

Against Epistocracy:

A Defense of the Moral and Epistemic Value of Democracy

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Thesis MA Philosophy, Politics, and Economics

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23th July 2019

Word count: 19815

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*Against Epistocracy:**A Defense of the Moral and Epistemic Value of Democracy***Introduction**

In this thesis, I will defend the epistemic and moral value of democratic government, and oppose claims that there are legitimate grounds to replace democratic elections or restrict universal and equal suffrage to ensure the epistemic value of political decision-making. If one takes the principles normative authority and legitimacy into account, then any restriction on equal voting rights on the grounds of elitism will result neither in a rule of government that is intrinsically better nor a rule of government that is superior in producing better outcomes than a democratic system. In order to support this statement, I will offer the following arguments. First, deliberation and majority rule are mechanisms that enhance the epistemic properties of democracy. Second, introducing epistocracy may unevenly affect less advantaged subsets of society. Third, the epistemic proceduralism approach, which is based on the grounds of normative authority and legitimacy, cannot be used as justification, as justice requires, to restrict universal suffrage, and certainly cannot be used to legitimate the rejection of democracy in favor epistocracy.

Some criticisms on democracy are based on the concern that the citizens which make up the populace do not meet the requirements that empirical standards deem necessary for making political decisions. According to this view, in order to cure society of the disappointments of democracy, one ought to administer a remedy that has been dubbed

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“epistocracy”, or rule by the most competent. Jason Brennan has written several publications advocating epistocratic forms of government in academic journals, which have culminated in his book, *Against Democracy* (2016). In his book, Brennan disseminates the strongest objections against the epistemic value of democracy, which are the following. To begin with, he claims that the predominance of systematic biases, as well as cognitive biases, prevent democracy working properly. Additionally, there are no compelling proceduralist justifications for democracy. Furthermore, citizens have a right to competent decision-making and to good faith. However, according to Brennan, democratic elections violate the competence principle. Therefore, epistemic demands need be applied to citizens’ individual political judgements to reconcile voting and the principles of legitimacy. In this manner, the system of mass elections and universal voting rights will be constrained by some form of epistocracy. He also claims the principles of justice provide sufficient grounds to prefer epistocratic forms of government over modern democracy.

In this paper, epistocracy will be defined as the rule of the knowledgeable. In other words, an epistocracy refers to a political regime that formally distributes political power according to the competence, the skill, and the good faith necessary to act on that skill (Brennan, 2016, p. 14). The main thesis put forward by epistocrats will be summarized as follows: competence and good faith are the minimum presumed conditions of the right to rule (Brennan, p. 149). The right to rule is established when a government is legitimate and has authority. Brennan writes that legitimacy refers to the moral permission to coerce. By contrast, authority refers to a moral power that induces the duty to submit and obey in others. However, Brennan’s main justification for an epistocratic regime is founded on this competence principle: “it is presumed to be unjust, and to violate a citizen’s right, to forcibly deprive a citizen of life, liberty or property, or to significantly harm their life prospects, as a result of decisions made by an incompetent deliberative body, or decisions made in an

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incompetent way or in bad faith. Political decisions are presumed legitimate and authoritative only when produced by political bodies in a competent way and in good faith” (Brennan, 2016, pp. 156-157). Because mass election violate the competence principle, democracy should probably be replaced by certain forms of epistocracy, Brennan argues (2016, p. 142).

In order to defend the epistemic and moral value of democratic government, and oppose claims that there are legitimate grounds to replace democratic elections or restrict universal and equal suffrage, I will begin the thesis with an overview of the criteria that are used in evaluating the value of different types of government. Subsequently, I will introduce an outline of theories of democracy and the epistemic demands they place on citizens. These cover a wide spectrum of different approaches for evaluating the legitimacy of democratic government on the basis of several conceptions of epistemic values, including an extreme variation that completely rejects democracy in favor of a form of epistocracy.

After presenting this overview, I will address an important part of the argument that Brennan makes, which is, in effect, a rejection of democracy, or equal suffrage. His support of the epistocratic method of decision-making is in part fueled by the view that the stakes of political decisions are too high to leave to the masses. Thus, in this chapter I will show what the main arguments against democracy by Brennan are, and question whether it follows from the aforementioned that epistocracy has to be accepted. As my thesis is a defense of the moral and epistemic value of democracy as opposed to epistocracy, the main objective is to show why Brennan is wrong in rejecting democracy in favor of epistocracy. Here it is important to emphasize that when discussing democratic decision-making as an epistemic value, it is an interpretation in which processes are acknowledged to produce potential information and are worthy defending (Peter, 2009, p. 110 in Landemore).

There are two kind of questions which epistemic democrats asks (Landemore, 2013, pp.46). The first has to do with the normative authority of democracy, which is defined as the

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right to rule (and the duty to obey, which follows) and whether this includes an epistemic dimension. The other question in epistemic democratic theory is whether democracy has epistemic qualities. Here, epistemic democracy encompasses a combination of deliberative and aggregative perspectives on democracy, yet centralizes the outcomes-oriented approach to the performance of democratic-independent standards of correctness (Landemore, 2013, p. 44). Both these questions will be addressed in order to support my thesis.

I will start by introducing David Estlund's normative approach to democracy, epistemic proceduralism. The main argument is that democracy is the best alternative, epistemically speaking, among those forms of government that are justifiable in terms that are generally acceptable. Even if there are other epistemically better methods, Estlund holds that they are too controversial among qualified points of view to legitimately be grounds for imposed laws. Therefore, the notion of the requirement of acceptability plays a crucial role in the argument and makes the elaboration of Estlund's general acceptability requirement an important goal (Estlund, 2008, pp.42-43). His argument in favor of democracy as opposed to epistocracy focuses heavily on authority and legitimacy, which he uses in a specific manner (Estlund, 2008, p. 2). "Authority", according to Estlund, entails "the moral power of one agent (emphasizing especially the state) to morally require or to forbid actions by others through commands." ("To forbid x is to require not-x", Estlund explains, so that it usually suffices to speak of "the moral power to require"), (Estlund, 2008, p. 2). Subsequently, Estlund defines legitimacy as "the moral permissibility of the state's issuing and enforcing its commands owing to the process by which they were produced" (Estlund, 2008, p. 2). Estlund's objection to correctness theories of legitimacy or epistocracy are not for any epistemic reasons that may lead to the belief that the outcomes of the procedures are correct or good. According to Estlund, the concepts of morally binding authority and legitimacy do not stem from the correctness of the decisions they have brought about, but rather from the

procedure that have brought them forth. That being said, Estlund holds that a “central feature of the procedure in virtue of which it has this significance is its epistemic value” (Estlund, 2008, pp. 7-8). Thus, my aim will be to show that whereas democracy does create moral reasons to obey the law and the moral permissibility to enforce it, epistocracy does not. In

order words, Brennan’s justification of epistocracy has no convincing moral value over democracy because the competence principle does not compel the acceptance of its laws and its policies as authoritative and legitimate. Legitimacy and authority are best safeguarded in democratic rule. After that I will explain how legitimacy and authority are already present within the tenants of democracy and can be reconciled with concerns about the epistemic requirements for citizens. Estlund’s epistemic proceduralism will be a major element in the solution established in my central thesis, which states that that any concerns about the quality of political decisions can be eliminated if these decisions are properly constrained by other principles which support democratic political arrangements. Thus, concerns about the ability of citizens to make good political decisions are not legitimate grounds to reject democratic authority in favor of epistocracy.

However, Estlund’s in epistemic proceduralism, democratic decisions are legitimate to the extent that those democratic procedures that have produced these democratic decisions have a better-than-random tendency to produce right or correct decisions. A more ambitious stance regarding the epistemic properties of democracy than Estlund’s epistemic modesty has been taken by Hélène Landemore (2013) in *Democratic Reason*. Thus Brennan’s critique of democracy will be addressed by demonstrating the epistemic properties of two fundamental democratic mechanisms, deliberation and majority rule.

After this attempt to sufficiently explain the moral and epistemic merits of democracy, I will provide grounds to reject epistocracy. All these theoretical considerations lead to the following conclusion: a political system that enfranchises people exclusively based on

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competence – an epistocracy- should not be endorsed over a political system that grants the right to vote unconditionally to all citizens in a democracy on moral and epistemic grounds. Even though Jason Brennan proposes voters be selected solely on the basis of competence, in my opinion, his argument is not sufficiently compelling to accept epistocracy as superior to democracy.



## **Chapter 1: Theoretical framework**

The main objective of this thesis is to refute the claim that universal suffrage should be denied to some on the basis of a certain elitist conception of voter competence. The dissent presented regarding epistocracy - or the 'oligarchy of the educated' - is based on both moral and epistemic grounds. Therefore, it is instructive to commence this thesis by presenting an overview of the various criteria that are used to evaluate systems of government. In this first chapter, I will outline a debate that has been of interest to many who have concerned themselves with political philosophy. The main question that is addressed in this chapter concerns what criteria are employed when assessing the value of various types of political regimes, and particularly those relevant to democracy. Furthermore, the chapter will discuss what the requirements for ascertaining which type of government is best.

There are several ways an object or a being may be valued. In moral theory, the most fundamental criteria for the justifications for social actions pertain to the division between *intrinsic values* vs. *instrumental values*. According to the *Stanford Encyclopedia of Philosophy*, the intrinsic value of something is commonly defined as the value of a thing "in itself" or "for its own sake". An *extrinsic value* is a value that is not good for its own sake, but for the sake of something else which stands in relation to it (Zimmerman & Bradley, 2019). Most philosophers hold that *instrumental value* is the most important extrinsic value. An instrumental value is something that establishes that a means is good when it is useful in achieving its intended ends in an efficient manner. These concepts are useful in determining the good in all social human actions or in institutions that maintain all human societies (Weber, 1978, pp. 399-400).

An important question concerning politics is about *who* should hold power. Aristotle, for instance, made an important division about political regime types. Monarchy, aristocracy,

democracy, and other regime types are distinguished based on to whom and to how many they distribute power. While a monarchy gives all political power to a single person, democracy grants every citizen an equal basic share in political decision-making (Brennan, 2016, p. 11). In Plato's *Euthyphro*, Socrates asks, 'Is the pious loved by the gods because it is pious, or is it pious because it is loved by the gods?' In democratic theory, the question posed in *Euthyphro Dilemma* could be aptly posed as well: 'Are good (or just, or legitimate) democratic outcomes good because they are democratically willed, or are they democratically willed because they are good' (Estlund, 2008, p.65). This is the main dispute between proceduralism - the former answer - versus the latter - instrumentalism.

In the same way as there are competing ideas about who should hold political power, there are also competing opinions about what criteria should be used in judging who ought to hold power (Brennan, 2016, p. 11). The two most prominent views are *proceduralism* and *instrumentalism*. In short, the idea of *proceduralism* holds that some ways of distributing power are in themselves intrinsically right or wrong, good or bad, just or unjust. In contrast, *instrumentalism* states that political power ought to be distributed according to the procedurally-independent, justified ends of the government, whatever those ends may be (Brennan, 2016, p. 11). Furthermore, an instrumentalist justification for a certain manner of distributing power or method for decision-making is to what extent it has the tendency to select the right outcome (Brennan, 2016, p. 13). In other words, this justification refers to the *epistemic* value for judging democracy. Thus, one possible form of instrumentalism is epistemic value. The name is based on the Greek word for knowledge or wisdom, *epistêmê* (Estlund, 2008a, p.261). An epistemic value pertains to a truth-finding value. It is the kind of value possessed by knowledge, or some other epistemic quality, such as justification or understanding (Greco & Pinto de Sa, 2018). Epistemic approaches to democracy argue that its value consists, at least partially, in the tendency of some democratic arrangements to make

good political decisions. Furthermore, an epistemic discussion of democracy blends epistemological issues (including those of rational choice and aggregative theories) with political philosophy and political science (Estlund, 2013, pp. 261-262).

