and other epistemically damaging features into the procedure, making it less likely to produce a correct outcome than an egalitarian procedure (one in which everyone receives an equal political influence). If 5% of voters contribute with 30 percent of the total political input, we should not be surprised if political parties try to implement the interests and values of these 5% into their agendas. Campante (2011: 648) thus writes that "an increase in inequality will enhance the advantage of the rich in providing contributions, by shifting resources in their favor, and this will in turn lead the parties to move their platforms further closer to the preferred positions of wealthier individuals. As a result, the decisive agent will now be someone at a higher percentile in the wealth distribution: More inequality will have an effect of strengthening the wealth bias in the political system."

Of course, political parties will need the support of other groups as well, and we must not forget that it is votes that in the end win the elections, not the money, but the relation between the two should not be neglected. If some citizens (and their interest and values) receive greater political influence and special treatment in the agendas of political parties, we should be certain that no epistemically damaging features have thus been introduced into the decision-making procedure. It seems, however, that it is not unreasonable to think that some epistemically damaging features will be introduced by giving greater political influence to the wealthier part of the political community, and that such decision-making systems' epistemic qualities will be damaged, resulting with substantively wrong or incorrect laws and policies (e.g. public policies that led to 2008 financial crisis). In fact, a lot of recent studies link unequal participation in the informal political sphere with

various substantively wrong or incorrect laws and policies (Stiglitz 2013, Piketty 2014, Campante 2011, Krugman 2013).

As I have emphasized earlier, I agree with Estlund that implementing equality in the informal political sphere is subject to the problem of the second-best. However, I still think that, at least regarding campaign contributions, more equality is generally epistemically better than less. Furthermore, I also think that the formal and the informal political sphere are so closely connected that allowing substantial inequalities in the latter inevitably introduces inequalities in the former. This is the problem I want to address in the next section.

#### **6.2.d. Rawls and Substantial Political Equality**

The importance of equal participation in the formal political sphere is established by John Rawls' (1971, 2001) two principles of justice as fairness:

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

*Second 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). (Rawls 2001: 42-43)

In order to have legitimacy-generating potential, a decision-making procedure has to meet the first principle. However, a system can only be just if it meets both the first and the second principle. Legitimacy thus specifies a normative minimum and points that some social states (and decision-making procedures) should be respected even if they fall short of justice. Rawls holds that political liberties are a subset of the basic liberties, including the right to hold public office and the right to affect the outcome of elections. For these liberties Rawls requires that citizens be, not only formally, but also substantively equal! Citizens similarly endowed and motivated should have the same opportunities to hold office and to influence elections, regardless of their social class (Rawls 2001, Wenar 2013). Rawls is aware that formal equality is not enough—however, in order to introduce substantive equality of political liberties, it is not enough to focus only on the formal political sphere. It is not enough that every citizen has an equal formal opportunity to run for an office or to influence elections—political equality goes deeper and requires major changes in the social and economic system of a political community. Rawls rejects welfare-state capitalism primarily because

of its incompatibility with the fair value of political liberties (i.e. its violation of the first principle of justice as fairness).

Welfare-state capitalism rejects the fair value of the political liberties, and while it has some concern for equality of opportunity, the policies necessary to achieve that are not followed. It permits very large inequalities in the ownership of real property (productive assets and natural resources) so that the control of the economy and much of political life rests in few hands. And although, as the name 'welfare-state capitalism' suggests, welfare provisions may be quite generous and guarantee a decent social minimum covering the basic needs, a principle of reciprocity to regulate economic and social inequalities is not recognized. (Rawls 2001: 137-138)

Rawls does not deny that welfare-state capitalism would provide the *formal* protection of the equal basic rights and liberties. He denies that welfare-state capitalism would be able to protect the *fair value* of the political liberties. Though welfare-state capitalism may be able to meet the first principle of justice as fairness in a weak or shallow sense, it cannot provide a genuine satisfaction of that principle (Rawls 2001, O'Neill 2012).

Rawls (rightfully) warns us that the formal and the informal political sphere are closely linked: even if we guarantee equal participation in the formal political sphere, the unequal participation in the informal political sphere (e.g. campaign contributions) can damage and undermine the value of equal political participation of all reasonable citizens<sup>71</sup>. In order to achieve substantial equality, we need a socioeconomic system that can meet the following three aims: (i) wide dispersal of (both human and nonhuman) capital, with every individual controlling broadly equal amounts of capital, (ii) blocking the intergenerational transmission of advantage (including gift and inheritance taxes), and finally (iii) safeguards against the 'corruption' of democratic politics (including publicly funded election) (Rawls 2001, O'Neill 2012). I agree with Rawls regarding the importance of these three aims: though the informal political sphere does not have to have norms as strict as the formal political sphere (after all, sometimes it might even be counterproductive), political equality should go deeper than the formal politics. There are good moral and epistemic reasons to ask for the equality of political participation in the informal political sphere. It should not be enforced regardless of potential (epistemic and moral) costs and risks, but it still plays a role of an important ideal, even in the informal political sphere.

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<sup>71</sup> We should not forget that Rawls explicitly says that the fulfillment of the first principle takes priority over the fulfillment of the second principle, and within the second principle fair equality of opportunity takes priority over the difference principle (Rawls 2001). We cannot try to apply the difference principle on the distribution of basic (political) rights and liberties—political equality has absolute priority in this case.

Rawls' rejection of welfare-state capitalism, as well as his arguments in favor of property-owning democracy and liberal socialism, deserves a detailed elaboration and further research. My intention, however, is not to analyze these systems in detail, but instead to point out that political equality must be sought for both in formal and informal politics. If we want to establish democracy's legitimacy-generating potential and its epistemic value, we should ensure equal participation of all citizens both in the formal and (as far as possible) the informal political sphere.

