

Considerations on democracy in Rawls's *A Theory of Justice*

IVAN MLADENović

Department of Philosophy, Faculty of Philosophy, University of Belgrade
Čika Ljubina 18-20, 11000 Belgrade
ivanmladenovic11@gmail.com

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ABSTRACT: According to some influential interpretations, Rawls's later turn to political liberalism contributed significantly to the reorientation of contemporary normative political theory from justice to legitimacy – democratic legitimacy in particular. In this paper, I will not delve into whether these assumptions are correct. My main aim here is to show that we can already find the seeds of a later discussion concerning democratic legitimacy and democratic authority in *A Theory of Justice*. I will also defend the even stronger claim that Rawls's considerations on democracy in *A Theory of Justice* are still relevant, both to justify democracy and democratic authority, and for normatively justifying certain democratic decision-making procedures. Moreover, I argue that his discussion of the epistemic dimension of majority voting and public deliberation points in the direction of later theories of deliberative democracy and epistemic democracy.

KEY WORDS: Democracy, legitimacy, justice, majority rule, public deliberation.

According to some influential interpretations, Rawls's later turn to political liberalism contributed significantly to the reorientation of contemporary normative political theory from justice to legitimacy – democratic legitimacy in particular (Peter 2007; Reidy 2007: 246-247). In this paper, I will not delve into whether these assumptions are correct. My main aim here is to show that we can already find the seeds of later discussion concerning democratic legitimacy and democratic authority in *A Theory of Justice*. This later discussion is characteristic of recent scholarship in normative political theory (Cohen 2009; Estlund 2008). I will also defend the even stronger claim that Rawls's considerations on democracy in *A Theory of Justice* are still relevant, both to justify de-

mocracy and democratic authority, and for normatively justifying certain democratic decision-making procedures.

This paper is structured as follows. In the first section, I examine Rawls's view of legitimacy in *A Theory of Justice*, and its relation to intrinsic and instrumental justifications of democracy and democratic authority. In the second section, I will use the distinction between the principle of participation and the principle of competence to elucidate Rawls's main points about the importance of fair procedures. In the third section, I will focus on Rawls's discussion of majority voting and public deliberation. My main concern in this section is Rawls's epistemic justification of various procedures of democratic decision-making. Finally, I will draw my conclusions in the fourth section.

1. Two conceptions of legitimacy and hybrid justification of democracy

Although formulating a conception of legitimacy is not Rawls's main concern in *A Theory of Justice*, we can find two conceptions of legitimacy at work in the text as he elucidates the relations between justice and legitimacy. I will refer to these two conceptions as the narrow conception of legitimacy and the wide conception of legitimacy. To formulate a conception of legitimacy, Rawls argues that we must first formulate an adequate conception of justice. The conception of justice that was famously argued for by Rawls incorporates principles that are expressive of freedom, equality, and solidarity (i.e., basic liberties, fair equality of opportunity, and the difference principle).¹ His conception of legitimacy is thus best understood against this background. The route to legitimacy is found through the implementation of the principles of justice in a just constitution and just laws. Rawls thinks that to arrive at just legislation, it is necessary to have a just constitution. This constitution will translate abstract principles of justice into specific rights and liberties, and a fair decision-making procedure. Having these basic ideas in mind, we can now outline the two conceptions of legitimacy. The first conception states:

The narrow conception of legitimacy: Democratic decision-making is legitimate if it is carried out according to majority rule.

¹ Rawls says that, "we can associate the traditional ideas of liberty, equality, and fraternity with the democratic interpretation of the two principles of justice as follows: liberty corresponds to the first principle, equality to the idea of equality in the first principle together with equality of fair opportunity, and fraternity to the difference principle" (Rawls 1971: 106).

For Rawls, majority rule is a fair procedure that also satisfies the condition of feasibility. He says that “the constitutional process must rely, to a large degree, on some form of voting” and that “a variant of majority rule suitably circumscribed is a practical necessity” (Rawls 1971: 353). Majority voting is seen as a fair procedure in the sense that it realizes the political freedom and equality specified by a just constitution. However, as we have seen, the role of a just constitution is not only to specify a fair decision-making procedure but it must also specify basic rights and liberties. These rights and liberties are at the core of the wide conception of legitimacy. The second conception states:

The wide conception of legitimacy. Democratic decision-making is legitimate if and only if the outcomes are in accordance with the procedure-independent principles of justice expressed in a just constitution.

