

EPISTEMIC FOUNDATIONS OF DEMOCRATIC AUTHORITY

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ABSTRACT

Until recently, epistemic considerations have not been relevant for answering the question about democratic authority. It was usually considered that justifications that go in the direction of knowledge, truth or correctness favored decision making by experts rather than democratic decision making. However, recent research in the field of epistemic democracy has experienced significant change of the point of view in this regard. Now it seems unavoidable that the question about justification of democracy and its authority should have an epistemic dimension. In this paper, special attention will be paid to justification of democratic authority on epistemic grounds. Since I think that in order to answer the question about legitimate democratic authority, it is necessary to previously examine what makes democratic decision making legitimate, I will also consider different ways of justifying democracy that include epistemic considerations. Since Estlund's defense of epistemic proceduralism plays a key role in grounding democratic authority on epistemic basis, in this paper I will in greater detail discuss some essential issues regarding this conception.

KEYWORDS

epistemic democracy; public reason; political obligation; democratic authority; public deliberation.

1. INTRODUCTION

Until recently, epistemic considerations have not been relevant for answering the question about democratic authority.¹ It was usually considered that justifications that go in the direction of knowledge, truth or correctness favored

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decision making by experts rather than democratic decision making. However, recent research in the field of epistemic democracy has experienced significant change of the point of view in this regard. Now it seems unavoidable that the question about justification of democracy and its authority should have an epistemic dimension. In this paper, special attention will be paid to justification of democratic authority on epistemic grounds. Since I think that in order to answer the question about legitimate democratic authority, it is necessary to previously examine what makes democratic decision making legitimate, I will also consider different ways of justifying democracy that include epistemic considerations. Since Estlund's defense of epistemic proceduralism plays a key role in grounding democratic authority on epistemic basis, in this paper I will in greater detail discuss some essential issues regarding this conception.

In the second section of the paper, I introduce some basic notions and explain the two-step justification of political authority that is based on public reason. I also point at the connection between justifications based on public reason with considerations which pertain to epistemic democracy. In the third section I examine Estlund's epistemic conception of democratic authority. Special attention is devoted to Estlund's arguments in favor of epistemic proceduralism which, in his opinion, should be given precedence over other epistemic and non-epistemic conceptions of democratic authority. In the fourth section of the paper, previous considerations are brought into connection with the topic of constituting democracy. I argue that epistemic considerations are of essential significance for this topic, but also that full justification of democratic authority should rest on a balance between epistemic and non-epistemic considerations. Section five concludes.

2. PUBLIC REASON AND DEMOCRATIC AUTHORITY

Epistemic considerations regarding democracy can have different functions. They can help us answer the question what makes democratic decision making legitimate, but their function can also be to offer an answer to the question about legitimate democratic authority. Despite the fact that the notion of legitimacy figures in both cases, we think a clear distinction should be drawn between

legitimacy of democratic decision making and legitimate political authority.² Namely, it is obvious that a decision can be legitimate due to the fact that it had been brought in a democratic way, but it does not ensue that it necessarily generates political obligation. The typical examples regarding limits of political obligation are decisions suspending fundamental rights and freedoms or democracy itself.³ In other words, for legitimacy of democratic authority it is not sufficient that a procedure of democratic decision making be legitimate; it is also necessary to take into account some procedure-independent standards.

In that sense, similar problems emerge within epistemic democracy as when we generally make an attempt to justify democracy and its authority. The crucial issue when trying to justify democracy is whether precedence should be given to procedure of democratic decision making or outcomes which ensue from such a procedure. Obviously, what distinguishes democracy from all other mechanisms of political decision making is fairness of procedures, which guarantees to all participants free and equal access in the making of decisions. However, if merely fairness of procedures constitutes grounds for justification of democracy, then it has to be admitted that it is grounded on very weak foundations. By means of fair procedures it is possible to make decisions that would be deeply unfair, bringing into question the idea about purely procedural justification of democracy.