The preceding general explanation of different methods of evaluation will serve the following objective, namely to provide an application to normative political theory. For the purposes of this thesis, I will borrow a spectrum of theories from Jamie Kelly's *Framing Democracy* (2012). In his behavioral approach to democratic theory, Kelly employed a classification of different theories of democracy, which are sorted by the epistemic demands they place on the judgements citizens are required to make (Kelly, 2012, pp. 44-56). On the one end of the spectrum, we find theories of democracy which make few or no demands on the reliability of individual judgments. These theories are based on a purely proceduralist conception of democracy. On the opposite end of the spectrum, Kelly places epistemic theories of democracy, which make the highest epistemic requirements on citizens' political judgements. Although Kelly has provided an extensive and, at the same time, comprehensible overview of the various theories, I shall limit myself to a general summary of his account, with the emphasis on the theories that will be relevant for this thesis. The outline will start with the democratic approaches that rank lowest on the spectrum of epistemic demands, and proceed to theories that require more epistemic input from voters.

### **Purely Procedural Theories**

The first subset of theories on democracy to be discussed, which are categorized as the least epistemically demanding, are *purely procedural theories*. This means that the common denominator in this group relates to their shared notion that democracy 'consists of a number of procedures that ought to be valued for their own sake' (Kelly, 2012, p. 46). These democratic procedures are deemed *intrinsically* valuable. In addition, purely procedural

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theories do not base democracy's value on any substantive claims about the correctness of political decision-making. For this reason, purely proceduralist accounts of democracy are considered the least epistemically demanding category. While this influential way of thinking encompasses a broad range of perspectives, this section will elaborate on the most prominent theories, namely those of social choice theory, fair proceduralism, and deep deliberative democracy. Once again, as Kelly notes, these theories all have in common that they hold democracy procedures to be legitimate democratic government in themselves, regardless of their outcomes (Kelly, 2012, p. 46).

### *Social Choice Theory*

*Social choice theory* is an approach that describes democratic government in terms of the relationship between individual preferences and the government policies in societies that carry out regular elections (Kelly, 2012, pp. 46-47). The main problem which this approach elaborates pertains to the practice of aggregating individual preferences into a unified preference is which, ideally, is both stable and coherent. Moreover, this theory is also sometimes interpreted as a more set of criticisms of electoral arrangements than it is an appraisal of democracy (Kelly, 2012, pp. 46-47). I should point out that to the extent which the Social Choice Theory normatively approves of democracy, this endorsement is solely founded upon purely proceduralist values. However, the perspective of Social Choice Theory will be important in the subsequent chapters. To be more specific, the notion that democracy is an aggregation of preferences, and its antidemocratic implications is a concern which will be addressed more in depth later.

### *Fair Proceduralism*

A second notable form of minimalist epistemic accounts of democracy is *fair proceduralism*. According to this approach, democracy- and, in particular, majority rule- is just simply because it is fair. In other words, democracy represents a procedure for making

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decisions in such a way that no one's beliefs or interests are of greater value than anyone else's. However, it fails to take into account whether the individuals make reliably good political decisions. (Kelly, 2012, pp. 47-48).

## *Deep Deliberative Democracy*

Adherents of *deep deliberative democracy* maintain that democratic decisions can only be deemed legitimate 'if rational persons, who are in an ideal deliberative setting, can agree on the procedures governing those decisions. In this way, the procedures, not any characteristics of the outcomes themselves, serve as the sources of democratic legitimacy' (Kelly, 2012, p. 48). Deep deliberative democracy belongs to the purely procedural theories because it rejects any appeal to any procedure-independent standard of correctness for political decision making. Thus, with its strong reliance on right procedures, Deep Deliberative Democracy depends very little on the correctness of political judgements.

## **Stability theories**

Another subset within the framework of democratic theories are the so-called *stability theories*. However, the approval of democracy that these theories encompass does not stem from the intrinsic fairness of the procedures which democracy employs. As the name suggests, stability theories hold that the outcomes considered valuable, in terms of normative democratic theory, are based on the idea that elections tend to produce stability (Kelly, 2012, p. 49). For the purposes of this thesis, I will not elaborate further on these types of theories. However, it is useful to incorporate a general introduction to the theories of democracy which base their evaluation of democracy on an independent standard of correctness.

## **Modified Procedural Theories**

The third category of theories for evaluating democracy consists of several hybrid theories that seek to unify procedural and epistemic accounts in democratic decision-making. Kelly calls them ‘Modified Procedural Theories’ because of his observation that these approaches build their epistemic claims into a procedural justification of democracy (Kelly, 2012, p. 52). These claims he describes are referred to as *unorthodox social choice theory*, *epistemic deliberative democracy*, and *epistemic proceduralism*. I shall not expound on these theories because they are hybrid theories that seek to combine both procedural and epistemic features. Moreover, in the third chapter of this thesis, I shall elaborate on the most relevant lessons these perspectives have to teach us. In particular, I shall incorporate the epistemic proceduralist account in my argumentation.

### **Epistemic theories**

Finally, there is tier of theories of democracies which make the most epistemic demands. In these theories, the only ground for political legitimacy is when the outcomes are correct according to some substantive standard of correctness (Kelly, 2012, pp. 55-58). Therefore, Estlund refers to these nonprocedural epistemic theories as ‘correctness theories’ (Estlund, 2008, p. 99). Although Kelly’s spectrum only offers a classification of theories for democracy, it seems fitting to introduce the idea of *epistocracy* in this section. As will be shown in the next chapter, the political justification of epistocracy, as interpreted by Jason Brennan (2016), is founded solely on instrumental values. Epistocracy is an approach that goes further than that. It presumes that the citizens’ judgements do not meet the requirements that proper governance demands. Therefore, the legitimacy of democracy is in itself rejected, and adherents to this view propose the abolition of universal suffrage in favor of granting franchise on the basis of the political competence of the citizens.

**Conclusion**

The central question of this paper is whether the claims made on moral and epistemic grounds favor democracy or epistocracy. In this chapter, I have introduced a range of “theories of democracy” introduced by Kelly, ranking from the least to most epistemically demanding for voters. Furthermore, I have introduced important concepts and criteria which political philosophers apply in making moral judgements on the distribution of power. It is important to note that the divide between the value given by proceduralism and instrumentalism shall feature in the coming chapters, which concern the political justifications of democracy and epistocracy.

## **Chapter 2: Against Democracy**

The idea that people in general are unfit to govern has been a long-held paradigm in political philosophy. An extensive overview of the history of the concept “democracy” goes beyond the scope of this thesis, but it is known that support for democracy and political liberties are generally unwavering in the West. This being said, some do argue for a different system of government that is of political philosophical significance. One contemporary philosopher is Jason Brennan. In his book titled *Against Democracy*, Brennan wrote an extensive critique of democracy, and argued that people should at least put epistocracy to the test. This part of the thesis will focus mainly on Brennan’s arguments against democracy, and whether those are compelling enough to reject democratic governance in favor of an epistocratic rule.

According to Brennan, almost unconditional support of democracy - or ‘*democratic triumphalism*’ - is widespread in most First World Countries (Brennan, 2016, p. 8). This confidence in democracy is shared by several branches of similar views that may be popular among political philosophers and the people, but are rejected more often than not by empirically minded economists and scientists (Brennan, 2016, p. 6). The value of democracy and widespread political participation can be divided into three categories.

- *Epistemic/instrumental*: the just, efficient or stable outcomes are the justification of democracy (and widespread political participation).
- *Aretaic*: the virtue of education, the enlightening and ennobling of citizens through political participation and voting are the justification of democratic regimes.
- *Intrinsic*: the ends of democracy itself are its justification. (Brennan, 2016, p. 7).

As already mentioned, the notion of *democratic triumphalism*, as Brennan calls it, is the widespread view in Westernized countries that there is no other political regime superior



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to democracy. In his view, the moral value of democracy is *purely* instrumental. In other words, the only reason that democracy ought to be favored is because of quality of political decisions that come about through elections (Brennan, 2016, p.11). Yet Brennan also holds that *if* there is sufficient reason to believe that there is a better functioning alternative, *then* we ought to take it (Brennan, 2016, p. 7-8). In other words, he suggests that there may be grounds to question the moral legitimacy of democratic rule. From this follows that the justification for an epistocracy - or system against a democracy- is in Brennan's world view, an instrumental defense rather than a procedural one (2016, pp. 10-14).

## Arguments against Democracy

Brennan's denial of the widely accepted views in the West about the value of democracy may be summarized with the following three claims (2016, pp. 7-8). First, Brennan does not accept the opinion that political participation is valuable for most people. Instead, he holds quite the contrary view. Political participation tends to stultify and corrupt most of the electorate, or, even worse, it turns citizens into 'civic enemies'. Secondly, Brennan opposes the view that citizens have a basic right to vote or run for political office. He asserts that the right to vote has to be justified. That means that this right is not like civil liberties, such as 'freedom of speech, religion, and association', but must be deserved (Brennan, 2016, p. 7). Thirdly, the author explains that unrestricted, equal, universal suffrage is morally objectionable in a number of ways. Even though there are some non-democratic forms of government which are intrinsically unjust, it does not necessarily follow that democracy is a form which is uniquely or intrinsically just (Brennan, 2016, pp. 7-8).

Brennan then continues by offering evidence to support his claim. He holds that most citizens are 'ignorant, irrational, misinformed nationalists', who make decisions based on systematic biases. The median, mean, and modal levels of political knowledge are very low

(Brennan, 2016, p. 19-20). He shows statistical evidence to indicate that the levels of political ignorance are very high (Brennan, 2016, p. 24-26). Most the statistics that he uses to demonstrate political ignorance are, however, based on a lack of exact knowledge of the precise figures in certain areas of federal budget expenditure. As Somin argues, the populace systematically ‘underestimates the ability of the President [of the United States] and Congress to control’ several policy areas (2013, p. 17). Brennan also concludes that citizens vote irrationally because irrational behavior is left unpunished. Unlike irrational behavior in traffic, which may result in death, individual voter irrationality has hardly any impact (Brennan, p. 23).

One counterargument that Brennan offers is that voters do not bother to inform themselves because it is irrational to do so. In the Social Choice approach, this notion of ‘rational irrationality’ is known as the problem of *rational voter ignorance* (Brennan, 2016, pp. 34-38). However, Brennan attacks this because knowledge is spread unevenly over demographic groups. Furthermore, when voters obtain more information, then policy preferences changes. Another empirical claim that Brennan poses against the average voters, is that due to cognitive biases, in politics, obtaining more information makes us more tribalistic. (Brennan, 2016, pp. 38-52).

In addition, Brennan explains that politics do not make us better citizens. On the contrary, political participation corrupts. John Stuart Mill advanced the argument of education in favor of democracy. This so-called education argument states that as civic and political activity requires citizens to take a broad view of each other’s interests, and search for ways to promote the common good, civic and political activity tend to improve citizens’ virtue and make them better informed. However, Brennan presents empirical evidence showing that voting in itself does not cause greater interest in politics. Because of the so-called treatment-

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and-selection effect, education does not, as he puts it, turn most hobbits in Vulcans, but hobbits into hooligans, and hooligans into worse hooligans (Brennan, 2016, pp. 53-61).

The so-called deliberative democrats are in favor of democracy and the Mills' education argument. Their idea refers to a setting of democracy in which people come together and advance ideas. There are several rules that have been advanced by the deliberative democrats such as Habermas and Cohen. For instance, during deliberation, people should reach consensus or otherwise take a vote. However, Brennan argues that what deliberation does to our psychology, as it is described by the likes of Habermas, is a fantasy. It must not be forgotten that people operate from a number of cognitive biases. Brennan also claims that there is little empirical evidence which shows that there is any benefit to deliberation (Brennan, 2016, p. 58-67). In contrast, Brennan offers plenty of empirical evidence showing that voters are incompetent and this has a profoundly negative influence on results. After all, he is an adherent of instrumentalism so believes the outcomes are that which determine the system that should be chosen.

Nevertheless, Brennan does make an effort to first consider before undermining the other arguments that assume some benefit to democracy. Specifically, many contemporary political theorists and laymen argue that democracy has undeniable worth, and 'political liberty and engagement are good for us, as individuals, because they empower us (again, as individuals) in some way' (Brennan, 2016, pp. 74-75). In contrast, Brennan maintains that political participation has a tendency to reduce our moral and epistemic character (Brennan, 2016, p. 74). Brennan does contend that there is a relation between democracy and liberal freedom (2016, p. 77). Nevertheless, he denies that there is any connection between liberty and democracy on a conceptual level. His argument is that epistocracy is better at promoting liberty than democracies. In fact, in his view, an epistocracy would also be better in safeguarding liberal freedoms than democratic systems (Brennan, 2016, pp. 77-78). If his

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argumentation were to prevail, then this would mean that accepting an epistocratic regime would not result in an important loss of liberty for certain citizens. In order to do so, however, the task for proponents of epistocracy is to show that restricting the right to vote and the right to run and hold political positions of power has no profound connection with personal freedom or autonomy. Brennan challenges the five most notable arguments in favor of democracy to prove this point.