By calling this conception of legitimacy “wide,” I mean that it includes not only a decision-making procedure but also procedure-independent standards. The narrow conception of legitimacy in fact allows for more possible outcomes to ensue from the decision-making procedure because these outcomes are not constrained by procedure-independent standards of justice.

Although Rawls in principle accepts both conceptions of legitimacy, he prioritizes the wide conception because it can account for democratic authority and its limits. In other words, Rawls thinks that the fairness of the decision-making procedure (in the form of majority rule) is important for legitimacy but that it is necessary for democratic authority that the outcomes of decision-making are in accordance with the principles of justice expressed in a just constitution. The wide conception of legitimacy also accounts for the limits of democratic authority because when these principles are violated by means of majority voting, then it is justified to challenge and not comply with laws enacted by the majority rule.

It is noteworthy that both conceptions of legitimacy refer to democratic decision-making.² The standard distinction between the intrinsic

² Several authors have noted that the term democracy has not an entry in the index to *A Theory of Justice* (Cohen 2003: 86, Gutmann 2003: 170). However, soon after noticing this, Cohen says the following: “Though justice as fairness is not a theory of democracy, and says little about the processes of democratic politics, it is a contribution to democratic thought. It argues that a democratic political regime is itself a requirement of justice – and not simply for instrumental reasons. Moreover, the fundamental aim of the conception of justice as fairness is to present principles that provide the most reasonable norms for guiding the political judgments

and instrumental justifications of democracy (or democratic legitimacy) is pertinent here. According to the intrinsic justification, a political decision-making procedure is justified by its intrinsic fairness. In contrast, the instrumental justification insists that political decision-making procedures are justified to the extent that they are a reliable means for protecting and advancing procedure-independent standards. We are now in a position to see that these two conceptions of legitimacy are related to the distinction between the intrinsic and instrumental justifications of democracy. The narrow conception of legitimacy roughly corresponds to the intrinsic justification of democracy, whereas the wide conception of legitimacy roughly corresponds to the instrumental justification of democracy. Although this indicates that Rawls accepts both justifications of democracy, does our previous analysis imply that he gives priority to the instrumental justification?

To answer this question, we must first take into account Rawls's distinction between perfect and imperfect procedural justice (Rawls 1971: 85-86). We must also consider the contrast that he draws between these conceptions and pure procedural justice. The main characteristics of perfect procedural justice are first the existence of procedure-independent standards, and second that the procedure in question is a fully reliable means for realizing or advancing those procedure-independent standards. In Rawls's words, "the essential thing is that there is an independent standard for deciding which outcome is just and a procedure guaranteed to lead to it" (Rawls 1971: 85). The main characteristic of imperfect procedural justice is that there are procedure-independent standards but we cannot be sure that the procedure in question will always lead to outcomes that realize or advance these procedure-independent standards. Rawls summarizes this position by saying that "the characteristic mark of imperfect procedural justice is that while there is an independent criterion for the correct outcome, there is no feasible procedure which is sure to lead to it" (Rawls 1971: 86).

Rawls illustrates perfect procedural justice using the example of cutting and distributing a cake. In this case, an independent criterion of

of members of a democratic society in exercising their responsibilities as citizens" (Cohen 2003: 87). In a similar vein, Gutmann (having in mind both *A Theory of Justice* and *Political Liberalism*) says that: "It would be a mistake, however, to conclude from the few explicit references to democracy that the two books have little to say about the subject. Rather, Rawls implicitly identifies democracy with the same broad ideal of political morality with which he identifies political liberalism: the ideal of all (sane and law-abiding) adult human beings as free and equal members of a fair system of social cooperation" (Gutmann 2003: 170).

