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**Richard Beadon Williams**  
**The Problem of Political Credibility**

**Abstract**

In this dissertation, I transform the problem of political authority into the problem of political *credibility*. In my terminology, *credible* political authorities satisfy the “confidence tenet,” which requires that the public can become reasonably confident that political authorities are legitimate. So, I defend a new type of realism “epistemic realism.” A conception of legitimacy should concede to the epistemic limits of reasonable citizens. It should avoid normative political principles that reasonable citizens will probably never become reasonably confident that political authorities do satisfy.

In search of political credibility, I argue against “highly moralised” conceptions of legitimacy that make legitimacy depend on promoting justice in some sense. In particular, I primarily argue against the political theorist David Estlund’s epistemic proceduralism. Estlund says liberal democratic states are legitimate political authorities because democratic mechanisms are fair or otherwise reasonably acceptable procedures and democratic decisions publicly reveal what promotes justice and the common good. However, I argue that epistemic proceduralism makes liberal democratic states lack credible political authority because reasonable citizens should lack confidence in whether democratic decisions do publicly reveal what promotes justice and the common good and if democratic mechanisms are fair procedures.

In search of a solution, I introduce “cautious liberalism.” A cautious conception of legitimacy prioritises avoiding harm over promoting justice for primarily epistemic reasons. Reasonable citizens can become reasonably confident liberal democratic states do avoid harm in some sense. In particular, a “peaceful instrumentalist” conception of legitimacy makes legitimacy depend on the preservation of a mutually beneficial peace. Liberal democratic states can become credible political authorities that reasonable citizens are reasonably confident are legitimate with peaceful instrumentalism. Reasonable citizens can publicly observe that liberal democratic states tend to make the vote remain more politically attractive than the pitchfork.

**The Problem of Political Credibility:  
Epistemic Realism and Cautious Liberalism**

Richard Beadon Williams

PhD. Dissertation

Philosophy Department, School of Government and International Relations

Durham University

2022

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## Acknowledgements

This dissertation was made possible by the support of many different people during my time at Durham University. First and foremost, I thank my supervisory team: Professor Nancy Cartwright, Professor Julian Reiss and Dr Beth Kahn. They have provided excellent intellectual and moral support throughout, for which I am very grateful and greatly indebted. I also thank Dr David Faraci, who kindly assisted me as a dissertation reader with completing the dissertation.

Second, this dissertation has received funding from the European Research Council (ERC) under the European Union's Horizon 2020 research and innovation programme (*Knowledge For Use [K4U]: Making the Most of Social Science to Build Better Policies* (667526-ERC-2014-ADG/ERC-2014-ADG)). I thank everybody involved in the Knowledge For Use research project. The intellectual network and the financial support of the K4U studentship provided excellent space to discuss and develop ideas across disciplines. In particular, I thank Ms Nicola Craigs and Mr Adrian Harris for their support throughout the project. I also thank all those in the Philosophy Department and the Centre for Humanities Engaging Science and Society for the encouraging and energetic intellectual environment. Alongside my supervisor Dr Beth Kahn, I also thank Dr Maria Dimova-Cookson and Professor Christopher Finlay in the School of Government and International Affairs.

Third, I thank Professor Richard Arneson and Professor Matt Zwolinski for their invaluable input into my research on the possibility of democratic exploitation and their academic and professional support during my time in California and afterwards. Fourthly, I thank everybody involved in the Adam Smith Fellowship at the Mercatus Center, especially Professor Christopher Coyne. The colloquiums and the financial support of the fellowship provided excellent opportunities to engage with mainline economics critically.

Fifthly, I thank those at Hatfield College, especially Professor Tim Burt and Professor Ann MacLarnon, for making Durham a friendly and welcoming place. In particular, I thank Professor Anthony Bash for his kindness and support throughout. I also thank Josephine Butler College, Professor Adrian Simpson and Ms Karen Langdon for letting me become a part of Butler College life. Finally, I am grateful to Mr Adrian Roberts, who always encouraged us to think for ourselves.