First, a common explanation for the empowering characteristic of democracy is the so-called *argument of consent* (Brennan, 2016, pp. 78-82). The argument in favor of democracy holds that democracy rests on the consent of the people. A citizen cannot consent to a government unless granted the right to vote or run for office. Thus, it is valuable for people to live under a system to which one has consented. From this follows that political participation, the right to vote, and the right to run for office is valuable for each citizen. The counterargument that Brennan offers to this claim is that democratic government is not consensual at all; no matter what one votes the government can oppose laws, even when one voted against that during elections (Brennan, 2016, pp. 78-82). In the next chapter, I will elaborate on Estlund's notion of *normative consent*, for Estlund agrees with Brennan that mere consent is not a proper justification for democracy - or for epistocracy. Moreover, the fact that citizens' relationship with the government is nonconsensual does not make it unjust, illegitimate, or lacking authority (Brennan, 2016, p. 82).

A subclause to this argument is that democracy does not signify *informed* consent. Informed consent usually applies to high-risk decisions. For instance, informed consent by the patient is required when a medical operation carries risk or harm. Without it, a physician cannot proceed with the operation. Informed consent has several essential components:

- *Disclosure*: sufficient information is made available for the patient to make an autonomous choice.

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- *Understanding*: sufficient understanding of the required information is held by the patient.
- *Capacity*: sufficient capacity to understand the information is held by the patient.
- *Volition*: no coercion, bribing or manipulation has been used to influence the decision of the patient. (Faden & Beauchamp in Brennan, 2016, p. 83).

According to Brennan, government decisions are high-risk decisions as well. From this follows that citizens ought to be required to express informed consent as well. However, most citizens do not meet all four of the abovementioned requirements, and therefore the condition of informed consent is not met (Brennan, 2016, p. 84). Therefore, democracy does not empower citizens by creating or maintaining a consensual relationship, Brennan states (2016, p. 85). As is explained in the fourth chapter, there is a fallacy to this reasoning, according to Estlund. But for now, the second argument in favor of democracy that Brennan reviews will first be presented.

The second claim Brennan discusses maintains that political liberty and participation advances citizens' interests, and is therefore valuable. The argumentation starts with the assumption that the government will not be responsive to citizens' interests if there is no universal suffrage or the right to participate in politics. If one holds that it is valuable that governments respond to citizens' interests, it follows that the right to vote and participate in politics is valuable as well (Brennan, 2016, p. 86). However, the objection to this claim is that an individual vote has no instrumental value because the chances that an individual vote will make difference is closer to zero than one (Brennan, 2016, pp. 85-87). Therefore, the outcomes argument in favor of democracy fails as well. Brennan only grants the possibility that large *groups* may have some influence in democracies. In that case, individuals are disempowered in favor of collectives or large groups of individuals. This fact will be discussed at length in the last chapter of this thesis, as the main argument against epistocracy

put forward by Estlund holds that epistocracy works adversely by promoting the interest of *some* (disadvantaged) demographic groups in a way that democracy would not.

The third argument in favor of democracy's value is based on personal autonomy. It rests on the assumption that it is valuable for each citizens to be 'autonomous, self-directed, and live by rules of their own makin' (Brennan, 2016, p. 88). If citizens value being autonomous, self-directed, and living by their own rules, political liberties are required. Political participation is a tool for citizens to be autonomous. From this follows that every person living in a political community needs to have political liberties and make use of them (Brennan, 2016, p. 88). In other words, political liberties and political participation are instrumental and/or constitutive of maintaining one's autonomy, according to the proponents of democracy who use the autonomy argument. The counterargument that Brennan offers in response points out a gap in this line of reasoning. The fallacy lies in thinking that citizens become partial author of the laws by voting. However, this is only true if one votes for the winner of the elections (Brennan, 2016, p. 89). Furthermore, the degree of autonomy accompanying political liberties are overstated. Autonomous decisions are better made by the individual alone, rather than by conferring the choice to a democratic decision-making assembly. Yet Brennan offers in reply that democratic bodies are a limit to one's autonomy, because such institutions impose laws on individuals (Brennan, 2016, pp. 88-90). According to Brennan, the notion of autonomous control pertains to *autonomy as difference - making* (Brennan, 2016, p. 90). However, there are several possible interpretations of this concept, making its use questionable.

Fourthly, Brennan refers to an argument made by Christiano, which says that democracy offers the value of social construction. Through democracy, one can make the world adequately responsive to its constituents' judgements, and, thus, involved in the process of social construction (Brennan, 2016, pp. 90-91). Brennan counters this by saying the

situation depends on the specific circumstances surrounding it and cannot be generalized, and subsequently, the whole argument of Christiano fails (2016, pp. 93-94).

Lastly, Philip Pettit offers the theory that democracy interferes with domination. According to Brennan, there are hardly any semiotics for or against democracy. The symbolic value of democracy is good for individuals as a matter of justice. It relies on the idea that equal power symbolizes respect. *Semiotic arguments* are independent of other arguments of outcome. The main point of democracy is what it symbolizes, not its performance. Thus, a semiotic argument against epistocracy is that it disproportionately disadvantages some demographic groups, and may be racist. Brennan counters that this type of reasoning assumes that the author's intentions are racist (Brennan, 2016, pp. 113-124).

Finally, John Rawls posed the argument that democracy is necessary because it values people's self-esteem. However, Brennan counters this argument by noting that if someone feels insulted, they should just grow up (2016, pp. 124-140).

### **Arguments for Epistocracy**

The main thesis that is put forward by supporters of epistocracy is that 'competence and good faith are at least presumptive conditions of the right to rule' (Brennan, 2016, p. 149). Brennan argues that citizens have at the very least a presumptive right to be ruled by a competent decision-making body, and in a competent manner, in its exercise of political power over them. Furthermore, 'they ought not to be subject to incompetently or capriciously made high-stakes political decisions' (Brennan, 2016, p. 143). A right to rule exists when a government is legitimate and has authority. These concepts are defined here in the following way. First, *legitimacy* means that it is morally permissible for the decision-making body to create and enforce laws, rules, policies, and regulations for those people in the area (Brennan, 2016, p. 149). Secondly, the concept *authority* is to be understood as a condition that certain

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people have moral obligations to abide by the laws, rules, policies, and regulations of the government because the government issued these rules (2016, p. 149). Brennan writes that legitimacy refers to the moral permission to coerce. By contrast, authority refers to a moral power that induces the duty to submit and obey in others. *Presumptive conditions* are similar to, but weaker than, necessary conditions. *Necessary conditions* refer to a condition that must be present for an event to occur. In the case with presumptive conditions, the failure to obtain P, may *indicate* the failure to have Q, *unless* defeated or outweighed by countervailing conditions. Thus, presumptive conditions are defeasible while necessary conditions are not (Brennan, 2016, p. 151).

The main claims in favor of an epistocratic rule, as posed by Brennan, are based on the following two premises:

First, Brennan claims that we should reject democracy in favor of epistocracy because the former lacks proceduralist values. Secondly, the foundation for the justification of an epistocracy rests on the so-called competence principle. “It is presumed to be unjust, and to violate a citizen’s right, to forcibly deprive a citizen of life, liberty or property, or to significantly harm their life prospects, as a result of decisions made by an incompetent deliberative body, or decisions made in an incompetent way or in bad faith. Political decisions are presumed legitimate and authoritative only when produced by political bodies in a competent way and in good faith” (Brennan, 2016, pp. 156-157). From this follows the corollary of the competence principle, namely that we should presume that an incompetent political decision-making method be replaced by a more competent one (Brennan, 2016, p. 142). Fourth, Brennan’s claim for an epistocracy contends that on the basis of comparative institutional claims, there is an argument to be made that universal suffrage has the tendency to result in incompetent decisions, while certain forms of epistocracy are more likely to



produce competent decisions (2016, p. 142). This leads to Brennan's conclusion that democracy ought to be replaced by certain forms of epistocracies (2016, pp. 142).

The justification of the competence principle relies on the notion that it is *unjust* to expose people to undue risk (Brennan, 2016, p. 154). He holds that an epistocratic regime would prevent people from the risk of *the harm of poor governing*. Therefore, the competence principle implies the following conditions, *pro tanto* (Brennan, 2016, p. 154).

First, the voters, as a collective decision-making body, must not have bad epistemic or moral character. Second, even when the electorate is competent in general, if a decision is made incompetently or in bad faith, that decision should not be enforced, and the citizens do not have any duty to submit to that decision. Although the competence principle does not necessarily imply that political decisions have authority and legitimacy only when they are *correct* decision, it does claim that decision-making bodies lack authority and legitimacy when their decisions are reached in unacceptable ways (Brennan, 2016, p. 155). In short, the competence principle does not disqualify political outcomes on the basis substantive content. It does disqualify voters on basis of their immoral or bad epistemic character, as it disqualifies individual political decisions based on incompetent reasoning to arrive at those decisions (Brennan, 2016, p. 155).

In this chapter, I have provided an overview of the most important points in Brennan's claim that democracy ought to be replaced by epistocracy. The main claim of this champion of epistocracy is made on the basis of epistemic justifications concerning the type of government regime. Thus, according to this reasoning, if there are grounds to believe that there could be another type of regime that produces better political outcomes than democratic decision-making, it should be chosen. Brennan holds that a form of epistocratic governance would probably produce better results than mass elections in politics. The justification of a political regime can be answered according to different values. In *Against Democracy*, the

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author has refuted several arguments in favor of democracy on most of those moral evaluations. Therefore, one of Brennan's major premises is that there are no valid proceduralist grounds that compel us to choose democracy over epistocracy.

The objective of the next chapter is to introduce arguments that refute the claim that democracy has no proceduralist value. Moreover, we will see that if one takes the instrumental or epistemic merits of democratic decision-making seriously, democracy can be reconciled with proceduralism. From this follows that there are no sufficient grounds to replace democracy with a form of epistocracy.

### **Chapter 3: Epistemic Proceduralism**

The main objective of this paper is to offer support for the moral and epistemic value of democracy against epistocracy. In order to prove my thesis, it is crucial to show that democracy is superior to epistocracy by virtue of moral and epistemic reasons. In this chapter, I will propose a theory that is able to consolidate epistemic and procedural values in democratic theory, *epistemic proceduralism*. For this theory I am very much indebted to David Estlund. Yet I will also show some points through which Estlund's proposal is not completely sufficient in refuting epistocracy in favor of democracy, especially with respect to his '*epistemic modesty*'. But overall the presentation of Estlund's attempt to reconcile an appreciation of the quality of political outcomes, on the one hand, with intrinsic values in his *general acceptability requirement*, on the other, is worthwhile in order to prove my thesis.

In Estlund's *Democratic Authority* (2008), he writes that the central theme comes down to a justification of political authority in democratic terms through the reconciliation of two fundamental principles (Estlund, 2008, p. 39). I shall briefly discuss both of the two following statements separately that Estlund attempts to harmonize in *epistemic proceduralism*. The first idea, which is somewhat in line with Brennan's view, concerns an instrumentalist outlook on democracy. That is, it is acknowledged that in normative political theory, the justification of political arrangements lies, at least in part, in the substantive quality of political decisions, which can either be made well or badly (Estlund, 2008, p. 39). The second principle, which is perhaps more germane to the thesis presented in this paper, concerns explaining why the 'move from expertise to authority is a fallacy<sup>1</sup>', as Estlund maintains. Thus, the task that lies at hand is showing that a rejection of overly proceduralist and overly epistemic accounts of normative political theory leaves room for a vindication of democracy. As Estlund writes, 'an epistemic

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<sup>1</sup> Estlund, 2008, p. 39

approach to politics, morally constrained by a general acceptability requirement, generates a philosophical adequate and recognizably democratic basis for political authority' (Estlund, 2008, p. 39).

In line with Estlund's argumentation, I will maintain that democracy does indeed create moral reasons to obey the law and the moral permissibility to enforce it, whereas epistocracy does not. In other words, legitimacy and authority, understood in the proper way, provide moral reasons to favor democracy over epistocracy.