justice dictates equal division and the person who cuts the cake will take the last piece. He provides the example of a criminal trial as an instance of imperfect procedural justice. Although there is an independent criterion in place (i.e., that a fair trial should convict those who are guilty and release those who are innocent), there is no guarantee that this will always be the case. Precisely because of this lack of certainty, it is important to have a *fair* trial to maximize the chances of making the right decision. Independent standards and fair procedures are both crucially important for imperfect procedural justice but there is no guarantee that fair procedures will always lead to the right outcomes. Fair procedures are not thereby less important – to the contrary, the procedures should be designed to maximize the chances that they *will* lead to the correct outcomes. Although it would be *nice* to have a procedure that always leads to the correct outcome, in cases of imperfect procedural justice “there is no feasible procedure which is sure to lead to it” (Rawls 1971: 86). Imperfect procedural justice therefore implies that fair procedures also satisfy the condition of feasibility.

The conceptions of perfect and imperfect procedural justice stand in sharp contrast to pure procedural justice. There is no need for an independent standard of correctness within pure procedural justice. If the procedures are fair, then the outcomes will be correct – or at least no one will have reason to contest them because all will have been treated equally in the decision-making process. Rawls uses the example of gambling (in the form of a series of fair bets) to illustrate pure procedural justice. However, we could also illustrate pure procedural justice by modifying his example of perfect procedural justice. Imagine that there is no independent criterion of fairness and that the fair procedure is the one in which the person who cut the cake takes the last piece.

We can now return to the question of whether Rawls gives priority to the instrumental justification of democracy. Although we noticed some resemblances between Rawls's two conceptions of legitimacy and the standard conceptions of justifying democracy, this analysis must now be refined in terms of perfect, imperfect, and pure procedural justice. In light of these distinctions, we can conclude that Rawls favors neither the instrumental nor the intrinsic justification of democracy. Because Rawls thinks that both narrow and wide conceptions of legitimacy are acceptable in principle, he also thinks that both intrinsic and instrumental justifications are important for justifying democracy. To be more precise, Rawls argues that the normatively adequate conception of democratic legitimacy should have a form of imperfect procedural justice. At several

points in *A Theory of Justice*, he reiterates that “the political process is at best one of imperfect procedural justice” (Rawls 1971: 196, 229). Given that imperfect procedural justice includes an independent standard and a fair procedure, it follows that Rawls’s position must be understood as a hybrid justification of democracy.

The argument starts from seeing democracy as an instance of perfect procedural justice. Rawls writes that “ideally a just constitution would be a just procedure arranged to insure a just outcome”; he continues that “the procedure would be the political process governed by the constitution, the outcome the body of enacted legislation, while the principles of justice would define an independent criterion for both procedure and outcome” (Rawls 1971: 197). Nevertheless, Rawls argues that the justification of democracy should not be understood according to the conception of perfect procedural justice. His argument is analogous to the fair trial argument:

Clearly any feasible political procedure may yield an unjust outcome. In fact, there is no scheme of procedural political rules which guarantees that unjust legislation will not be enacted. In the case of a constitutional regime, or indeed of any political form, the ideal of perfect procedural justice cannot be realized. The best attainable scheme is one of imperfect procedural justice. (Rawls 1971: 198)

Rawls argues that because of imperfect procedural justice, we should sometimes comply with unjust laws – at least where they do not lead to any substantial injustice. He explains that “being required to support a just constitution, we must go along with one of its essential principles, that of majority rule” (Rawls 1971: 354). This shows that fair procedures of decision-making (especially majority rule, because of the feasibility condition) are important for imperfect procedural justice, as suggested by the narrow conception of legitimacy. However, imperfect procedural justice also implies that we are justified in resisting unjust laws if the injustice in question *is* substantive, particularly if basic rights and liberties are at stake. According to the wide conception of legitimacy, this is exactly as it should be. The two conceptions of legitimacy are combined in a hybrid justification of democracy and democratic legitimacy that is part intrinsic and part instrumental. Although both parts contribute to democratic authority, the instrumental part is needed to account for the limits of democratic authority. This might give the impression that in Rawls’s account the instrumental justification of democracy and democratic legitimacy has priority, where its role is basically related to legitimate democratic authority and its limits. To conclude, the concep-

tion of imperfect procedural justice is able to account for democratic legitimacy and legitimate democratic authority because Rawls relies on both intrinsic and instrumental justifications. As we have seen, it can also account for the limits of democratic authority.