An alternative conception of instrumental justification of democracy is based on the idea that democracy is justified to the extent that it protects or advances procedure-independent standards. To the extent to which outcomes of procedure are such that they contribute to preservation or advancement of independent standards, to that extent is democracy itself justified. Nevertheless, it seems that instrumental justification of democracy is also grounded on weak foundations. Namely, the main problem concerning instrumental justification of democracy is that if outcomes of undemocratic type of decision making can better fulfill procedure-independent standards, then such decision making should be given precedence over democracy. Of course, it is possible to look for a solution that would be a hybrid conception of justification, combining both procedural and instrumental considerations.

In this paper, I will examine answers to questions about grounds of democratic legitimacy and democratic authority from the perspective of epistemic democracy. Within epistemic democracy, at the most general level, we can differentiate among

² See also A. Buchanan, "Political Legitimacy and Democracy," *Ethics* 112, 2002, pp. 689–695.

³ See R. A. Dahl, *Democracy and Its Critics*, Yale University Press, New Haven and London, 1989, pp. 171–172.

three points of view which correspond to previously discussed theoretical positions. Namely, when legitimacy of democratic decision making is concerned, it can be claimed that it is grounded in some epistemic characteristics of fair democratic procedures. Alternatively, it can be claimed that legitimacy is grounded in some procedure-independent standards of correctness and that procedures of democratic decision making are justified to the extent to which their outcomes contribute to realization of these standards. Finally, it is possible to defend a hybrid epistemic conception of democratic legitimacy that underlines the importance of both fair democratic procedures and independent standards of correctness. When democratic authority is concerned, the issue which has drawn considerable attention within epistemic democracy is whether its justification should give precedence to a hybrid conception or to purely instrumental justification.⁴ However, at this point it is similarly impossible to avoid juxtaposing hybrid conception of justification with proceduralist view which considers fairness of decision making procedures to be the source of political obligation.

Standard justification of political authority, typical of social contract theory, even though it has been partially derived from the idea of majority rule, has not been directly derived from democratic decision making. Within classical social contract theory, consent is the direct source of political obligation. The majority rule generates political obligation only indirectly, because previously consent has to be secured regarding such way of decision making. It is important to emphasize that for classical social contract theorists, consent regarding majority rule does not mean that society constituted in this way will necessarily be democratic. On the contrary, these theoreticians maintained that any type of government can be established by means of majority rule. So, original consent regarding majority rule and subsequent majority voting generate political obligation regardless of the form of government. Therefore it could be said that subject of original consent is method of decision making, which usually is democratic, but that subsequent consent of the majority does not necessarily result in establishing democracy. Undemocratic forms of government can be chosen in a democratic way.

This possibility is blocked in recent views that primarily ground the source of political obligation in public reason. The justification of political authority based on public reason does not necessarily include consent of all members of society. Instead, a conception of justice or political decision making is sought that would be acceptable to all reasonable citizens. The idea of reasonable citizen can be

⁴ D. M. Estlund, *Democratic Authority: A Philosophical Framework*, Princeton University Press, Princeton and Oxford, 2008, pp. 102–106.

explained in different ways. For example, Rawls brings this idea into direct connection with idea of reciprocity i.e. aspiration to offer to others fair conditions of cooperation which they would be willing to accept.⁵ Any sort of imposition of conceptions of justice or political decision making which other citizens would not be prepared to approve of is excluded in advance. It means that justification of political authority grounded in public reason excludes undemocratic forms of political decision making. Therefore the choice given to reasonable citizens does not pertain to various forms of government, but to the form of democratic decision making that would be acceptable to all reasonable citizens.