### **Qualified Acceptability Requirement**

To begin with, I will introduce the principle by Estlund that serves as a constraint on political justifications. That, in turn, prevents people from simply choosing the best epistemic method in political arrangements. Thus, I will adopt a moral doctrine for resisting the recommendation of epistocracy. This is the *general acceptability requirement*.

Estlund introduces a necessary condition that applies to the legitimate exercise of political power, namely, that it is justifiable for all qualified points of view. Once again, the term legitimacy applies to the acts and threats of coercive enforcement. Authority - on the other hand - is the condition in which an agent issues a command to another, and this issuing of the command generates a moral requirement of some sort for the other to comply (Estlund, 2008, pp. 41-42). In addition, the term requirement suggests necessity, but Estlund uses it in a manner that bestows different moral weights. Thus, the authority of a command is conceptually different from its legitimacy (Estlund, 2008, p. 42).

Another point is that the state, among other things, issues commands through the law. There are questions about the state's authority and legitimacy that concern these commands. These issues pertain to the validity of a political justification. According to Estlund, a political justification is persuasive when the citizens to whom this command is directed have an

obligation to obey (Estlund, 2008, p. 41). In the case that the state's claim ought to be obeyed, then its authority is justified. The other way political justification can be considered compelling is when situations arise when the state is permitted to 'issue and coercively enforce certain commands' (Estlund, 2008, p. 41). In that case, the state's use of coercive power is justified. Estlund holds that the state's use of coercive power is legitimate when the state is morally permitted because of the political power that produced such commands (Estlund, 2008, p. 41). Estlund, following John Rawls, introduces the liberal principle of legitimacy in defense of democracy. "Our exercise of political power is fully proper 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 in Estlund, 2008, p. 43). Estlund's definition of political justification seems sufficient for the aims of this paper: 'a fully valid political justification lays out reasons that establish the moral justification of the enforcement of legal commands, even coercively' (Estlund, 2008, p. 44). In short, political justification – according to this view - states that legitimacy instills justification in terms that are acceptable to reasonable points of view (Estlund, 2008, p. 44). However, he says, the matter of what qualifies as reasonable is still unspecified, (2008, p. 44).

The qualified acceptability requirement is an approach that distinguishes qualified from unqualified points of view. In addition, it holds that justification only needs to be acceptable to qualified points of view. Qualified acceptability says that there is only legitimacy when there is no possible qualified objection. Thus, according to this view, regardless of the whatever content the justification defeaters may exist, any possible qualified objection is a justification defeater (Estlund, 2008, p. 48). Furthermore, Estlund holds that the qualified acceptability requirement is not an argument to show the legitimacy of laws that are produced in certain democratic arrangements, but to illustrate that those laws can meet a requirement of legitimacy

that certain other influential views cannot. Therefore, arguments in favor of epistocracy are shown to be vulnerable to possible qualified objections in a manner that democracy is not. Although Estlund's conception of democratic authority is called 'epistemic', the way that truth is seen actually goes further than a standard through which political outcomes are evaluated, with democracy as the best performing regime (Estlund, 2008, p. 23). As we will see in later sections, the substantial standards by which democratic decisions are to be judged are not standards of truth, but are valid by being generally acceptable in a certain way (Estlund, 2008, pp. 23-24). There seems to be a choice however, between *epistocracy* on the one hand, and '*deep*' *proceduralism*, on the other. Democracy is vindicated by intrinsic procedural values alone, and without any appeal to any procedure-independent standard of correctness (Estlund, 2008, pp. 24-30). I would first would like to turn to the philosophical shortcomings of overly proceduralist accounts. In my opinion, the critiques that Estlund presents are much more convincing than those of Brennan (2016) are.

### **Deep Proceduralism**

In the first chapter of this thesis, Kelly's epistemic spectrum of theories of democracy were presented. At the end of the spectrum representing minimal epistemic demands on citizens' judgements, there were purely procedural theories. These were *fair proceduralism*, *deep deliberative democracy* and *social choice theory*. Once again, the pure procedural accounts of democratic theory justify democracy through the intrinsic value of democratic procedures as valuable in themselves. Moreover, these type of perspectives avoid relying on the substantive quality of the outcomes in order to vindicate the legitimacy of democracy. Accordingly, it follows that this category has the least demanding epistemic requirements placed on citizens' judgements. Estlund offers a compelling and extensive critique on accounts that seek to explain democratic authority and legitimacy without any appeal to democratic

procedure's tendency to foster political outcomes that are better or more just according to some procedure-independent standard of correctness<sup>2</sup>. However, for the purposes of this paper, it is not relevant to elaborate in depth on the philosophical limitations of proceduralism. Nevertheless, I cannot avoid briefly discussing 'the flight of substance' in normative democratic theory in order to sketch the notion of *epistemic proceduralism*.

Fair proceduralism, as explained in chapter 1, is a minimalist account of epistemic theories of democracy. In this theory, the justification of democracy rests on the claim that majority rule is simply fair. In addition, fair proceduralism does not take into account the epistemic merits of the outcome of the procedure. While I do not wish to deny that fairness is a virtue to some extent, there is scarce value to democracy when there is no appeal to any substantively good decisions. However, if, as Estlund observes, fair proceduralist accounts were to be the only justification, then they would have the benefit of democracy's legitimacy hardly being undermined if Brennan's claims regarding voters' selfishness, irrationality or being misinformed were true (Brennan, 2016, pp. 23-52). While fair proceduralist justifications of the moral value of the collective authorization of laws through democratic arrangements may seem philosophically attractive, I would like to present Estlund's one-line summary of its deficit: if it simple procedural fairness is that which is significant, then deciding by flipping a coin would be just as fair as majority rule - but far cheaper and less time consuming - than mass elections (Estlund, 2008, p. 66). Thus, in this paper, the proceduralist account that endorses democracy - or rather, majority rule - on the mere basis of its fair is discarded for the reason that it has negligible value.

Deliberative democracy, in general, is an approach that opposes itself to the social choice theory's emphasis on the aggregation of preferences. The main strand of deliberative democracy is *deep deliberative democracy*. It is worthwhile noting not because of its emphasis

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<sup>2</sup> Estlund, D. M. (2008) *Democratic Authority*. Chapters IV & V.

on the procedure, but rather because of its claim to explain the value of democracy without any consideration of the quality of political outcomes. Like social choice theory and fair proceduralism, deep deliberative democracy is yet another ‘flight of substance<sup>3</sup>’, as Estlund calls deep procedural theories, and will be criticized here.

Deep deliberative democracy, mainly championed by Jürgen Habermas, is the view that only normative standards by which the political process ought to be judged are noninstrumental evaluations of the mechanisms that produced them. The most important one is ‘procedural rationality’ – the power of public reason. Habermas criticizes any appeal to procedure-independent standards of correctness in assessing the quality of outcomes. Otherwise, any imposition of substantive measures would undermine the basis of dialogue on which political conduct must be founded (Estlund, 2008, p. 88). Be that as it may, Habermas does have a certain standard for evaluating political outcomes, after all. In this case, deep deliberative democracy maintains that the political arrangements, properly conducted, cannot be understood as separate from safeguarding certain individual liberties, and thus must be ordered in such a way as to maintain these liberties. It is independent from the procedure in judging outcomes, for Habermas holds that destruction of these civil liberties would be illegitimate, even in the case that it had been agreed upon in the proper procedure. However, this standard may be noninstrumental in the sense that it values the procedure of rational political communication - the procedure’s intrinsic value, Estlund writes – and it is not derived from the values or objectives that stem from the procedure (Estlund, 2008, p. 88). This is because Habermas’ conception of proper political procedures are founded upon a hypothetical idea, the ‘ideal speech situation’. But Estlund claims that this is a weaker proceduralist theory in the end. Habermas claims that ‘outcomes are legitimate when they *could* have been produced by ideal deliberative procedures’ (Estlund, 2008, p. 89). And on grounds of appealing to a standard of

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<sup>3</sup> Estlund, 2008, p. 86.



procedures that are imaginary and hypothetical, Estlund argues that deep deliberative democracy also refers to a procedure-independent standard in this sense (2008, pp. 88-89).

In my attempt to vindicate democracy's moral and epistemic value, I will follow Estlund's argument in showing why pure proceduralist accounts have philosophical shortcomings. For if I were to defend democracy in terms of its epistemic value, these rebuttals of pure proceduralist accounts would be instructive. However, I do not reject proceduralism, but only approaches that *entirely* depend on proceduralism and nothing else. Democratic legitimacy and authority, Estlund writes, cannot be conceived separately from some procedural value in some respects. Therefore, in order to legitimate democracy, I endorse an approach that ties epistemic values to some form of proceduralism: epistemic proceduralism is – as the name suggests – a fitting theory for my purposes of this paper.

### **Epistemic Democratic Theory**

Earlier in this paper, Socrates' chicken – and – egg query (do you like this?) in *Euthyphro Dilemma* was applied to the validity of democracy. The question at hand is whether democratic outcomes are just because they are democratically chosen, or are they democratically chosen because they are just (Estlund, 2008, p. 65). It seems safe to assume that regarding the many choices a political community faces, there may be some choices that are better than others, according to some procedure-independent standard of correctness (Estlund, 2008, p. 98). On the one hand, if a procedure tends to produce substantively correct outcomes, then that would count in favor of that procedure. On the other hand, however, there are many different, reasonable perspectives on what counts as justice and what it requires.

One need not to adhere to the saying *Vox Populi, Vox Dei* ('the voice of the people is the voice of God'), as has been shown in previous sections. A large amount of democratic normative theory, Estlund writes, has attempted to solve the issues concerning democratic

legitimate decisions by appealing to the intrinsic fairness of a procedure (Estlund, 2008, pp. 65-97). However, as I have explained in the theoretical framework, the category that places a high threshold for the epistemic demands on citizens' judgements, are epistemic theories of democracy. Those nonprocedural epistemic theories rely on the correctness by some objective standard for the legitimacy of a political decision. Therefore, Estlund classifies this set of democratic theories as *correctness theories* of legitimacy (Estlund, 2008, pp. 99).

The reason I devote a large part of this thesis on Estlund's theory, is mainly because his account of epistemic proceduralism is an interesting attempt to reconcile epistemic values with proceduralism. He shows that this seeming disjunction between epistemic and procedural virtues is unwarranted. Before I continue with epistemic proceduralism, it seems apt to say something about overly epistemic theories. That is, about why the legitimacy of political decisions should not solely depend on the correctness according some procedure-independent measurement. Here I will present some basic objections I borrowed from Estlund (Estlund, 2008, pp. 98- 116). In the final chapter of this thesis, I shall present a more philosophical, in-depth critique of overly epistemic theories, and, in particular, of Brennan's account on epistocracy.

The first criticism is that in a political community, especially in modern times, a broad diversity of perspectives exist. Therefore, it is plausible that there will be little agreement on whether a political decision is legitimate. Put differently, Estlund explains, because there is a diverse political community, there is a high probability that there will be disagreement about whether a political decision meets some independent standard – for instance, justice (Estlund, 2008, 99). According to the correctness theories of legitimacy, at least half the majority will accept the correctness of the decision. However, suppose that *nearly* half of the voters, a large minority, deny its legitimacy and thereby refuse the moral obligation to submit to state action and/or deny that it places them under any obligation to comply. This raises the first issue with

correctness theories: in the case described above, political instability might take over. Secondly, besides the practical objection, there is the moral side of the issue, namely that this disagreement may be reasonable, or ‘qualified’, as Estlund puts it (Estlund, 2008, p. 99). Therefore, theories that rely for their legitimacy on the fact that the outcomes are correct, cannot pass the qualified acceptability requirement, for disagreement with the political outcomes are acceptable from all qualified points of view (Estlund, 2008, p. 99). If one adheres to Estlund’s qualified acceptability requirement, then correctness theories are rejected. The other, theoretical objections to nonprocedural epistemic theories, which are discussed in the final chapter, are the problem of *deference* and the problem of *invidious comparisons* (Estlund, 2008, pp. 102- 116).