Rawls's conception of imperfect procedural justice in the context of justifying democracy is sometimes understood as a purely *instrumental* justification.³ Charles Beitz argues that because imperfect procedural justice relies on procedure-independent standards to evaluate the outcomes of democratic decision-making procedures, it necessarily has a form of instrumental justification – which he calls “best result theory” (Beitz 1989: 47). He criticizes Rawls's view by pointing out that not only procedure-independent standards but also “non-outcome-oriented criteria of fairness pertaining to the procedure itself” are important for the justification of democracy (Beitz 1989: 47). If our interpretation of Rawls is correct, then these criteria of fairness related to the decision-making procedure are implied in his conception of imperfect procedural justice. Although it may seem that Rawls argues in favor of an instrumental justification, our analysis has shown that his position is best understood as a *hybrid* justification of democracy. In other words, independent standards *and* procedural justice matter in the conception of imperfect procedural justice.

2. The principle of participation and the principle of competence

A further conceptual distinction might be helpful for understanding Rawls's view on democracy in *A Theory of Justice*. This is the distinction between the principle of participation and the principle of competence. I want to stress that Rawls himself does not make this distinction – he does not even mention the principle of competence, although he has much to say about the principle of participation.⁴ Nevertheless, I think that putting his position in terms of this distinction is useful because it will help us to better understand what he has to say about both the principle of participation and democratic decision-making procedures.

³ Several of Rawls's statements point in this direction. For example, he says that “the fundamental criterion for judging any procedure is the justice of its likely results” (Rawls 1971: 230). However, Rawls also says that “the grounds for self-government are not solely instrumental” and that “equal political liberty is not solely a means” (Rawls 1971: 233, 234).

⁴ The distinction originates from Thompson (1976: 9-10), where it was introduced in the context of interpreting Mill's view on representative government.

Let us start with the principle of participation. I explained in the previous section that abstract principles of justice should in Rawls's view be translated into a just constitution. The principle of participation is one of the constitutional essentials that translates abstract principles of freedom and equality into political freedom and political equality (which is sometimes referred to as "equal political liberty"). This is how Rawls introduces the principle of participation:

The principle of equal liberty, when applied to the political procedure defined by the constitution, I shall refer to as the principle of (equal) participation. It requires that all citizens are to have an equal right to take part in, and to determine the outcome of, the constitutional process that establishes the laws with which they are to comply. (Rawls 1971: 224)

The principle of participation implies that an important aspect of political freedom is to have the right and the opportunity to influence the outcome of the democratic decision-making process. The meaning of political equality is encapsulated in the view that there should be an equal distribution of opportunities for influence. In this sense, political freedom and equality are constitutive of a democratic citizenship. Rawls expresses this idea in terms of the principle of participation when he says that "when the principle of participation is satisfied, all have the common status of equal citizen" (Rawls 1971: 227). Although what Rawls calls the principle of participation does not exclude participatory democracy, participatory democracy is not necessarily implied by the principle. Rawls thinks that the principle of participation can also be satisfied in a representative democracy, when citizens have the right and the opportunity to influence the outcomes of the decision-making process by voting and taking part in public deliberation.

The principle of participation can be further explained by distinguishing between its formal and substantive dimensions. The principle's formal dimension concerns the equal distribution of opportunity for influence. This equal distribution is usually understood as the one-person-one-vote principle. It also implies equal access to public office. Rawls stresses that the formal dimension of the principle of participation should be understood against the background of the substantive dimension, which has two components. The first component (which is related to the wide conception of legitimacy) is that the formal properties of democratic decision-making are not enough and substantive principles

(e.g., freedom of expression, freedom of association, etc.) are also necessary for a well-functioning democracy.⁵