## **An Opinionated Introduction**

### I. CAUTIOUS LIBERALISM

Democracy has evolved over the generations, but it remains very fragile. This is seen in the sudden collapse of democracies in Italy, Portugal, Germany, Spain, Greece and elsewhere throughout the twentieth century. This fragility shows that justice should not become the only virtue of social institutions in democratic societies.<sup>1</sup> Stability should also become seen as a central virtue of social institutions. I will argue that the need for justice in social institutions must often compete against and compromise with the need for stability.

Two strands run throughout the tapestry of normative political theory. One strand within normative political theory makes promoting justice the primary virtue of social institutions. I call them “highly moralised theories.” Political theorist John Rawls prioritises a liberal egalitarian conception of justice as fairness and the state provision of fair terms for social cooperation among free equals. Political theorist Robert Nozick prioritises a libertarian conception of justice as property and the state protection of voluntary capitalistic acts between consenting adults.<sup>2</sup> Political theorist G.A. Cohen provides a socialist conception of justice as an egalitarian ethos and the promotion of equal advantage by both social institutions and citizens. Whatever the differences, the spirit of highly moralised theories is to primarily promote justice.

A second strand within normative political theory makes the avoidance of harm the primary virtue of social institutions. I call them “cautious theories.” The classical liberalism of political theorist J.S. Mill prioritises the harm principle and the state protection of citizens against harm caused by others. The negative utilitarianism of philosopher of science and political theorist Karl Popper prioritises the avoidance of pain and getting the least

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<sup>1</sup> (Rawls 1971: 3). Plato puts justice at the centre of the basic aims of social institutions (Plato 1992: 102-3).

<sup>2</sup> In political theorist Robert Nozick’s words, “the moral prohibitions it is permissible to enforce are the source of whatever legitimacy the state’s fundamental coercive power has” (Nozick 1974: 6).

amount of avoidable suffering over the promotion of pleasure and getting the greatest happiness for the greatest number.<sup>3</sup> The liberalism of fear of political theorist Judith Shklar prioritises the avoidance of what she calls the “summum malum” or the worst cruelties that all of us know and would avoid if only we could.<sup>4</sup> Whatever the differences, the spirit of cautious theories is to primarily prevent harm.

In this dissertation, I argue against highly moralised conceptions of legitimacy that make the legitimacy of political authority depend on the promotion of justice. In particular, I argue against epistemic conceptions of legitimacy that make the legitimacy of political authority depend on the public revelation of what promotes justice and the common good. The public will probably never become reasonably confident that democratic decisions do publicly reveal what promotes justice and the common good. So, I introduce a cautious conception of legitimacy that makes the legitimacy of political authority depend on the avoidance of harm for primarily epistemic reasons. The public can become reasonably confident liberal democratic states avoid harm even if the public should remain reasonably cautious about whether liberal democratic states promote justice. In particular, I introduce a peaceful instrumentalist conception of legitimacy that makes legitimacy depend on the preservation of a mutually beneficial peace. The public can become reasonably confident that democratic decisions do preserve a mutually beneficial peace.

## II. THE PROBLEM OF POLITICAL CREDIBILITY

In this section, I introduce what I call the “problem of political credibility.” The problem of political authority is one of the foundational problems within normative political theory. In liberal democratic societies, no market, civic or private institution — no business, no charity, no social club and so on — has the authority to coerce any citizen to obey its rules unless citizens have actually agreed to them. In particular, citizens must often sign an actual contract before the market, civic or private institution can gain the authority

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<sup>3</sup> (Popper 2011: 284–85)

<sup>4</sup> (Shklar 1998: 10-11, 19)

to coerce them to obey its rules. In contrast, in liberal democratic societies, liberal democratic states have the authority to compel citizens to obey their laws independently of whether they have actually agreed to follow them. In particular, citizens need never sign any actual contract before liberal democratic states can gain the authority to coerce them to obey their laws. So, liberal democratic states are often political authorities in the descriptive sense that they are *de facto* political authorities. States have the brute power to coerce citizens and citizens tend to lack the capabilities to disobey states and avoid punishment. The problem of political authority is whether any political authority in general and liberal democratic states in particular are political authorities in the normative sense that they are *de jure* or legitimate political authorities.<sup>5</sup> It remains controversial whether liberal democratic states have the moral or political right to coerce citizens and if citizens have the moral or political duty to obey (to comply with state laws and contribute towards state services).