The justification of political authority grounded on public reason, similarly to standard justification of political authority, requires two steps. In the first step, reasonable citizens decide which forms of political decision making can be reasonably rejected, which eliminates familiar methods of undemocratic decision making. In the second step, normatively the most adequate procedure of democratic decision making is sought. The delineations of the second step often involve theoretical considerations that are not complete. They usually anticipate which procedure of democratic decision making would be the most acceptable on reasonable grounds, comparing typical procedures of democratic decision making such as voting and public deliberation. Of course, comparative advantage of a procedure of decision making based on a combination of voting and public deliberation is also explored. In addition, the usual forms of democratic decision making are often compared with lottery, whether as a sole method of political decision making or in combination with some other method.

It is obvious that considerations favoring certain democratic procedures can be based on different principles. David Estlund espouses the view that epistemic democracy is significant precisely because such considerations ought to be almost exclusively of epistemic nature.⁶ Actually, significance of epistemic considerations is twofold because it extends to both steps of justification of political authority grounded in public reason. It is well-known that Rawls has maintained that conception of public reason must be freed from epistemological dimension.⁷ Namely, insisting on the truth of their own comprehensive views, reasonable

⁵ J. Rawls, "The Idea of Public Reason Revisited," in: John Rawls, *Political Liberalism*, Expanded Edition, Columbia University Press, New York, 2005, p. 446.

⁶ For criticism of this view, see E. Anderson, "An Epistemic Defense of Democracy: David Estlund's *Democratic Authority*," *Episteme* 5 (1), 2008, pp. 135–136.

⁷ See J. Rawls, *Political Liberalism*, Expanded Edition, Columbia University Press, New York, 2005.

citizens could hardly achieve any consent. Epistemic abstinence is precisely what leads towards the possibility of achieving an overlapping consensus. In contrast, Estlund thinks that if the acceptability requirement is to be valid, it “must be put forward as true.”⁸ This is the first way how epistemic considerations come into play when justifying political authority grounded in public reason.

The second way how they come into play is when weighing comparative advantages of various procedures of democratic decision making. It is important to notice that such a conception of political authority grounded in public reason, unlike standard justification of political authority, does not rest only on consent about the method of decision making, but on defining the most adequate form of political decision making for generating political obligation. Various forms of democratic decision making can be more or less adequate in this regard. If some decision making procedures have a tendency to lead to correct outcomes, then epistemic considerations regarding democracy become necessary. Therefore it becomes an important task to establish not only which procedure of democratic decision making would be acceptable on reasonable grounds, but also which epistemic characteristics of various procedures of democratic decision making make them more or less acceptable sources of political obligation. It is precisely for this reason that epistemic democracy is centrally important for answering the question about legitimate political authority.

3. ESTLUND'S CONCEPTION OF DEMOCRATIC AUTHORITY

David Estlund differentiates between three conceptions of legitimacy of democratic decision making. He terms them impartial proceduralism, correctness theories and epistemic proceduralism.⁹ In his view, the first conception of legitimacy of democracy is non-epistemic, while other two are epistemic. Theories which belong to the conception of impartial proceduralism are characterized by the view that for legitimacy of democratic decision making, it is not necessary to adduce a procedure-independent standard. Legitimacy of outcomes of democratic decision making fully depends of fair procedures. On the other hand, for epistemic

⁸ D. M. Estlund, *Democratic Authority: A Philosophical Framework*, Princeton University Press, Princeton and Oxford, 2008, p. 58. See also D. Estlund, “The Truth in Political Liberalism,” in: Jeremy Elkins and Andrew Norris (eds.), *Truth and Democracy*, University of Pennsylvania Press, Philadelphia, PA, 2012, pp. 251–271.

⁹ D. Estlund, “Beyond Fairness and Deliberation: The Epistemic Dimension of Democratic Authority,” in: James Bohman and William Rehg (eds.), *Deliberative Democracy: Essays on Reason and Politics*, The MIT Press, Cambridge, Ma and London, 1997, p. 182.

conceptions of democratic legitimacy it is typical that they emphasize procedure-independent standards which primarily have an epistemic importance. In other words, to be able to know whether some decisions are better or worse, it is necessary to have a procedure-independent standard of correctness.