However, in order to find a normative justification for democracy according to the epistemic proceduralist account, Estlund needs to defend the element of proceduralism in his approach. Whereas overly epistemic theories legitimacy depend on the correctness of a political decision, in epistemic proceduralism legitimacy does not lapse when an outcome happens to be mistaken, owing to the epistemic value of the democratic procedure (Estlund, 2008, p. 104). It could be assumed that Brennan would ask at this point why one should obey a procedure on the decision of a majority, thus meeting epistemic proceduralism’s threshold, even if it is incorrect? It may very well be the case that an individual’s private moral judgement about the outcome is substantively more correct than that which the majority decides. However, the moral reason to abide with the decision of the democratic procedure is separate from its substantive merits, Estlund argues, according to epistemic proceduralism. Epistemic proceduralism, he continues, generates a moral reason to comply, and it is not dependent on the outcome being epistemically the best outcome. While one does not have to defer ones moral judgement to the will of the majority, - or the *volonté générale*, as Rousseau would have put it<sup>4</sup>- one still has to obey the mistaken law (Estlund, 2008, p. 108).

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<sup>4</sup> Rousseau, 1968, book II, chap. 4 & IV, chap. 2

According to Estlund, the concepts of moral obligation and legitimacy do not stem from the correctness of the decisions they have brought about, but rather from the procedure that have brought them forth. That being said, Estlund holds that a ‘central feature of the procedure in virtue of which it has this significance is its epistemic value’ (Estlund, 2008, p. 8). This is what Estlund calls *epistemic proceduralism*. In other words, this means that democratic laws are authoritative and legitimate because that they are the products of a procedure that has the tendency to make correct decisions.

Therefore, Estlund endorses a view that is both epistemic and proceduralist. This approach holds that outcomes are legitimate and authoritative in a purely procedural way; this is partly owing to the fact that democracy has some epistemic value (Estlund, 2008, p. 116). Yet, it is procedural because epistemic proceduralism links the legitimacy and authority of a decision through its basis in the procedure and not some substantive form of correctness. It is like a jury trial - something which Brennan also refers to in his argument - in the sense that it resembles the authority of a democratic arrangement. Even though the verdict of the jury in a criminal case may be in error, there is still the moral obligation to comply. Put differently, as in the case when a jury reaches a decision, its legitimacy and authority do not depend on its correctness, but they do rely on the epistemic value of the procedure (Estlund, 2008, p. 108)<sup>5</sup>. However, the epistemic proceduralist account of normative democratic theory differs from more proceduralist approaches, in that it takes into account the epistemic value of the procedure rather than rely on non-epistemic virtues such as the fairness of a procedure. According to this view, citizens are not given strong reasons to believe that the outcomes are correct. However, they are supplied with moral reasons to comply and enforce those results, even if they think they are mistaken. That being said, some democratic decisions still lack authority or legitimacy, but for moral reasons having nothing in particular to do with democracy (Estlund, 2008, p. 116).

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<sup>5</sup> For the analogy of jury/democracy explained in detail, see Estlund, 2008, chapter 7 and 8.

#### **Chapter 4: Democratic Reason**

In *Democratic Reason*, Landemore (2013) briefly discusses David Estlund's book, *Democratic Authority: A Philosophical Framework* (2008). She grants that *epistemic proceduralism* is one of the most important epistemic accounts of democratic authority to date. Furthermore, Landemore praises Estlund's book for identifying several interesting, different parameters of democratic legitimacy. First of all, purely procedural justifications of democracy do not suffice. Otherwise, if fairness of the procedure was the only thing that counted, then flipping a coin would work just as well as counting votes (Estlund in Landemore, 2013, p. 46). From this follows that it is imperative to include an epistemic account of the normative authority of democratic decision-making mechanisms. And has also been previously discussed, Estlund introduces his theory of 'epistemic proceduralism'. According to this approach, democratic decisions are legitimate to the extent that the procedures that produced those decisions have the tendency to generate right or correct decisions more often than random choice. In other words, this theory reintroduces a form of instrumentalism into the normative justifications of democracy. Thus, the decision-making procedure of democracy can only be legitimate and authoritative if it can reasonably be expected to meet a minimal threshold of epistemic competence, hence not only for its procedural fairness or for the values democracy expresses (Landemore, 2013, p. 47).

However, Estlund's approach is not purely instrumental. Neither does it exclude the role of the principle of consent. In fact, Estlund's theory falls outside of the category of instrumentalism because the purely instrumental justifications of political authority are only half of epistemic proceduralism (Landemore, 2013, p. 47). The other parts of Estlund's theory are the *general acceptability requirement* and a theory of *normative consent*, which both

supply noninstrumental justifications. Hence, the term ‘proceduralism’ is aptly applied to the theory of epistemic proceduralism.

The other question concerning epistemic democracy is that which pertains to the demonstration of epistemic qualities of democracy (Landmore, 2013, p. 48). Landmore examines if democracy meets a minimal threshold of electoral competence and if it can be expected to perform better than an epistocracy, or ‘oligarchy of the wisest’. In his opinion, Estlund fails to provide a compelling answer to these questions. Although Estlund succeeds in providing a solution to the normative aspect, he does not fulfil the task with regard to the positive topics (Landmore, 2013, p. 48). Landmore holds that although Estlund has given a plausible normative defense of the epistemic qualities of democracy, his theory is still open to one criticism. That criticism is that Estlund’s argument relies heavily on the deliberative features of the epistemic accounts of democracy. Moreover, it is constructed in such a broad and general way that it may serve not only to justify democracy, but any deliberative collective procedure - for instance, a deliberative oligarchy of the most competent people in the group (Landmore, 2013, p. 48). According to the author, an argument that shows ‘why deliberation needs to be democratic and specifically inclusive to all members of the group in order to have epistemic properties superior to those of a random decision procedure’ is required as well (Landmore, 2013, p. 48). However, Landmore outlines two ways to answer this challenge in favor of democracy.

First, one could deny the tension between the value of democracy and the belief in citizens’ incompetence by refuting that voters are indeed as uninformed, unengaged and irrational as most existing studies on public opinion state (Landmore, 2013, p. 49). In order to achieve this objective, a lot of time reinterpreting the empirical evidence to show former interpretations were misguided on the concept of ‘political competence or intelligence’ would be involved. In addition, an alternative conception of voter rationality and what the minimal

threshold is to be able to say that voters make competent decisions would also have to be put forward (Landemore, 2013, p. 49).

Second, one could argue that democracy is, in fact, the better decision-making mechanism overall, owing to the feature of *collective intelligence*. This notion shows that when the rule-of-one is compared to the rule-of-many, the outcome favors democracy and yields an independent, epistemic reason to endorse democracy over oligarchy. Thus, Landemore argues that if one takes the concept of collective intelligence seriously, it becomes apparent that there is no better ‘knower’ in politics than the group itself, which can even outsmart any individual member of the group, even its smartest members (Landemore, 2013, p. 50). In other words, Landemore defends the following. First, she admits the relevance of the question of political competence of the voters and that of the quality of political decisions being relevant to the question of political justification. Second, in arguing this claim, she contends that it is not a problem, since the people are actually competent, perhaps not as individuals but at least as a group, and perhaps not on every issue but at least overall (Landemore, 2013, p. 50). Still, the question still arises if the reintroduction of the considerations of political competence and outcomes in the justification of democracy may still pose a risk that could lead to justifying an oligarchy of the wise.

Consequently, Landemore addresses the concern of taking instrumental considerations into account which may justify not only democracy but also alternative regimes which do better than random on epistemic grounds. By engaging the discussion pertaining to the epistemic competence of the electorate, the possibility of inviting restrictions on the franchise, by assuming that some level of epistemic success is required for a political regime to be of value, may also be opened and therefore may lead to the suggestion that political decision-making ought to be delegated to a ‘caste of ‘knowers’’, or ‘epistocrats’ (Landemore, 2013, p. 50). There are several ways one can answer this claim. First of all, other reasons than

epistemic ones must be valued in order to include all people in the decision-making process. For example, considerations of fairness or justice, or considerations that pertain to the manner in which the procedure increases citizens' knowledge or promotes their sense of belonging to the political community need to be part of the process.

One way to refute such a conclusion made possible by addressing the epistemic competence of the electorate is through the denial of the possibility of identifying the 'knowers' in politics (Landemore, 2013, p. 51). Another refutation is the argument that Estlund proposes, which denies the claim that even acknowledged rulers should rule, and that this is beyond reasonable objections by the individual citizens. Once again, Estlund's approach for bestowing epistemic reliability is simply a setting a minimal threshold that a legitimate regime must meet. Nevertheless, other factors should be taken into account besides this threshold. Those factors would rule out an *a priori* dictatorship, oligarchy or other form of epistocracy, regardless of the epistemic superiority of those alternative regimes. According to the qualified acceptability requirement, citizens are not to surrender their moral judgement on significant matters to anyone. Even if there are some procedure-independent standards of correctness and knowers of various skills, there is still no moral basis for epistocracy (Landemore, 2013, p. 51).

However, Landemore's problem with Estlund's qualified acceptability requirement is that if one does not accept this, his theory of epistemic proceduralism is still vulnerable to the risk of epistocracy, since Estlund claims 'it is certain that there are subsets of citizens that are wiser than the group as a whole' (Estlund, 2008, p. 40). This 'epistemic modesty' of Estlund is unwarranted, according to Landemore (2013, pp. 51-52). Accordingly, Landemore argues that a better way to answer the challenge that epistocrats such as Brennan put forward lies in making the claim that it is not certain at all whether there are 'subsets of citizens that are wiser than the group as a whole'. Therefore, Landemore devotes the rest of her argument to



showing that, all other things being equal, the group is, on average, more likely to be as smart concerning political decisions as any subset of its members. To summarize, Landemore's solution to the challenge of epistocracy is not that identifying who the knowers are can never be agreed upon, nor that there can never be consensus among qualified or reasonable points of view on who those knowers are, but rests on the fact that there are grounds to believe that the group as a whole rather than any particular individual or group of individuals within it is the more reliable knower (Landemore, 2013, p. 52).

### **A Defense of Deliberation**

Brennan (2016) has advanced several counterarguments that undermine the epistemic value of deliberation. In short, he points out the prevalence of several cognitive biases are detrimental to the objectives of democratic deliberation (Brennan, 2016, pp. 37-48). One of the notable examples of these biases is the *confirmation bias*, which is defined as the tendency to accept evidence which supports ones preexisting views (Brennan, 2016, p. 43). There is a great deal of empirical evidence that shows that human reasoning is deeply flawed (Brennan, 2016, pp. 37- 66); Landemore, 2013, pp. 120-124). Brennan argues that these empirical findings prove that deliberation is counterproductive to citizens' moral and epistemic status, and therefore they should be discouraged from political participation (Brennan, 2016, p. 73).

That being said, Brennan's conclusion may not be decisive in this debate. Landemore proposes an alternative psychological framework that can be applied which is called '*the argumentative theory of reasoning*' (Landemore, 2013; Mercier and Landemore, 2012; Landemore and Mercier, 2010). This framework will bring forth new arguments, if not evidence, that supports Landemore's thesis that deliberation among the many has epistemic benefits (Landemore, 2013, p. 124).

Her theory defines reasoning as ‘a specific cognitive mechanism that aims at finding and evaluating reasons, *so that individuals can convince people and evaluate their arguments*’ (Landemore, 2013, p. 124). The classical definition of reasoning, on the other hand, describes reasoning as a process that ‘allows improving our epistemic status by correcting our own beliefs and intuitions, building on these foundations to reach knowledge and improve the correctness of our judgements and decisions’ (Landemore, 2013, p. 124). The latter view is dominant in political psychology. The main issue pertains to the fact that the classical conception of reasoning runs into problems on an empirical level, especially concerning the stubborn fact of ‘confirmation bias’ (Landemore, 2013, pp. 124-125). An alternative is provided by the argumentative theory of reasoning, which prescribes that the hypotheses of classical psychology ought to be abandoned, and, instead, insights from evolutionary psychology ought to be considered (Landemore, 2013, p. 125). Evolutionary psychologists tend to explain certain phenomena in *functional* terms - that is, explanations that pertain to the functionality of these phenomena, namely, the production of beneficial consequences (Landemore, 2013, p. 125). Their theories offer the possibility to turn vices into virtues, especially when reasoning exhibits systematic biases, especially ‘confirmation bias’. According to the theory of argumentative reasoning, the main goal of reasoning is to convince others. Therefore, the confirmation bias would actually prove to be useful. This new goal of reasoning does not place truth-finding, but evaluating arguments, in the centre. Yet the evaluating function of reasoning is indirectly concerned with truth: individuals want to be able to change their minds when it’s epistemically warranted (Landemore, 2013, pp. 126-127). From the theory of argumentative reasoning it follows that the conditions of reasoning are deliberative and social. Therefore, it is in accord with the paradigm of *deliberative democracy* (Landemore, 2013, p. 127).