In this dissertation, I address the problem of political authority. In particular, I introduce an innovation to the problem of political authority with what I call the “problem of political credibility.” Stable political authorities are not just *legitimate* political authorities. Stable political authorities must become *credible*. The public must become reasonably confident that political authorities are legitimate. So, the problem of political credibility uncovers a new tenet that I call the “confidence tenet,” which says the public can become reasonably confident that political authorities are legitimate.<sup>6</sup> Legitimacy is not enough to make political authorities stable—the public need to see political authorities as legitimate. Otherwise, sooner or later, undetectable legitimacy will likely motivate a majority or a critical mass of the public to replace political authorities that they are not reasonably confident are legitimate with a credible political alternative that they can

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<sup>5</sup> (Raz 1986: 35–7, 76–7; Klosko 1987; Green 1988; Gilbert 1993; Rawls 1993; Edmundson 1998; Simmons 2001: 130; Buchanan 2002; Christiano 2008; Estlund 2008: 2, 41; Huemer 2013: 5–7)

<sup>6</sup> In law, Lord Chief Justice Gordon Hewart says, “justice should not only be done, but should manifestly and undoubtedly be seen to be done” (Hewart, C. J. (1924). *R v Sussex Justices, Ex parte McCarthy*. [1924]. KB 256, [1923]. All ER Rep 233). Similarly, in politics, states should be seen to be legitimate political authorities.

become reasonably confident is legitimate.<sup>7</sup> If the public will probably never become reasonably confident that political authorities are legitimate, legitimate political authorities are not stable. Consequently, stable political authorities do not just need legitimacy. Stable political authorities need credibility. The public must become reasonably confident that political authorities are legitimate.<sup>8</sup>

The problem of political credibility changes the solution to the problem of political authority. It uncovers a trade-off between morally and epistemically attractive conceptions of legitimacy. In my terminology, morally attractive conceptions of legitimacy make legitimacy depend on morally attractive conditions. They require legitimate political authorities to meet conditions that in some sense promote justice. In contrast, in my terminology, epistemically attractive conceptions of legitimacy make legitimacy depend on epistemically attractive conditions. They require legitimate political authorities to meet conditions the public can become reasonably confident that political authorities do meet. Unfortunately, not all morally attractive conceptions of legitimacy are epistemically attractive. Some conceptions of legitimacy make legitimacy depend on conditions that would in some sense promote justice if the political authority were to meet them. Still, the public will probably never become reasonably confident that the political authority does meet them.

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<sup>7</sup> As sociologist Max Weber's words, "a state is that human community which (successfully) lays claim to the monopoly of legitimate physical violence within a certain territory" (Weber 1994: 310-11). I argue that states will probably never successfully lay claim to the monopoly of legitimate physical violence unless reasonable citizens can become reasonably confident that the state is legitimate.

<sup>8</sup> It is helpful to distinguish between epistemic confidence and public justification. First, public justification is not necessary for epistemic confidence. In law, defendants can become reasonably confident that of their innocence even if they cannot convince the jury. Similarly, in politics, citizens can become reasonably confident in their views even if they cannot convince the public. Second, public justification is not sufficient for epistemic confidence. In law, defendants can convince the jury of their innocence even if they are not confident that themselves. Similarly, in politics, citizens can convince the public of their views even if they are not confident that themselves. It is also helpful to distinguish between epistemic confidence and knowledge. I do not assume if epistemic confidence is an essential element of knowledge or not. If it is an essential element, the absence of epistemic confidence means an absence of knowledge. If epistemic confidence is not an essential element of knowledge, the absence of epistemic confidence need only mean an absence of confident that knowledge and could still permit the presence of unconfident that knowledge.