The essence of epistemic conceptions of legitimacy of democratic decision making, according to Estlund, is that for justification of democracy they largely attribute importance to the quality of its outcomes. The difference between correctness theories and epistemic proceduralism is that former are purely instrumental, while latter in addition to quality of outcomes of decision making, also emphasize the role of fair procedures. In contrast to correctness theories, epistemic proceduralism does not maintain that legitimacy of democratic decision making requires that outcomes necessarily be correct. It is only important that procedure of decision making be such that it has a tendency that better decisions can be made in terms of a procedure-independent criterion of correctness. Obviously, epistemic proceduralism is hybrid conception of legitimacy of democratic decision making which stresses importance of both fair procedures and procedure-independent standards of correctness.

Estlund maintains that the conception of epistemic proceduralism has an advantage over other epistemic and non-epistemic conceptions of legitimacy of democratic decision making. A comparison of impartial proceduralism with correctness theories leads to a conclusion that the former should be given precedence. Namely, if it is surmised that decisions are brought by voting on the basis of a majority rule, in the case of disagreement, at least the majority will regard the decision correct, but the minority of citizens may regard the decision as incorrect. This brings into question the basic postulate of correctness theories, namely that correctness of outcomes is a necessary and sufficient condition for legitimacy of democratic decision making. So, impartial proceduralism has an advantage as a conception of legitimate democratic decision making because in situations of disagreement it enables bringing of decisions in a fair manner, which makes them acceptable because of that even to those who do not agree with their outcomes. Consequently, impartial proceduralism as a conception of legitimacy of democratic decision making should be given precedence over correctness theories.

The main reason why epistemic proceduralism should be given precedence over impartial proceduralism is that the latter conception leads to „political nihilism.“¹⁰ The price which impartial proceduralism has to pay for giving up on procedure-

¹⁰ D. M. Estlund, *Democratic Authority: A Philosophical Framework*, Princeton University Press, Princeton and Oxford, 2008, p. 26.

independent standards and primarily epistemic standards of correctness is that multitude of bad decisions can be justified on the basis of fairness of procedures. Impartial proceduralism, strictly speaking, does not have a way to differentiate between better and worse decisions. Robert Dahl says that „the democratic process is a gamble on the possibilities that a people, in acting autonomously, will learn how to act rightly.“¹¹ But this gamble can turn out to have been wrong. Given that epistemic proceduralism takes into account procedure-independent standards of correctness, it has an advantage over impartial proceduralism because it makes a clear distinction between better and worse decisions. In other words, precedence should be given to those procedures of democratic decision making that have a tendency to lead to better decisions. Therefore, epistemic proceduralism as a conception of legitimacy of democratic decision making should be given precedence over impartial proceduralism.

Even though Estlund does not directly compare epistemic conceptions in terms of legitimacy of democratic decision making, it can be said that criterion of transitivity requires that we give precedence to epistemic proceduralism over correctness theories. However, even though Estlund does not directly consider the relationship between these two conceptions of legitimacy of democratic decision making, juxtaposing these conceptions has a decisive importance for justification of democratic authority. It should be noticed that Estlund does not make a clear distinction between the two aforementioned dimensions of justification.¹² Nevertheless, taking into account the considerations from the previous section, I maintain that it is justified to make such a distinction. In view of this distinction, I think that Estlund's criticism of impartial proceduralism is largely relevant for the issue of legitimacy of democratic decision making and his criticism of correctness theories is largely relevant for justification of democratic authority. Making these distinctions, I do not strive to construe Estlund's view so much as to pursue the way in which he argues against aforementioned conceptions.

Before examining Estlund's criticism of impartial proceduralism as a conception of legitimacy of democratic decision making, I point out that his theory is one of the most important contributions to justification of political authority on the grounds of public reason. Namely, in accordance with justification of political authority on the basis of public reason, Estlund clearly

¹¹ R. A. Dahl, *Democracy and Its Critics*, Yale University Press, New Haven and London, 1989, p. 192.