Even when the aforementioned formal and substantive principles are settled, the substantive dimension of the principle of participation has a second component that must also be satisfied. This second component is what Rawls calls the “worth of political liberty.” The worth of political liberty may be unequal even where there is formal political liberty and equality, which could undermine the democratic process. Rawls explains this danger as follows:

The liberties protected by the principle of participation lose much of their value whenever those who have greater private means are permitted to use their advantages to control the course of public debate. For eventually these inequalities will enable those better situated to exercise a larger influence over the development of legislation. In due time they are likely to acquire a preponderant weight in settling social questions, at least in regard to those matters upon which they normally agree, which is to say in regard to those things that support their favored circumstances. (Rawls 1971: 225)

Rawls says that measures should be taken to reduce this influence on the democratic decision-making process, and especially on public debates. Rawls observes that proposing such measures belongs more to political sociology than it does to normative political theory, although he thinks that the public financing of public deliberation and political parties is a prime example of what should be done in that direction.⁶ However, the equal worth of political liberty should not be understood only in this narrow sense. The point about this substantive component, and about Rawls's view of the relationship between justice and legitimacy in general, is that a just society is necessary if democracy is to function well. This is the main reason why he thinks that legitimacy should be understood against the background of justice.

Having stated the principle of participation and its implications, we turn now to the principle of competence. As I have already noted, Rawls does not use this term. However, he certainly deems the question

⁵ On this point, see also Cohen 2003: 90-91.

⁶ In one of his latest papers, Rawls also says as follows: “Public deliberation must be made possible, recognized as a basic feature of democracy, and set free from the curse of money. Otherwise politics is dominated by corporate and other organized interests who through large contributions to campaigns distort if not preclude public discussion and deliberation” (Rawls 2005: 449). For the continuity of Rawls's thought in that regard, see Lehning (1998).

of competence (and epistemic questions in general) to be relevant for the justification of democracy and democratic authority. The main problem when taking the principle of competence into account is that it may come into conflict with the principle of participation. Rawls uses Mill's defense of plural voting as an illustration of how competence requirements might be at odds with equal political liberty (Rawls 1971: 232). Mill argues that although equal suffrage is justified, opportunities for influencing the outcomes of the decision-making procedure should not be distributed equally if we take competence into account. His proposal for plural voting suggests that the votes of more competent citizens should have more weight than the votes of less competent citizens.⁷ He says that, "the only thing which can justify reckoning one person's opinion as equivalent to more than one, is individual mental superiority" (Mill 1861/1977: 474-475). Mill justifies this proposal on purely instrumental grounds. In his view, better educated citizens have a higher chance of realizing the common good. Therefore, plural voting is a means for realizing the common good within a democratic society. This does not imply rule by the wisest, but it does imply unequal political liberty. Given that Rawls holds that equal political liberty in the form of the principle of participation is a basis for fair decision-making procedures, it is unsurprising that "unequal liberty, as when the precept one man one vote is violated ... immediately raises a question of justice" (Rawls 1971: 225).

It *is*, however, surprising that Rawls thinks that a plural voting proposal need not necessarily be unjust (Rawls 1971: 233). This should not be understood as Rawls' acceptance of the plural voting scheme, but as a signal that he deems the question of competence in particular and epistemic questions in general to be important for the justification of democracy and democratic authority. Rawls does not criticize Mill's proposal directly. We can understand why he states that "plural voting may be perfectly just" (Rawls 1971: 233), in light of his use of instrumental justification (as discussed in the previous section). As we have seen, instrumental justification is not the whole story when it comes to justifying democracy and its authority. Immediately after saying that plural voting might be perfectly just, Rawls continues by noting that "the grounds for self-government are not solely instrumental" (Rawls 1971: 233). Of course, the grounds of democracy in the form of the principle of participation are not purely instrumental but the importance of the

⁷ For a recent criticism of Mill's plural voting proposal, see Baccarini and Ivanković (2015).

principle of competence is reflected in Rawls's maintaining that every citizen's competence matters for democracy – it is intrinsically, not just instrumentally, valuable. Indeed, Rawls draws on further thoughts from Mill to criticize the plural voting scheme and the instrumental justification upon which it is based. For example, he says that:

The effect of self-government where equal political rights have their fair value is to enhance the self-esteem and the sense of political competence of the average citizen. His awareness of his own worth developed in the smaller associations of his community is confirmed in the constitution of the whole society. Since he is expected to vote, he is expected to have political opinions. The time and thought that he devotes to forming his views is not governed by the likely material return of his political influence. Rather it is an activity enjoyable in itself that leads to a larger conception of society and to the development of his intellectual and moral faculties. (Rawls 1971: 234)

Rawls's comments on the intrinsic value of political competence should not be understood as a descriptive thesis, which might not be correct, but as a part of the *normative* justification of democracy. This suggests that the principle of competence and epistemic considerations in general have a crucial part to play in that endeavor. Of course, the question of political competence might be also related to its instrumental value in Rawls's view. In any case, the discussion about the difference between the principle of participation and the principle of competence leads to the epistemic dimension of democracy. We have indicated that the principle of competence and epistemic considerations more broadly are not important only for general issues concerning the justification of democracy and its authority but also for Rawls's discussion of democratic decision-making procedures.

3. Majority voting and public deliberation

Regarding democratic decision-making procedures, we have seen that Rawls assumes that majority voting is necessary because of the feasibility condition. He says that "some form of majority rule is justified as the best available way of insuring just and effective legislation" (Rawls 1971: 356). However, Rawls also takes into account the ideal democratic decision-making procedure. In the ideal procedure, there is no longer any need for the feasibility condition. This opens up the possibility for envisioning other democratic decision-making procedures. Rawls argues that majority rule need not be the preferred decision-making procedure from this perspective – supplementing it with public deliberation would

be a much better option. He thinks that there will be a need for majority rule even under ideal conditions because even rational legislators who reason from the principles of justice might end up disagreeing. From the perspective of ideal procedure, public deliberation has a much greater weight than majority voting – it not only realizes the principle of participation but also better realizes the competence principle (taken as the average citizen's political competence).

To understand why this is so, I will first consider the epistemic dimension of majority voting. Recall that majority voting is justified for Rawls because it is a fair procedure that is derived from the principles of justice. It realizes political freedom and equality as specified by the principle of participation. For that reason, a just constitution usually specifies majority rule as the basic decision-making procedure. However, majority rule can also be justified on epistemic grounds. Rawls assumes that in the ideal procedure, majority rule will aggregate opinions or beliefs on what advances the common good and not self-interested preferences. The rational legislator “is to vote solely according to his judgment” and “the outcome of the vote gives an estimate of what is most in line with the conception of justice” (Rawls 1971: 357). In the same vein, Rawls maintains that “each rational legislator is to vote his opinion as to which laws and policies best conform to principles of justice” (Rawls 1971: 361).

Although Rawls does not mention Rousseau in this context, his view on the epistemic dimension of voting clearly resembles a Rousseauvian perspective of voting – as a judgment on the general will. However, Rousseau argued that under this condition those in the minority should defer to the majority for epistemic reasons (i.e., because they were wrong). There is no such implication in Rawls's epistemic conception of voting. On the contrary, Rawls thinks that “while citizens normally submit their conduct to democratic authority, that is, recognize the outcome of a vote as establishing a binding rule, other things equal, they do not submit their judgment to it” (Rawls 1971: 357). This clearly indicates that while Rawls shares the Rousseauvian epistemic assumption on voting, he does not accept the implications that Rousseau derives from this assumption for the justification of democratic authority.⁸

Support for Rousseau could come from the Condorcet jury theorem, which is sometimes interpreted as a formal demonstration of Rousseau's conclusion about the epistemic dimension of majority voting (Grof-

⁸ For further elaboration of this point and related criticism of the correctness theories of democratic authority, see Estlund 2008: 102-104.

man and Feld 1988). Although Rawls recognizes the relevance of the Condorcet jury theorem to understand the role of majority rule in the ideal procedure of democratic decision-making, he does not think that it gives enough support for either the Rousseauvian conclusion or for the view that decision-making should exclusively rely on majority rule. The Condorcet jury theorem is based on the following assumptions:

Domain: The voters are to decide by majority rule between two options that might be right or wrong.