The need for political credibility prioritises epistemically attractive conceptions of legitimacy over morally attractive conceptions. It uncovers the need for an epistemic type of realism that concedes to the epistemic capabilities of actual citizens. Stable political authorities need the public to become reasonably confident that it is legitimate. So, first, I will introduce highly moralised conceptions of legitimacy that become progressively more morally attractive. Second, I will introduce political theorist and epistemic democrat David Estlund's epistemic proceduralism as one of the best highly moralised conceptions of legitimacy. Estlund's epistemic proceduralism says liberal democratic states are legitimate political authorities because democratic mechanisms are fair or otherwise reasonably acceptable procedures and democratic decisions tend to publicly reveal what promotes justice and the common good. So, Estlund's epistemic proceduralism provides a morally attractive synthesis of proceduralist and instrumentalist considerations about legitimacy. Consequently, I make Estlund's epistemic proceduralism the central representative of highly moralised conceptions.

Despite the moral attraction of Estlund's epistemic proceduralism, I argue that it is not realistic. Realism contains diverse views, but a central realist concern is whether theories are feasible. However, independently of feasibility, I argue that Estlund's epistemic proceduralism is not realistic in a different sense. I introduce an epistemic type of realism that says it is not epistemically realistic. It does not concede to the epistemic limits of what real citizens can believe in reasonably confidently. In particular, I argue that it fails to satisfy the confidence tenet, requiring the public to become reasonably confident that political authorities are legitimate. This tenet does not demand *public justification*. It does not require the public to publicly justify the state's political authority to their neighbours despite disagreement over what the good life and justice demand. It requires *epistemic confidence*. It requires the public can become reasonably confident that political authorities are legitimate. I argue that Estlund's epistemic proceduralism demands legitimate political authorities to satisfy morally attractive conditions that the public will probably never become reasonably confident are satisfied.

In contrast, I introduce cautious liberalism as an innovative solution to the problem of political credibility. In particular, I introduce a peaceful instrumentalist conception of legitimacy that makes legitimacy depend on the preservation of a mutually beneficial peace. It demands legitimate political authorities satisfy epistemically attractive conditions that the public can become reasonably confident are satisfied. First, national elections (and referendums) empower voting citizens to peacefully replace unpopular rulers with popular rulers. The public can observe that (almost) everybody swaps the pitchfork for the vote. Second, public deliberations empower deliberating citizens to discover moral compromises that avoid political violence. The public can observe that (nearly) nobody swaps the vote back for the pitchfork. So, liberal democratic states need only preserve a mutually beneficial peace to become legitimate political authorities. Democratic decisions need only discover moral compromises that change violent disagreement into peaceful disagreement. Consequently, legitimacy should not depend on the public revelation of what promotes justice and the common good nor the implementation of fair or otherwise reasonably acceptable terms for social cooperation. Democratic decisions need not track the truth nor acquire consensus. The public could become reasonably confident liberal democratic states make morally bad and controversial decisions, implement unfair or otherwise reasonably unacceptable terms for social cooperation and still remain legitimate political authorities.

### III. THE CENTRALITY OF CONSENT

#### **A. Actual Consent Theories**

In sections III-VII, I selectively review the theoretical background to the problem of political authority. The legitimacy of states as political authorities remains controversial within normative political theory. Perhaps no state is a legitimate political authority. States do have the brute power to coerce citizens and citizens tend to lack the capability to disobey states and avoid punishment. However, states do not have a moral or political right to coerce citizens nor do citizens have a moral or political duty to obey states (to comply with its laws or to contribute towards its services). Political

theorists Robert Wolff, John Simmons and Leslie Green are actual consent theorists.<sup>9</sup> Actual consent theorists say only consensual relationships are legitimate.<sup>10</sup> Unless every citizen has actually agreed to obey the state, the state is not a legitimate political authority. So, actual consent theorists become anarchists.<sup>11</sup> Actual consent theorists accept states are not legitimate political authorities because very few citizens have actually agreed to obey (whether tacitly or otherwise).<sup>12</sup>