¹² See also H. S. Richardson, „Estlund's Promising Account of Democratic Authority,” *Ethics* 121, 2011, p. 303.

emphasizes that in the first step, from the perspective of reasonable citizens or what he terms qualified points of view, a model of social choice that favors minority of experts would be rejected. In his words, the key question in this perspective is „You might be correct, but what makes you boss?“¹³ Therefore, Estlund maintains that despite the fact that relying on experts could be the best strategy in epistemic regard, the model of the rule by experts or epistocracy would not pass the test of public reason based on the acceptability requirement which includes all qualified points of view. Considering that the most famous non-democratic way of justifying political authority has been excluded on the grounds of public reason, in the second step relative advantages and disadvantages of various forms of exclusively democratic decision making are examined.

We can now go back to Estlund's criticism of impartial proceduralism as a conception of legitimacy of democratic decision making. Regarding this criticism, two things should be pointed out. Firstly, in accordance with limitations of public reason, only procedures of democratic decision making are taken into account, primarily voting on the basis of majority rule and public deliberation, as well as a combination of these procedures. Estlund also takes into account lottery and a combination of this method of decision making with voting and public deliberation, but in terms of criticism of aforementioned mechanisms of decision making rather than in terms of independent consideration of its advantages and disadvantages. Secondly, Estlund does not approach juxtaposition of comparative advantages and disadvantages of these procedures of democratic decision making directly, but by considering broader theoretical conceptions.

Since I have already designated impartial proceduralism as a conception of legitimacy of democratic decision making, within this conception Estlund differentiates three further theoretical sub-conceptions which highlight different procedures of democratic decision making. The three sub-conceptions of impartial proceduralism which Estlund elucidates are fair proceduralism, fair deliberative proceduralism and rational deliberative proceduralism.¹⁴ The common trait of all these sub-conceptions is that they assume that for legitimacy of democratic decision-making it is not necessary to adduce any procedure-independent

¹³ D. M. Estlund, *Democratic Authority: A Philosophical Framework*, Princeton University Press, Princeton and Oxford, 2008, p. 3.

¹⁴ D. Estlund, „Beyond Fairness and Deliberation: The Epistemic Dimension of Democratic Authority,“ in: James Bohman and William Rehg (eds.), *Deliberative Democracy: Essays on Reason and Politics*, The MIT Press, Cambridge, Ma and London, 1997, pp. 176–181.

standard. What differentiates them is that fair proceduralism is based on the majority rule and fair deliberative proceduralism and rational deliberative proceduralism on the procedure of public deliberation or a combination of this procedure with voting. Estlund subjects all these three sub-conceptions of impartial proceduralism to criticism.

Firstly, he thinks that fair proceduralism is not able to show why voting in accordance with majority rule is a better method of decision making than a random device of flipping a coin. Both are fair procedures and if procedural fairness is the only thing that counts, there is no difference whatsoever between these procedures. However, people would hardly accept that some issues such as those of distributive justice should be decided by tossing a coin. Therefore, if voting is considered more acceptable in that sense, it cannot be only because of its intrinsic fairness. The another problem for fair proceduralism is that within this sub-conception there is no way in which we can recognize better reasons. Just like procedural fairness demands that each vote be counted equally, all reasons would likewise have to be given an equal treatment. It means that fair proceduralism would have to treat good and bad reasons equally, which is unacceptable from epistemic point of view.