Brennan (2016, p. 65) refers to Cass Sunstein's work, which shows that deliberation often results in the tendency for a group who already share an opinion on some issue to become more extreme after a joint discussion - 'the law of group polarization' (Sunstein, 2002). According to Brennan, these findings have negative implications for those in favor of deliberative democracy (Brennan, 2016, p. 66). However, Landemore has two replies to the claim that the law of group polarization should make one skeptical of deliberative democracy. First of all, although the pressure to conform to the group does not affect the lone reasoner, without joint discussion, he would have only a limited scope of arguments, which would also entice him to conform. Secondly, Sunstein's law only applies to a type of reasoning which is not the standard in the way the argumentative theory of reasoning and the theory deliberative democracy defines it (Landemore, 2013, pp. 136-138). Deliberation is more than having diverse arguments or 'discussions', but having arguments that respond to each other in critical, even conflicting ways (Landemore, 2013, p. 138). Furthermore, Sunstein's law of group polarization only affects a socially homogenous group. Therefore, a socially diverse group may yet reap the benefits of deliberation. This supports the idea of cognitive diversity, which will be presented later on.

To summarize, the theory of argumentative reasoning illustrates it as first and foremost a social function of conviction and assessment of validity of other people's claims. When it is combined with the assumptions on the manner which confirmation biases tend to be canceled out in diverse groups, it has the following implications. The normative ideal of deliberative democracy seems plausible because that deliberation tends to improve citizens' virtue. In addition, as Landemore claims, deliberation has many epistemic qualities and even more epistemic qualities than reasoning on one's own (Landemore, 2013, p. 143). Therefore, confirmation biases are actually epistemically beneficial and are not a problem that needs to be fixed; instead, what matters is producing optimal conditions for reasoning, that is, genuine

deliberation with others. Thus, if the view of cognitive diversity is endorsed, Brennan's claim that widespread political participation is detrimental to politics and civic virtue, is refuted, at least partly.

### **A Defense of Majority Rule**

In this section, I will elaborate on the arguments for the positive or empirical aspects concerning the epistemic features of democracy, or more specifically, majority rule. This is the second mechanism of political decision-making, along with deliberation. Majority rule, which is defined as the rule by which a political decision is made, is based on at least 50%+1 of the votes. As Landemore claims, proponents of the epistemic properties of judgement aggregation through majority rule, claim that it is more epistemically reliable than minority rule. However, she continues, deliberation should not be seen as distinct from majority rule, since neither procedure is fully independent of the other. Landemore suggests that chronological priority should be applied to deliberation, and move on to majority rule when the epistemic properties of deliberation have been exhausted (Landemore, 2013, p. 146-147). Furthermore, results from mathematical models, namely the Condorcet Jury Theorem, the Miracle of Aggregation, and Scott Page and Lu Hong's model of the Wisdom of the Crowds Based on Cognitive Diversity predict a fairly positive effect of judgement aggregation through mass voting (Landemore, 2013, pp. 145-185). However, Jason Brennan (2016) has given an overview of the empirical evidence that supports to the view that most voters are irrational, uninformed and ignorant. I will briefly discuss these arguments, but also supply counterarguments that will show that these findings should not lead to antidemocratic conclusions.

First, if politics is seen according to the social choice approach, it is merely the aggregation of preferences alone, and the only way a dictatorship or oligarchy (which an

epistocracy comes down) can be supported is when it is determined that it is important to satisfy the preferences of some individuals but not of others (Landemore, 2013, p. 185). In contrast, if politics is viewed as a preference-aggregation paradigm in which the satisfaction of each individual's preference is equally important, then the case in favor of democracy would immediately be settled. Even an enlightened dictator or an oligarchy of the wise would have to rely on some form of democratic procedure in order to acquire information on all citizens' individual preferences. From this follows that if politics is regarded as something more than *purely* preference aggregation, there may be an interesting comparison between the rule of one, of the few, or of the many (Landemore, 2013, pp. 185-186).

Another problem with the aggregative approach, which views politics as the aggregation of preferences, equates citizens' behavior to consumer behavior. Although the concept of preference is value-neutral, if this is translated to policy preferences, it would lead to a 'self-interest preference'. That being said, most voters tend to vote altruistically (Landemore, 2013, p. 186). Therefore, there is a distinction between the politics of judgement, which tend to have an orientation towards the common good, and the politics of interests, in which the interest at stake is self-centered and individualist, however informed and rational it may be (Landemore, 2013, p.186).

A final problem with the view that collective decisions are a matter of interest or preference aggregation, as opposed to a matter of judgement, knowledge, and deliberation, is that voters seem more vulnerable to 'irrationalities' as perceived by the social choice theory and Arrow's notable Impossibility Theorem (Arrow, 1953). In brief, this theorem argues that when there are more than two choices at stake, the social function of aggregation of individual preferences (of a certain type) cannot guarantee that there will be no violation of several axioms which define the conditions of the 'rationality' of a collective choice (Landemore, 2013, p. 186). Although there are empirical studies which imply that Arrow ought to be

regarded with skepticism (Mackie, 2003), from the normative side, there are other refutations imaginable. Deliberative Democrats claim that the problem lies with the assumption of an ‘unrestricted domain’, which is the social choice account for *all* the preferences of voters, including racist or anti-social preferences. Joshua Cohen, for instance, has argued that there should be a form of restriction, namely that the input of the social choice function should be restrained and be checked by a Rawlsian or Rousseauian filter, to make sure that selfish or racist interests are in favor of ‘generalized’ preferences, and that the ‘public reason’ formed by the aggregation of ideological or self-serving types of arguments prevails (Cohen in Landmore, 2013, p. 187). Therefore, with a restricted domain, the likelihood of Condorcet cycles or impossibility theorems would not be as threatening to the value of majoritarian decisions as some may have thought to be (Landmore, 2013, pp. 188-189). In conclusion, Arrow’s impossibility theorem does deserve to be taken seriously by deliberative and epistemic democrats, Landmore argues (2013, p. 189) but it is not enough to dispute the epistemic approach to democracy and the specific claims that Landmore makes throughout her book. These theoretical and empirical limits of majority rule may be rightly held objections, but nevertheless politics as an aggregation of individual judgements, rather than preferences, can be proceeded to. With this having been established, the arguments that Brennan has proposed in *Against Democracy* can be addressed, and counterarguments *in favor* of democracy and *against epistocracy* can be offered.

Brennan perceives politics as high-stake decision-making: ‘if *we*, the electorate, are bad at politics, if we indulge fantasies and delusions, or ignore evidence, then people die’ (Brennan, 2016, p. 24). Brennan shows empirical evidence that proves how little voters know about politics (Brennan, 2016, pp. 25-32). Because of the lack of incentive, namely that the cost of acquiring the knowledge exceeds the benefits of casting an informed vote, the electorate shows a shocking deficit in political knowledge. The mechanism of *rational*

*irrationality* on the part of the voters is known to be the problem of informational free-riding. This is one of the objections to the rational choice theory of the epistemic properties of majority rule (Landemore, 2013, p. 193). Brennan claims that voting provides no incentive to acquire information in order to cast the vote (Brennan, 2016, pp. 23-30). Moreover, even if one assumes that voting has noninstrumental, expressive value ('cheering for your team', as 'hooligans' do), there is still no reason to do so in an informed manner (Brennan, 2016, pp. 40-43). However, the paradigm for voting has been largely inspired by twentieth-century assumptions that are based on the Schumpeterian concept of perfect competition. Tuck (2008) argues that it is now instrumentally rational to contribute to the common good. Therefore, if it is only minimally rational to vote, it follows that these votes are also minimally rationally informed (Landemore, 2013, p. 194). Another way to respond to the problem of informational free-riding has been proposed by Gerry Mackie (2012) in this 'contribution theory of voting'. One of the implications of this theory is that the reason for casting a vote will be multiplied over time, because of the increase in the contribution to the common good that could result from this vote. Therefore, as election day draws closer, the marginal benefit increases, since one vote may indeed be crucial and the margin by which one's 'team' wins or loses becomes more narrow (Landemore, 2013, p. 194). The contribution theory of voting makes voting seem rational, particularly when elections draw near, by combining the instrumental value ('voting will cause my team to win when it is pivotal') and the mandate value ('voting causes my team to either win or lose by a certain amount') (Landemore, 2013, p. 194). As a citizen may have a small, but nonetheless significant incentive to vote, then he likewise has a reason to acquire political knowledge in order to cast an informed vote. Mackie (2012) holds that participating in elections is not a matter of cheering for your team, but rather as a matter of playing for your team. And it does not matter for the outcome of a game whether the supporters are fit. But the proper training and good mental and physical condition of the

players does make a significant difference (Landemore, 2013, p. 194). According to Mackie, voters have incentive enough to become informed, at least well enough for the kind of voting that is expected from them in representative democracy (Mackie in Landemore, 2013, pp. 194-195).

In this manner, the problem of informational free-riding has now been addressed. However, the presumption that consensus exists on the kind of information pertaining to good epistemic outcomes still needs to be answered. Therefore, I will elaborate on Brennan's other objections to majority rule, namely the problem of voters' systematic biases and their 'rational irrationality'.

According to Brennan (2016), when it comes to voting, the level of general political knowledge has a low median and a high variance. In other words, some voters know a lot, most voters know nothing, and many voters know less than nothing (Brennan, 2016, pp. 24-34). He offers several studies with empirical evidence that show how little voters know. However, these studies mostly concern knowledge of American politics. Therefore, the first reply one can offer is that critiques of democracy that are based on empirical observations of American politics are not enough to prove that the epistemic properties of democracy as an ideal type are insufficient. Furthermore, Brennan endorses Caplan's (2007) theory of the 'rational irrational voter'. There are two types of objections to be addressed, on the one hand, those which are theoretical motivated, and on the other, those empirically motivated.

The first theoretical objection is indeed detrimental if one accepts Caplan's characterization of the voter. He says that voters have preferences in their beliefs and maximize the ideological pleasure of feel-good beliefs. In other words, this is what Brennan defines as political hooliganism (Brennan 2016, pp. 4-5). The claim that Brennan puts forward is that citizens' judgements are based on systematic cognitive biases, and that mass elections thus lead to disastrous outcomes. However, if people do not lack sufficient



intelligence and are diverse in the making of political predictions, then the possibility of amplifying the systematic biases in a majority of the political decisions is not very likely (Landemore, 2013, p. 197). Additionally, deliberation - Brennan's objections to which have already been addressed in the previous section - is also important for the epistemic argument. Even if the majority makes mistakes, there is a possibility for self-correction after public debate. In contrast, Brennan's view is that 'voting pollution' will either bring experts or harm to the political arena (Brennan, 2016). However, there have been historical examples of systematic biases in democracies - for instance, on race issues - but that changes came from the majority themselves, rather than from the elites, after a democratic process of reflection and public deliberation (Landemore, 2013, p. 197). Of course experts are welcome in public deliberation, but this does not mean an epistocracy ought to be endorsed.

There remains the empirical challenge of the observation of systematic biases in actual American democratic citizens. Brennan cites the studies of Althaus (2003), concerning the policy preferences of the public and those of an 'enlightened public' (Brennan, 2016, pp. 32-34). As mentioned earlier, the overall median of political knowledge is low, yet the variance is high. Furthermore, the level of political knowledge influences one's policy preferences. Landemore offers three criticisms of how citizens' political incompetence is measured in the studies that Brennan offers (Landemore, 2013, pp. 198-207).