Anarchists say states are illegitimate political authorities. However, anarchists disagree over whether the public should aim to abolish states or not. *Political* anarchists argue that the public should seek to abolish states because states are an illegitimate political authority.<sup>13</sup> One of the theoretical virtues of political anarchism is that it puts a very strong type of respect for moral autonomy and individual freedom at the centre of normative political theory. However, one of the theoretical vices of political anarchism is that it assumes an uncompromisingly strong respect for individual freedom or moral autonomy. It is unattractively single-minded to uncompromisingly prioritise individual freedom or moral autonomy over all else.<sup>14</sup> Individual freedom or moral autonomy is not the only political value worth promoting. It is only one political value among many that must often compete against and compromise with each other.

In contrast, philosophical anarchists argue that the public need not aim to abolish states even if states are an illegitimate political authority.<sup>15</sup> One of

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<sup>9</sup> (Wolff 1970; Simmons 1979; Green 1988)

<sup>10</sup> Political theorist David Estlund calls this view “consent theory” (Estlund 2008: 118-19). Also see (Simmons 2001).

<sup>11</sup> Political theorist John Locke argues that every citizen implicitly agrees to obey the state because they choose to remain in the country (Locke 1988: §119). However, political theorist David Hume argues that no citizen implicitly agrees to obey the state even if they do choose to remain in the country any more than a captive on a ship implicitly agrees to obey the captain because they choose to remain onboard (Hume 1987: 475).

<sup>12</sup> First, a few citizens do explicitly agree to obey the state (Simmons 2001: 102-21). However, a few exceptions to the norm is not enough to ground the legitimacy of the state’s political authority on actual consent. Second, a unanimous direct democracy is enough to ground the legitimacy of the state’s political authority on actual consent (Wolff 1970: 22-26). However, a unanimous direct democracy is unrealistic.

<sup>13</sup> (Wolff 1970; Friedman 1973; Rothbard 1982; Barnett 1998; Hoppe 2001; Leeson 2007; *Anarchy And The Law: The Political Economy of Choice* 2007; Sartwell 2008; Coyne and Hall 2013; Huemer 2013; Stringham 2015)

<sup>14</sup> (Horton 1992: 129)

<sup>15</sup> (Simmons 2001: 104) Also see (Green 1988: 263-68). Political theorist Fabian Wendt argues that philosophical anarchism is incoherent (Wendt 2020).

the theoretical virtues of philosophical anarchism is that it puts a more compromising type of respect for individual freedom or moral autonomy at the centre of normative political theory. The absence of unanimous actual consent is not the decisive factor over whether to abolish states or not. However, one of the theoretical vices of philosophical anarchism is that it still assumes an unattractively strong type of respect for individual freedom or moral autonomy. The absence of unanimous actual consent does remain the decisive factor over whether states are legitimate. So, an otherwise legitimate state would remain illegitimate if only one selfish or stupid citizen never agreed to obey. Consequently, philosophical anarchism gives every selfish or stupid citizen an unattractive veto over the legitimacy of states.<sup>16</sup> I assume the absence of the actual agreement of one selfish or stupid citizen is not enough to veto the moral or political right of states to coerce citizens and the moral or political duty of citizens to obey states (to comply with its laws and to contribute towards its services).

## **B. Social Contract Theories**

Maybe states are legitimate political authorities. States have a moral or political right to coerce citizens and citizens have a moral or political duty to obey states (to comply with state laws and contribute towards state services). Political theorists Thomas Hobbes, John Locke and Jean-Jacques Rousseau are the fathers of social contract theory. Social contract theorists say legitimacy only requires hypothetical consent instead of actual consent. If a particular type of idealised citizen would agree to obey the state, states are legitimate political authorities. They tend to argue that a specific type of idealised citizen would consent to obey a particular type of state.<sup>17</sup> So, a particular type of state can become a legitimate political authority. Social contract theory is a morally attractive alternative to actual consent theory. One of the theoretical virtues of social contract theory is that it need not assume an unattractively strong type of respect for individual freedom or moral autonomy. The absence of unanimous actual consent does not become