Secondly, Estlund claims that fair deliberative proceduralism can be criticized in a similar way. The crucial difference in relation to fair proceduralism is that within this sub-conception, essential importance of public deliberation is emphasized. However, Estlund maintains that without a procedure-independent criterion, fair deliberative proceduralism is not able to show what is gained in terms of legitimacy in the process of a fair public deliberation. For the sake of the argument, Estlund proceeds from the procedure of democratic decision making which consists of public deliberation and voting. The basic advantage of this procedure, according to fair deliberative proceduralism, is that legitimacy of outcomes is product of fairness of procedure itself. However, Estlund's next step in the argument is to assume an alternative procedure of democratic decision making which instead of voting has post-deliberative flipping a coin after the process of public deliberation. Estlund suggests that the requirement of procedural fairness could be to take into account all options that have gained some measure of support in the process of public deliberation and decide between them employing a random device of tossing a coin. To claim that there are greater chances that post-deliberative voting should lead to better outcomes than post-deliberative tossing of a coin, it requires adducing a procedure-independent criterion of correctness. Given that fair deliberative proceduralism does not allow for the role

of an independent criterion, it means that in terms of democratic legitimacy there is no difference between post-deliberative voting and flipping a coin. In order to make such a difference, it is necessary to introduce an additional criterion which has an epistemic significance.

Finally, Estlund criticizes the sub-conception he terms rational deliberative proceduralism. The characteristic which this sub-conception has in common with the previous one is that it requires some sort of deliberative democracy, or rather procedure of public deliberation, whether taken independently or in combination with voting. What differentiates rational deliberative proceduralism from fair deliberative proceduralism is that in addition to fair access to public discussion and the entire decision making process, this sub-conception also emphasizes the importance of recognizing good reasons. What Estlund finds problematic regarding this position is that it assumes that the basis of legitimacy of reason-recognizing procedures does not necessitate an independent standard of correctness. But rational deliberative proceduralism is shown to be an unstable position in this regard, because recognition of good reasons requires an independent criterion of correctness. Therefore rational deliberative proceduralism either wrongly assumes that procedure for recognizing reasons can work without independent standards or once it is corrected in terms of a standard of correctness, it ceases to be a non-epistemic type of proceduralism and becomes an epistemic conception of democratic legitimacy. If this is accepted, epistemic proceduralism which acknowledges both importance of fair procedures and independent standards of correctness becomes a conception of legitimacy that should be given precedence over any sub-conception of impartial proceduralism. For that reason Estlund concludes that, “without any space for the view that democratic outcomes are procedurally, but not substantively, rational, deliberative conceptions of democracy are forced to ground democratic legitimacy either in the infertile soil of an impartial proceduralism or in a rich but combustible appeal to the epistemic value of democratic procedures.”¹⁵

I now turn to Estlund's criticism of correctness theories. I have previously noted that Estlund criticizes impartial proceduralism as a conception of legitimacy of democratic decision making. As opposed to that, his criticism of correctness theories focuses on their inadequacy as conceptions of legitimate democratic authority. Estlund does not find problematic the view that correctness of outcomes should be the basis for binding democratic decision making. What he finds

¹⁵ D. M. Estlund, *Democratic Authority: A Philosophical Framework*, Princeton University Press, Princeton and Oxford, 2008, p. 102.

problematic in correctness theories is that citizens who do not agree with the outcome necessarily have to consider their judgment wrong. The problem is therefore that correctness theories view the outcome of democratic decision making as necessarily correct in the moral sense, which generates moral obligation of someone's consent with the given decision, even when his or her judgment is opposed to that. Estlund argues that the conception of epistemic proceduralism provides better grounding for legitimacy of political authority. Namely, epistemic proceduralism does not assume that the decision necessarily has to be correct. Even wrong decisions can have binding force because they have been brought on the basis of procedures that have a tendency to produce correct decisions (Estlund in this regard points to analogy between democracy and a jury). But precisely because decision making procedures are the source of the binding force, rather than correctness of outcomes, it is possible for citizens to consider some decisions binding due to procedural reasons and to regard them as wrong at the same time. This means that they do not have to subject their judgment to democratic decision making. Estlund summarizes his criticism of correctness theories in the following way:

Here we can see the promise of an epistemic form of proceduralism, one that departs from correctness theories by holding that the outcome is legitimate even when it is incorrect, owing to the epistemic value, albeit imperfect of the democratic procedure. Such an account would not expect minority voter to surrender her judgment to the procedure in any way, since she can hold both that the process was properly carried out and that the outcome, while morally binding on citizens for procedural reasons, is morally mistaken.¹⁶