The first criticism pertains to the fact that possession of factual knowledge and epistemic competence is not the same. Thus, the first reply to Brennan is on a methodological basis, namely that the benchmark of voters' biases is basically the knowledge of objective facts (Landemore, 2013, p. 199). The ability to answer textbook political questions may seem to be the foundation for 'high political IQ individuals', but there are some doubts that can be raised concerning this standard. To begin with, information is distinct from competence, and a correlation between having certain types of information that has been measured by surveys,

on the one hand, and the competence to make political choices, on the other, is not easy to ascertain (Landemore, 2013, p. 199). Neither Brennan nor other existing studies have yet to come up with evidence that proves the causal relation between voters' inability to correctly answer certain political quizzes and their inability to make right political choices or endorse the 'right' policy preferences. One of the explanations Landemore offers is that most of the designs of factual political surveys contain an air of elitism, in that they measure the type of knowledge that is interesting for policy analysts and journalists, but not necessarily the sole indicator of smart political choices (Landemore, 2013, p. 199). The failure to establish this causal link implies two assumptions. First of all, the fact that educated people are good at answering political quizzes does not mean that the policy preferences of the educated are better (although Brennan seems to make this claim, which I will address hereafter). Second, it also does not entail that the policy preferences of 'know-nothings' or 'low political IQ individuals' are wrong (Landemore, 2013, p. 200).

In addition, there are criticisms of the claim that Brennan seems to make concerning 'enlightened preferences'. For instance, the comparison of the policy preferences of the average citizens with their 'better educated' counterparts is questionable. One objection is that this definition of 'enlightened preferences' is equated with the knowledge of objective facts. However, as I argued earlier, the possession of factual knowledge may be an elitist measurement of political knowledge as well as an irrelevant measurement for showing the ability to vote in a politically competent manner (Landemore, 2013, p. 201).

Another objection addresses expert knowledge and the endorsement of an epistocracy. The lack of topical knowledge as shown by the cited empirical findings is not the same as global incompetence. As Brennan himself argues, the ideal type of voter -that is, Vulcans-, would be aware that they were ignorant, if, in fact, they were. But even if citizens are bad at answering political quizzes, that does not prove that they are not reasonable enough to know

## Against Epistocracy

of their ignorance and acknowledge that they would have to accept some institutional arrangements and delegate some political decisions to experts to compensate for this (Landemore, 2013, pp. 201-203). If people consented to delegating some tasks to experts, this would not, *ipso facto*, turn democracies into oligarchies. Furthermore, even if citizens exhibit topical incompetence, there is no reason to assume that this cannot be solved through education and public deliberation. As mentioned earlier, the race issues in the U.S. were solved over time by the progression of the majority. Finally, the last objection towards an epistocracy, or oligarchy of experts, is posed by Philip Tetlock (2005), who shows that even a group of experts are not 'foolproof either' (Landemore, 2013, p. 205). In this age of academic hyperspecialization, there is no reason to think that experts, who are mostly dogmatic thinkers, are better in making political decisions than attentive readers of newspapers (Landemore, 2013, p. 206). In conclusion, the lack of cognitive diversity among experts is in sharp contrast to the cognitive diversity of large groups of nonexperts, which tends to undermine a definite conclusion in favor of an epistocracy.

**Chapter 5: Against Epistocracy**

In this chapter, the central question will be why epistocratic forms of government should be rejected. To answer this questions, I will restate that Jason Brennan's claim that we ought to replace democracy with epistocracy is based on the following five premises. I shall quote Brennan directly below:

- ‘1. *Against proceduralism*: there are no good proceduralist grounds for preferring democracy to epistocracy.
2. *The competence principle*: it is presumed to be unjust and to violate a citizen's rights to forcibly deprive them of life, liberty, or property, or significantly harm their life prospects, as a result made by an incompetent deliberative body, or as a result of decisions made in an incompetent way or in bad faith. Political decisions are presumed legitimate and authoritative only when produced by competent political bodies in a competent way and in good faith.
3. *Corollary of the competence principle*: Presumptively, we ought to replace an incompetent political decision-making method with a more competent one.
4. *Comparative institutional claims*: Universal suffrage tends to produce incompetent decisions, while certain forms of epistocracies are likely to produce more competent decisions
5. *Conclusion*: We should probably replace democracy with certain forms of epistocracy.’<sup>6</sup>

In the previous chapters, I have supplied several counterarguments to the first and fourth premise. In the third chapter on Epistemic Proceduralism, I have shown there are indeed proceduralist accounts that are solid, indispensable defenses of democracy. In the

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<sup>6</sup> Brennan, 2016, pp. 141-142

fourth chapter, where I have borrowed many arguments from H el ene Landemore, I have dealt with the remaining criticisms that Estlund’s chapter did not cover. These arguments are also compelling reasons to reject the claim that democracy makes incompetent decisions. In my view, it seems that having shown that there are justifiable proceduralist claims in favor of democracy and, in addition, having refuted that democracy is not incompetent, undermines epistocracy’s vindication as a whole. However, in the remainder of this thesis, I will respond to the theoretical justifications of epistocracy. That is, I will reply to the second - and thus, the third - of Jason Brennan’s argument, *the competence principle*. First of all, Brennan argues that competence and good faith are presumptive conditions for the right to rule. Yet I would like to argue that good faith is an presumptive condition for granting the competent the right to rule. If a ruler has bad faith, then competence would make him even more dangerous. But this is more of a side note rather than a full-fledged rebuttal of the competence principle. Instead, my final task is to convincingly argue that epistocracy lacks moral and epistemic virtues, whereas democracy does not. First, I will prove that equating ‘expert’ with ‘authority’ is a fallacy. Second, I will show how epistocracy’s legitimacy can be theoretically undermined as well.

In line with Estlund, I have argued, that a complete ‘flight from substance’, or the justification of democracy on its intrinsic or procedural values alone is philosophically unsatisfactory. Moreover, there might be another risk, that of relying on substance alone, arguing that democracy’s proper function is reaching political decisions that are correct according to some procedure-independent substantive standard. From this point of view, it may be attractive to argue in favor of *epistocracy*, since it seems beyond question that some citizens, or subsets of citizens, are wiser. The association between *truth* and *knowledge* - on the one hand- and *expertise* and *authority*, seems natural. As Socrates allegedly once claimed ‘knowledge is power’ in politics (Socrates in Estlund, 2008, p. 30). Unlike Plato, however,

Socrates was not an authoritarian<sup>7</sup>, and epistocrats are. Therefore, I shall counter a more general argument in favor of epistocracy - the appeal to knowledge as a justification for power- that is based on the following three tenets (Estlund, 2008, p. 30):

1. *Truth Tenet*: there are true procedure-independent standards by which political outcomes ought to be evaluated.
2. *Knowledge Tenet*: some citizens know more about these normative standards or political truths, than others.
3. *Authority Tenet*: the normative political knowledge of the citizens who know better justifies their political authority over those with lesser knowledge.

Estlund has explained that resisting the argument for epistocracy may be achieved by rebuking one of these three tenets (Estlund, 2008, pp.31-36). There are some ways to deny the truth tenet, as seen with many accounts of pure proceduralism. However, it was important to refute these approaches in order to justify a defense of democracy based on epistemic grounds. Therefore, the truth tenet, at least, is granted. The knowledge tenet is also difficult to deny, according to Estlund (Estlund, 2008, p. 31). That being said, Landemore has presented some grounds to do so in the sense that even though there may be citizens who know better than others on political matters, the group as a whole may outperform an oligarchy of the wisest (Landemore, 2013, pp. 232-241). However, this is not a correct rebuttal of the knowledge tenet. For present purposes, the knowledge tenet will be granted for argument's sake. Therefore, it rests me to reject the third premise, the authority tenet, which I will do so below.

### *No Invidious Comparisons*

In order to answer the question “why not epistocracy”, the following challenge is faced. First, it is certain that there are certain subsets of citizens who are wiser than the group as a

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<sup>7</sup> for Socrates is said to have denied that anyone could attain this special kind of wisdom in political context.

whole (Estlund, 2008, p. 40). Therefore, it is imperative to refute the claim that some principle that illustrates that even though there are subsets of citizens that have these superior abilities, it does not necessarily follow that they should have the authority should be appealed to (Estlund, 2008, p. 40). The aforementioned acceptability requirement negates the earlier mentioned expert/boss-inference upon which such a claim could be based. As there is a true standard for evaluating political decisions as being either better or worse, then it follows that there may be a criterion of true general acceptability which judges the use of such true standards (Estlund, 2008, p. 33). If there were, it would be an element of justified political authority. Once again, it simply would read like this: ‘No one has authority or legitimate coercive power over another without a justification that could be accepted by all qualified points of view’ (Estlund, 2008, p. 33). This leads to a way for denying the case for epistocracy. If one made plausible that a particular person or group who was put forward as an ‘expert’ enticed controversy, or, more specifically, qualified controversy, then the authority tenet would be resisted (Estlund, 2008, p. 35). It follows, then, that *no invidious comparison* among citizens would be able to pass the general acceptability requirement of political legitimacy (Estlund, 2008, p. 35).

To be fair, Brennan (2016) addressed this very critique in the first chapter of his book. He responds to Estlund’s criticism by denying that epistocrats are guilty of endorsing the authority tenet. Instead he claims that an antiauthoritarian tenet is more applicable:

*‘Antiauthoritarian Tenet: When citizens are morally unreasonable, ignorant, or incompetent about politics, this justifies not permitting them to exercise political authority over others. It justifies either forbidding them from holding power or reducing the power they have in order to protect innocent people from their incompetence’* (Brennan, 2016, pp. 16-17).

In that sense, according to Brennan, epistocrats only need to maintain that democratic decisions are not authoritative or legitimate in certain cases because they tend to be incompetent. As is

the case with Estlund, I am not sure that equal voting power needs to be defended in order to block the epistocrats' claim. On the contrary, the aim of this paper is to defend democracy from deviations such as Brennan's argument for epistocracy. I am not giving a justification for democracy in its own right. At least, not in this thesis. As universal suffrage is the default, the vindication is less demanding than arguing against it. Therefore, in order to counter the epistocrats' claim, other ways that show that invidious comparisons cannot overrule qualified objection need to be considered (Estlund, 2008, pp. 212-219).

### *Epistocracy of the Educated*

It may be natural to believe that the wise should rule, yet this claim is universally denied (Estlund, 2006, p. 206). One of the reasons for this denial is that many people are of the opinion that political rule ought to be justifiable in a generally acceptable way. Estlund has formulated this belief in the Qualified Acceptability Requirement. Moreover, given that there may be reasonable (qualified) disagreements as to who should be considered the wise, it follows that a rule of the wise could hardly meet this standard. However, one must admit that a decent background, for instance, a proper education in the subjects of politics, history, economics *et cetera*, must be beneficial to the ability to rule wisely. Thus, Estlund asks why there should not be general agreement among all qualified points of view that citizens who have enjoyed such an education, should have more votes than others (Estlund, 2008, p. 206). Estlund specifically criticizes the point that the well-educated would rule more wisely and subsequently have more political authority. This type of epistocracy of the well-educated is a proposal which originated with John Stuart Mill (Estlund, 2008, pp. 206-207).

First, Aristotle's argument against the pure Platonic form of epistocracy, namely, "the knowers ought to have all political authority, in virtue of their wisdom" can be considered (Estlund, 2008, p. 208). However, Aristotle points out that the question concerning this wise



elite is whether there is some larger group, even if the average individual wisdom is lower, that might not perform better (Estlund, 2008, p. 209).

Second, Mill's proposal for plural voting can be considered. The motives to include plural voting are two-fold. To begin with, it is to prevent one class from getting permanent political control over the other, or what Mill calls the *problem of class legislation* (Estlund, 2008, p. 210). The other motive for plural voting is to avoid giving equal influence to each person without any regard to his merit, competence, intelligence, and so forth (Estlund, 2008, p. 210). Yet even if Aristotle is held to be right and that deliberation is best when participants are numerous, this still does not provide a reason why a wiser subset of citizens should not be granted two or three votes (Estlund, 2008, p. 210). This introduces an *epistocracy of the educated thesis*: 'where some are well educated and others are not, the polity would (other things equal) be better ruled by giving the well-educated more votes' (Estlund, 2008, p. 212). There are two objections that can be made against this thesis.

First of all, there is the *deference*. The question this objection raises is whether 'it is beyond qualified denial that the educated would rule more wisely, then must it be beyond qualified denial that the consequences of their extra ruling power are better' (Estlund, 2008, p. 212). Thus, if deference can be reasonably refused, because one cannot be demanded to surrender one's moral judgement to any other agency, then the following argument can be brought against Mill: regardless of the overall long-term effects of giving more votes to the more highly educated, they do not disqualify the denial of this advantage being best. However, if more highly educated truly were wiser, then the overall long-run effect would be for the best. From this follows that the denial of the well-educated being wiser is also not disqualified. Therefore, Mill's proposal of a plural voting arrangement is not generally acceptable in a way that can be 'understood and accepted by the general conscience and understanding', as Mill would put it (Estlund, 2008, pp. 212-213). This objection is easier when only considering the

short-run, and becomes more difficult when taking the long-term effects into account. However, as economist John Maynard Keynes put it, ‘in the long run we are all dead’. Nevertheless, this does not completely free us from concern about deference. If much time has passed, is it then unreasonable to defer, Estlund asks (2008, p. 214). The question now arises, whether the case for plural voting can be resisted on other grounds, without defeating the epistemic approach in its entirety.