Competence: Each voter is competent in the sense that the probability that they will vote for the right option is higher than 0.5 (i.e., competence means that the voter is better than random).

Independence: Each voter is to make a decision independently of other voters.

The Condorcet jury theorem shows that under these conditions, it is likely that the majority of voters will vote for the right option.⁹ The probability approaches 1 as the number of voters increases. This is sometimes understood as an epistemic argument in favor of majority rule and democratic decision-making in general. It is noteworthy that even Condorcet wasn't convinced that his considerations on optimal jury size had clear applications in the context of democracy. He was particularly skeptical that the condition of competence would be satisfied. The problem is that the Condorcet jury theorem also shows that if voter competence is *below* 0.5, then the likelihood increases that majority will vote for the *wrong* option. Rawls agrees with Condorcet about the implications of the jury theorem for democratic decision-making, although not for the same reasons.

Rawls is skeptical that the independence condition will be satisfied in a democracy because some form of public communication is integral part of democratic institutions. If that is the case, then Rawls asks whether the procedure of public deliberation can be defended on epistemic grounds. If it can, then the ideal decision-making procedure will rely either on public deliberation or on some combination of public deliberation and majority voting. We have already seen that majority rule is needed, even as part of the ideal procedure, due to possible disagreement. This might

⁹ For recent presentation, extensions and applications of the Condorcet jury theorem, see Goodin and Spiekermann (2018).

indicate that Rawls opts for the combination of public deliberation and majority voting. In any case, the ideal procedure of democratic decision-making requires some form of deliberative democracy. Cohen notes that “although Rawls says little in *Theory of Justice* about democratic process, he seems there to endorse some variant of a deliberative conception”; he goes on to explain that “in *Theory of Justice*, Rawls assumes this view of democratic politics as an arena of argument rather than a tamed competition for power, fair aggregation of interests, or expression of shared cultural commitments” (Cohen 2003: 101, 102).

The gist of the argument for deliberative democracy is that the ideal of public deliberation can be defended on epistemic grounds. Bearing in mind the problem with the independence condition, Rawls says that “an ideally conducted discussion among many persons is more likely to arrive at the correct conclusion (by a vote if necessary) than the deliberations of anyone of them by himself” (Rawls 1971: 358). This clearly points in the direction of the epistemic significance of public deliberation. Rawls argues in favor of the epistemic advantages of public deliberation, as follows:

The benefits from discussion lie in the fact that even representative legislators are limited in knowledge and the ability to reason. No one of them knows everything the others know, or can make all the same inferences that they can draw in concert. Discussion is a way of combining information and enlarging the range of arguments. At least in the course of time, the effects of common deliberation seem bound to improve matters. (Rawls 1971: 358–359)

We can conclude from this that Rawls’s defense of the role of public deliberation in the ideal procedure points in the direction of deliberative democracy *and* epistemic democracy. The ideal procedure of public deliberation (or some combination of public deliberation and majority voting) is justified because it realizes both the principle of participation and the principle of competence. As we have seen, it also has epistemic advantages over majority voting. Although Rawls’s view can be criticized for saying nothing about the implications of this view for democratic functioning in a more realistic context, nothing in his view of the ideal procedure prevents us from thinking that it should be *approximated* in real democratic decision-making contexts.

4. Conclusion

In this paper, I have argued that Rawls’s considerations on democracy in *A Theory of Justice* anticipate many later developments in the direction

of democratic legitimacy in normative political theory and theories of democracy. I have shown that this pertains not only to what Rawls has to say about justifications of democracy and democratic authority but also to what he says about decision-making procedures and especially public deliberation. Moreover, his discussion of the epistemic dimension of majority voting and public deliberation points in the direction of later theories of deliberative democracy and epistemic democracy (Cohen 2009; Estlund 2008). I also argue that what Rawls has to say about the conceptions of imperfect procedural justice, the principle of participation, the principle of competence, majority rule, and public deliberation both anticipates these later developments and offers solutions. These solutions are still relevant for adequate accounts of democratic legitimacy and legitimate democratic authority.

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