However, Estlund's criticism of correctness theories brings us again to impartial proceduralism. Namely, if the source of political obligation is procedure of democratic decision making, then question is posed whether in terms of legitimate democratic authority epistemic proceduralism, like impartial proceduralism, perceives fairness of procedures as the only source of political obligation (if rational deliberative proceduralism is excluded, which we will discuss momentarily). In order to show why this is not the case, Estlund points out that impartial proceduralism is devised as a conception of fair decision making in situations in which it is interests of various persons that are primarily taken into account. However, if we assume that an outcome of democratic decision making can be better or worse in a moral sense, Estlund thinks that fair way of taking into account interests of all citizens is not sufficient to generate political obligation or at least assumes exceptionally weak foundation for political obligation. In this case it

¹⁶ Ibid., p. 104.

is necessary that the procedure of democratic decision making finds a way to take into account moral judgments of individuals. Given that epistemic proceduralism allows for such a possibility, Estlund claims that epistemic proceduralism is modification of impartial proceduralism „to cases of morally evaluable outcomes.“¹⁷ Unlike impartial proceduralism, epistemic proceduralism is sensitive to outcomes that may be better or worse in moral sense. Unlike correctness theories, epistemic proceduralism does not require full convergence regarding moral correctness of outcomes of democratic procedures. Now we are in a position to see why Estlund thinks that epistemic proceduralism offers a better foundation for moral obligation to accept outcomes of democratic decision making than alternative conceptions of legitimate democratic authority.

4. LESSONS FOR CONSTITUTING DEMOCRACY

After we have considered Estlund's view, we can go back to justification of political authority based on public reason. Recall that we have claimed that this type of justification proceeds in two steps. In the first step, reasonable citizens reject those types of decision making that are not adequate for justifying political authority, and in the second step they decide which way of democratic decision making is the most adequate in this regard. Estlund's view has been given special attention because it is the most important contribution to such two-step justification of political authority on the basis of public reason. When the first step is concerned, Estlund suggests that from the perspective of all qualified points of view, epistocracy would be reasonably rejected as a method of political decision making. Since it does not pass the test of the acceptability requirement, epistocracy cannot be a source of legitimate political authority. This leaves us with familiar forms of democratic decision making. The crucial contribution of epistemic democracy approach is ascertaining which method of democratic decision making would be the most adequate for generating political obligation. Even though Estlund's consideration in this regard is directed towards various conceptions and sub-conceptions of democratic legitimacy and legitimate democratic authority rather than epistemic qualities of certain procedures of democratic decision making, I think that it goes in the direction of accepting some form of deliberative democracy.

¹⁷ *Ibid.*, p. 108.

I will now attempt to make explicit this conclusion, that is implicit in Estlund's considerations. In this respect, my criticism of Estlund's view is quite modest because it does not concern the conclusion, but the way in which it has been reached. Namely, as we have seen, when speaking about legitimacy of democratic decision making in terms of proceduralism, Estlund differentiates conceptions of impartial proceduralism and epistemic proceduralism. Within impartial proceduralism, one of sub-conceptions is rational deliberative proceduralism. However, if rational deliberative proceduralism is corrected for an independent standard of correctness, the way Estlund does, the conception of epistemic proceduralism actually reduces to rational deliberative proceduralism. It can be claimed that this objection is purely terminological, because it is all the same whether epistemic proceduralism is reduced to rational deliberative proceduralism or vice versa. However, it is conspicuous that unlike consideration of other epistemic and non-epistemic conceptions and sub-conceptions of legitimacy of democratic decision making, Estlund does not explicitly state which form of decision making is required by epistemic proceduralism.¹⁸ Once when epistemic proceduralism is reduced to rational deliberative proceduralism corrected for independent epistemic standard of correctness, the priority of public deliberation becomes explicit. In order to preserve a brand of "epistemic proceduralism", it could alternatively be claimed that rational deliberative proceduralism is actually a sub-conception of epistemic proceduralism, which is still in accordance with previously established conclusion. Something similar can be claimed regarding legitimate democratic authority. We have seen that Estlund in that regard also differentiates between conceptions of impartial proceduralism and epistemic proceduralism. We have already stressed that rational deliberative proceduralism should be excluded from Estlund's criticism of impartial proceduralism at least when it is corrected for an independent standard of correctness. Actually, such type of rational deliberative proceduralism requires a form of deliberative democracy as the most adequate procedure of decision making for generating political obligation on epistemic grounds.