#### **6.2.e. Conclusion**

This part of the chapter points out that the unequal distribution of wealth is one of the central problems that damage epistemic and moral qualities of a democratic decision-making procedure. Studies analyzed in this chapter show that unequal distribution of wealth causes the unequal distribution of political power. I have discussed Estlund's proposal according to which we should try to *mirror* the ideal deliberative procedure only on the formal political sphere, and I have accepted this claim. However, I have claimed that political equality should still play a central role in the informal political sphere. Departures from equality in the informal political sphere can (and usually do) negatively affect the epistemic value of a decision-making procedure. Having rejected Estlund's voucher proposal, I have concluded that epistemic democracy needs favorable social and economic conditions in order to ensure democracy's legitimacy-generating potential.

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## SUMMARY

The subject of my thesis is the epistemic justification of democratic legitimacy. Can political decisions we make be right or wrong, or true or false? If they can be true or false, are there people who are better at getting it right or wrong? And if there are, does this imply that those who are better in making correct decisions should have political authority over others? If not, what should be the role of experts in politics? These are some of the key questions I try to answer in this thesis. I start by rejecting pure proceduralism, a position claiming that political decisions have no truth-value, or that their truth-value is not above the reasonable disagreement. I argue that political decisions can be right or wrong and that, at least regarding some clear cases (like famine and genocide), all reasonable people should be able to agree on the (un)desirability of some end states. I also reject the idea of epistemic peerhood which claims that though political decisions are right or wrong, all citizens are equally likely to make a right decision. Our background, education and area of specialization make some people epistemically more reliable, at least regarding some political issues. Finally, I discuss and reject the idea that those who know best should have political authority to rule over others. Citizens can reasonably disagree on who the experts are, and thus political authority cannot be grounded in expertise, but in the idea of (normative) consent of reasonable citizens instead. I follow and further support David Estlund's position, claiming that a collective decision-making procedure should have both purely procedural (respect for the moral equality of citizens) and instrumental (good chance to produce correct decisions) qualities in order to have legitimacy-generating potential. Political decisions are therefore legitimate if (and only if) they are the product of epistemically the best procedure from among the set of fair procedures. I argue that deliberative democracy is such a procedure. Since the fairness of the procedure and epistemic quality of outcomes constitute its legitimacy-generating potential, democratic procedures should still rely on the expertise of those who know better (though expertise is no longer considered as a ground for political authority), but distribute resources and positions to promote fairness and equality in a political community as well.



## SOMMARIO

Il tema della mia tesi di dottorato è la giustificazione epistemica della legittimità democratica. Le questioni fondamentali sono: possono le nostre decisioni politiche essere giuste o sbagliate, oppure vere o false? Se possono essere vere o false, ci sono delle persone che sono più competenti nel realizzare le scelte giuste? Se la risposta è positiva, queste persone dovrebbero avere un'autorità politica superiore rispetto agli altri? Se la risposta è negativa, quale dovrebbe essere il ruolo degli esperti nei processi politici? Queste sono alcune delle domande più importanti alle quali cercherò di rispondere nella mia tesi di dottorato. Inizio con la confutazione della posizione chiamata "proceduralismo puro", una posizione che sostiene che le decisioni politiche non possono avere il valore semantico di verità o che questo possibile valore è soggetto al disaccordo ragionevole. Cerco di dimostrare che le decisioni politiche possono essere giuste o sbagliate e che tutte le persone ragionevoli dovrebbero poter concordare almeno sull'indesiderabilità di alcuni casi chiari (per esempio le deprivazioni estreme e il genocidio). Confuto l'idea di uguaglianza epistemica, che sostiene che, anche se le decisioni politiche possono essere giuste o sbagliate, tutti i cittadini hanno un'uguale probabilità di prendere una decisione giusta. La nostra formazione, l'educazione ed il campo di specializzazione rendono alcune persone maggiormente affidabili dal punto di vista epistemico, almeno per quanto riguarda alcune questioni politiche. Infine, discuto e rifiuto l'idea per cui coloro che hanno maggiori competenze dovrebbero, in virtù di questo motivo, avere l'autorità politica di governare gli altri. I cittadini possono dissentire in modo ragionevole su chi sono gli esperti, e quindi l'autorità politica non può essere basata sulla competenza. Al contrario, deve essere basata sull'idea del consenso (normativo) tra i cittadini ragionevoli. Seguo la posizione di David Estlund e le offro ulteriore supporto. Questa posizione sostiene che, per poter avere la qualifica di legittimità, la procedura nella quale si prendono decisioni collettive dovrebbe avere qualità puramente procedurali (come il rispetto per l'uguaglianza morale dei cittadini) e qualità strumentali (come l'elevata probabilità di produrre decisioni corrette). La conseguenza è che le decisioni politiche sono legittime se (e soltanto se) sono il prodotto della procedura migliore dal punto di vista epistemico tra le varie procedure eque. Affermo che la democrazia deliberativa rappresenta una procedura di questo genere. Poiché l'equità delle procedure e le loro qualità epistemiche costituiscono ciò che può generare la loro legittimità, le procedure democratiche dovrebbero basarsi sulle qualità epistemiche dei più competenti (sebbene la competenza non sia più considerata come una delle basi dell'autorità politica), ma anche distribuire le risorse e gli incarichi pubblici con la finalità di favorire l'equità e l'uguaglianza nella comunità politica.