The second objection may be worded as follows:

*‘The demographic objection:* The educated portion of the populace may disproportionately have epistemically damaging features that countervail the admitted epistemic benefits of education’ (Estlund, 2008, pp. 2015).

Even if one could correct for demographically underrepresented groups on certain features, if objections which were based on latent and/or conjectural features of the privileged group were not disqualified, then the epistemic argument for privileging an adjusted set of the educated could not justify such a policy, even if all agreed that there is a kind of education that enables those who receive it to rule more wisely. Therefore, educational criteria are open to qualified objections, and Estlund thus concludes that the idea of an epistocracy of the educated is defeated (Estlund, 2008, pp. 215-218).

## Conclusion

In this paper, I have defended the following thesis, namely that a democratic government possesses epistemic and moral value, and have opposed claims that there are legitimate grounds to replace democratic elections or restrict universal and equal suffrage to ensure the epistemic value of political decision-making. When one takes the principles of *normative authority* and *legitimacy* seriously, then any restriction of equal voting rights on the grounds of elitism does not produce a rule of government that is intrinsically better nor superior in producing better outcomes than a democratic system. Furthermore, I have replied to Brennan's critiques concerning the epistemic failures of deliberation and majority rule, and shown that they are not compelling enough to accept an epistocracy. I have written an initial explanation of the distinction of values that are employed by political philosophers in accrediting various types of government regime. In addition, I have pointed out that there is a distinction possible between intrinsic and extrinsic values. Epistemic values have to do with truth and knowledge seeking, and it is one of the non-intrinsic or extrinsic values. Intrinsic values may be translated as proceduralism in political philosophy, in which democracy is deemed just based on the fairness of its procedure. Moreover, instrumentalism, which holds that the outcomes of political decision-making are the justification of the regime, has been recognized. Although Jason Brennan claims in *Against Democracy* to support a rule of the most competent - an epistocracy - on instrumentalist grounds, his *competence principle* may be seen as a non-instrumentalist evaluation as well. In his thesis against democracy, Brennan makes the following statements: (1) He does not accept the opinion that political participation is valuable for most people. Instead, he holds rather the contrary, that political participation tends to stultify and corrupt most of the electorate. Or, even worse, it turns citizens into civic enemies. (2) He opposes the view that citizens have a basic right to vote or run for political

office. He states that the right to vote has to be justified. That means that this right is not like civil liberties, such as ‘freedom of speech, religion, and association. (3) He explains that unrestricted, equal, universal suffrage is in morally objectionable in a number of ways. Even though there are some forms of government which are intrinsically unjust, it does not follow that democracy is a uniquely or intrinsically unjust form of government.

Brennan has relied heavily on empirical studies to prove the thesis that democracy should be praised as much for the astonishing deficit of the political competence of the average voter as it is generally praised for its virtues. First, there is the problem of systematic biases that turn people into ‘ignorant, irrational, and misinformed’ individuals. The mechanisms of *voters’ rational irrationality* and *informational free riding* causes citizens to lack incentive to cast an *informed* vote. Therefore, majority rule amplifies the voters’ lack of knowledge and leads to detrimental outcomes. From this follows an epistocracy ought to be installed, were it merely to allow the wisest a say, and thus tackle the problem of ‘voting pollution’. Furthermore, there are no grounds, Brennan claims, for accepting the defense of deliberative democrats. For deliberation is useless, even detrimental, if the problem of the prevalence of cognitive biases is taken seriously.

In order to undermine these powerful critiques on the epistemic value of democracy, I have relied on the arguments of H el ene Landemore’s *Democratic Reason*. Concerning the recurrence of these cognitive biases - most notably, the so-called *confirmation bias*- if one relies on the classical definition of reasoning, which refers improving epistemic standing of one’s belief through the acquisition of knowledge and thereby bettering judgements and decisions, then these psychological failures are indeed dangerous. On the other hand, from evolutionary psychology’s perspective, or more specifically, according to the approach of the *argumentative theory of reasoning*, those cognitive biases have a social function. From this account, there is a connection between argumentation and reasoning. This type of reasoning

may bring progress in communication even when trust is limited. By devising arguments, people who would otherwise not accept another's claims on the basis of trust may be convinced, even though they would be unable to evaluate the validity of the argument. As a result, neither the *confirmation bias* nor the *law of group polarization* provide real ground for worry. In fact, where there is cognitive diversity, something that a democracy is more likely to achieve than epistocratic forms of government, genuine deliberation may be beneficial for the epistemic value of democracy.

Concerning the prevalence of the alleged systematic biases that are amplified at collective level through mass elections, Landemore's arguments have once again proved useful in refuting Brennan's criticisms. The first claim that Landemore makes in this respect is that majority rule should not be seen as a procedure unrelated to deliberation. The aggregative mechanism of collecting individual judgements makes little sense without a pre-deliberation phase. Furthermore, even if the majority makes mistakes, that citizens' have the ability of reflection and deliberation, to rectify their 'wrong' judgements, as was the case with the issue of race and slavery should not be forgotten to take into account. One of the problems that cause 'voting pollution' (as Brennan compares it with air pollution) is that citizens have little or no incentive to obtain knowledge in order to cast an *informed* vote; the costs of acquiring information outweigh the benefits with respect to voting. This is a view from microeconomics and social choice theory, an account that Landemore has criticized to great extent. Subsequently, the problem of informational free riding is, according to Landemore, a problem that is mostly the product of twentieth century-thinking and the notions of perfect competition. There is now a new norm with an orientation towards contribution to the 'common good', and consequently, if it is rational to vote, it is similarly rational to become informed. Additionally, the *contributory theory of voting* that deems voting a combination of instrumental values as well as mandate values, implies that the marginal benefit becomes

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more crucial when elections draw close, for not only may the one vote may become pivotal, but the margin by which one's camp may win or lose the election may become more important as well. Similarly, the reason to become properly informed may become more significant as the Election Day draws closer. Therefore, voters do have incentive to become more informed, at least informed enough for the ballot system in representative democracy.

Besides the problem of informational free riding, there is the problem of voters' systematic biases and their 'rational irrationality'. To these claims, which presumably undermine the epistemic properties of democracy, there are both theoretical and empirical objections. Landemore's theoretical objection to the indictment of the epistemic properties of democracy based on the risk of the aggregation of systematic biases through majority rule is two-fold. First, it may be put forward that this amplification of systematic biases in which the majority of the decisions are wrong is an implausible situation. According to Landemore, this would only occur if people lacked sufficient intelligence and the electorate lacked sufficient cognitive diversity. The former seems unlikely, for people have the ability to make important decisions in everyday life, so there is little reason to doubt they have the intelligence to consider political decisions. As for the latter, the rule of many brings together a wide array of diverse perspectives. The second theoretical objection to the notion of 'rational irrationality', which has been presented in this paper is in regard to excluding the role that deliberation can play in the epistemic argument for democracy and that it cannot play in Brennan's book.

Concerning the empirical objections, there are three rebuttals that Landemore presents: (1) knowledge of objective facts is not a conclusive benchmark; (2) taking economists' or social scientists' knowledge as the standard begs the question if that has authority in politics in the first place; (3) these so-called 'enlightened preferences' or 'enlightened public' are merely slight variations concerning either facts or expert knowledge.

Finally, there is the approach of epistemic proceduralism that is one of the most influential accounts on the epistemic qualities of democracy to date. First, Estlund argues that in political philosophy, the notion of ‘truth’ ought to play a role. However, this notion of truth in political decision-making seems to pose a paradox between procedural and epistemic values; a choice between *deep proceduralism* and *epistocracy*. The denial of proceduralism is *a correctness theory* of legitimacy, in which some independent standard of correctness is the basis of legitimacy for political decisions. *Deep proceduralism*, on the other hand, contains the view that deliberative democracies are justified by the political deliberation process itself without any appeal to any procedure-independent standard of correctness. However, Estlund denies there should be such a conflict between intrinsic and epistemic values. Although Estlund refuses to accept pure deliberative accounts of democracy that rely solely on proceduralist values - a claim that is beyond the scope of this paper, and therefore has been elaborated on only slightly - this does not compel the acceptance of epistocratic forms of government. Support of such a regime is often based on the *expert/boss-fallacy*, in which expertise is wrongly seen as the basis of political authority. Thus, in order to deny the justification for epistocracy, one can proceed by refuting one or more of the three premises: the truth tenet, the knowledge tenet or the authority tenet. Estlund grants proponents of epistocracy the first two tenets, but denies the authority tenet on basis of the general acceptability requirement. The main task to undermine the justification of epistocracy is not on epistemic grounds, which may lead to the belief that the outcomes of the procedures are correct or good. Nevertheless, Estlund argues, the main objective is to show how democracy creates moral reasons to obey the law and the moral permissibility to enforce it. Estlund’s rebuttal of epistocracy relies therefore heavily on the concepts of *authority* and *legitimacy*. On the one hand, the basis of authority is *normative consent*. For legitimacy, on the other hand,

the criterion of qualified acceptability applies. The *qualified acceptability requirement* states that there legitimacy only is present when there is no possible qualified objection.

Concerning the question of whether democracy ought to be endorsed for its moral and epistemic value, Estlund introduces his account of *epistemic proceduralism*. This is a justified democracy through a combination of both procedural and epistemic values. Therefore, rather than assuming that the legitimacy of the outcome depends on its objective correctness, Estlund argues that legitimacy is derived from the epistemic value (though imperfect) of the procedure that produced it. Democratic legitimacy requires, as has been shown earlier, that the procedure is able to be considered, in terms acceptable to all qualified points of view, to be epistemically superior when it provides outcomes that are better than random. Epistemic proceduralism entails that outcomes are legitimate and authoritative in a purely procedural way, partly owing to democracy having some epistemic value (Estlund, 2008, p. 116). As a result, this approach is procedural, because epistemic proceduralism links the legitimacy and authority of a decision to it being based in the procedure and not some independent standard of correctness. Yet, in contrast to most proceduralist theories, this view does take into account the epistemic value of the procedure, and instead relies more on non-epistemic virtues such as the fairness of a procedure. The epistemic value of democracy has been elaborated on by Landemore, who personally commented on Estlund's argument being rather thin on this account. However, if epistemic proceduralism is combined with Landemore's arguments, this provides, in my opinion, even stronger reasons to believe that democracy indeed has epistemic and moral superiority above epistocracy than the qualified acceptability requirement alone.

Finally, in regard to the thesis of this paper, namely that democracy has supreme epistemic and moral values over epistocracy, I concluded by opposing claims that there are legitimate grounds to replace democratic elections or restrict universal and equal suffrage to



ensure the epistemic value of political decision-making. In other words, the questioning of an epistocracy should not be adopted has been addressed as well. There are two objections that Estlund proposes, namely the deference objection, which is not decisive enough in itself to defeat the epistocrats' thesis, namely that the polity would be better ruled if the wisest were given more say or the exclusive say in matters. Estlund's compelling objection to epistocracy is the so-called demographic objection. This entails that the educated or privileged portion of the populace may have disproportionately high level of epistemically damaging features that countervail the admitted epistemic benefits of education or expert knowledge. An epistocracy is thus likely to have unfair policies and epistemic losses, and therefore can be reasonably denied.

To conclude this paper, I have argued the benefits of democracy on epistemic and moral grounds, and, more specifically, that the political outcomes of political decision-making by epistocratic forms of government do not have the same advantage as democracy does. In addition, the decisions made by an epistocratic body do not enjoy the same authority and legitimacy as decisions produced by democratic procedures. Therefore, I have shown why proposals which argue for the restriction of universal suffrage ought to be rejected. Democracy is a form of government that is not only morally just with regard to norms of fairness and justice, but has epistemic benefits as well. With this paper I have hoped to make a small contribution to political philosophy, in that the justification of democracy lies not only in proceduralist accounts, but also in regard to good political outcomes.

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