It can be noticed that nothing in previous discussion suggests that considerations regarding the most adequate procedure of democratic decision making for generating political obligation must be of strictly epistemic nature.

¹⁸ That some form of deliberative democracy is required becomes obvious in chapter IX of Estlund's *Democratic Authority*, where he compares the ideal epistemic deliberation with the model epistemic deliberation. See D. M. Estlund, *Democratic Authority: A Philosophical Framework*, Princeton University Press, Princeton and Oxford, 2008, Chapter IX.

Despite persuasiveness of the epistemic democracy approach, it is natural to assume that constituting democracy on the grounds of public reason should, in addition to epistemic, also include other considerations that take into account familiar principles such as freedom and equality. The epistemic democracy approach is centrally important because it points to significance of epistemic considerations for justification of democracy and its authority. However, full justification of the most adequate procedure of democratic decision making for generating political obligation should also include non-epistemic considerations. I think that it should actually reflect a balance of epistemic and non-epistemic considerations. Even though epistemic democracy might not be sufficient for full justification, it is certainly one of the most important missing links in that endeavor.

5. CONCLUSION

In this paper I have proceeded from the two-step justification of political authority on the grounds of public reason. The first step in justification leads to reasonable rejection of non-democratic methods of decision making, while the second step searches for the most adequate procedure of democratic decision making for generating political obligation. I have concluded that considerations based on public reason require some form of deliberative democracy. In this paper epistemic premises have been particularly examined in order to establish this conclusion. In that regard, I have considered Estlund's version of epistemic democracy and his criticism of conceptions which he terms impartial proceduralism and correctness theories. I have concurred with Estlund that the conception of epistemic proceduralism should be given precedence over alternative conceptions, but I have also pointed out that his defense of epistemic proceduralism requires some form of deliberative democracy.

REFERENCES

- Anderson, Elizabeth, "An Epistemic Defense of Democracy: David Estlund's *Democratic Authority*," *Episteme* 5 (1), 2008, pp. 129–139.
- Buchanan, Allen, "Political Legitimacy and Democracy," *Ethics* 112, 2002, pp. 689–719.

Dahl, Robert A., *Democracy and Its Critics*, Yale University Press, New Haven and London, 1989.

Estlund, David M., *Democratic Authority: A Philosophical Framework*, Princeton University Press, Princeton and Oxford, 2008.

Estlund, David, "The Truth in Political Liberalism," in: Jeremy Elkins and Andrew Norris (eds.), *Truth and Democracy*, University of Pennsylvania Press, Philadelphia, PA, 2012, pp. 251–271.

Estlund, David, "Beyond Fairness and Deliberation: The Epistemic Dimension of Democratic Authority," in: James Bohman and William Rehg (eds.), *Deliberative Democracy: Essays on Reason and Politics*, The MIT Press, Cambridge, Ma and London, 1997, pp. 173–204.

Rawls, John, "The Idea of Public Reason Revisited," in: John Rawls, *Political Liberalism*, Expanded Edition, Columbia University Press, New York, 2005, pp. 437–490.

Rawls, John, *Political Liberalism*, Expanded Edition, Columbia University Press, New York, 2005.

Richardson, Henry S., "Estlund's Promising Account of Democratic Authority," *Ethics* 121, 2011, pp. 301–334.