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<sup>16</sup> (Raz 1986)

<sup>17</sup> Social contract theorists are committed to anarchism if idealised citizens would not agree to obey the state (Sartwell 2008: 83; Fiala 2013; Huemer 2013).

the decisive factor over whether states are legitimate or not. A legitimate political authority would remain legitimate even if selfish or stupid citizens never actually agreed to obey. Consequently, social contract theory need not give any selfish or stupid citizen a veto over the state's legitimacy.

Two popular approaches to social contract theory are contractualism and contractarianism. The paradigmatic contractualists are political theorists John Rawls, T.M. Scanlon and Stephen Darwall.<sup>18</sup> Contractualists argue that states would become legitimate political authorities if rational and reasonable citizens would agree to obey.

Rawls provides one of the most extensive contractualist conceptions of legitimacy. So, it is helpful to distinguish between Rawls's earlier theory of justice as a comprehensive liberal and Rawls's later theory of legitimacy as a political liberal. As a comprehensive liberal, early Rawls aims to discover the one true comprehensive conception of justice. In particular, Rawls argues against a utilitarian conception of justice that seeks to maximise total utility. Rawls argues that utilitarianism does not respect the separateness of persons because it does not respect every citizen equally.<sup>19</sup> A utilitarian conception of justice permits states to disrespect citizens if doing so maximises total utility. However, Rawls argues that the one true conception of justice should primarily respect every citizen equally, regardless of whether total utility is maximised. Total utility is not the only political value worth promoting. In particular, Rawls prioritises a fair distribution of socioeconomic resources over total utility. So, as a comprehensive liberal, early Rawls defends a conception of justice as fairness as the one true conception of justice.

A conception of justice as fairness contains two central principles. The first principle is the liberty principle. It demands states to provide a fully adequate scheme of equal basic liberties to all citizens. Early Rawls included the liberty of conscience, freedom of thought, the right to vote, eligibility for public office, freedom of speech, freedom of assembly, freedom of the

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<sup>18</sup> (Rawls 1993; Barry 1995; Scanlon 1998; Darwall 2006) Also see (Nagel 1991; Southwood 2010)

<sup>19</sup> (Rawls 1971: 60-65, 136-42, 65-68, 243-48)

person, the right to hold personal property and freedom from arbitrary arrest and seizure within his scheme of basic liberties.<sup>20</sup> The second principle is the equality principle. It demands states to satisfy two individually necessary and jointly sufficient principles to justify socioeconomic inequalities. The fair equality of opportunity principle requires states to provide fair equality of opportunity to all citizens. All positions of power should become open to all, and natural talents and motivation should determine who occupies them instead of an unequal distribution of educational, economic, and employment opportunities. The difference principle demands states to provide an equal distribution of primary social goods unless an unequal distribution would primarily benefit the worst-off. Primary social goods are socioeconomic resources all (reasonable) citizens would want whatever else they want, including diverse occupational choices, income and wealth and the social bases of self-respect. The liberty principle takes priority over the equality principle and the fair equality of opportunity principle takes precedence over the difference principle.

As a political liberal, the later Rawls aims to discover a reasonably acceptable or “political” conception of justice. Rawls does not just argue against particular comprehensive conceptions of justice but against comprehensive liberalism itself. Rawls argues that comprehensive liberalism does not respect reasonable pluralism.<sup>21</sup> The public contains citizens with different beliefs and values. In particular, reasonable citizens hold different conceptions of justice. Rawls defends a conception of citizens as rational and reasonable agents.<sup>22</sup> First, rational citizens are economically rational, given that they pursue particular conceptions of the good life. Second, rational citizens are epistemically rational, given that they reflect on their conceptions of the good life based on valid deductions and reliable inferences. So, rational citizens pursue reflective conceptions of the good life.

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<sup>20</sup> (Rawls 1971: 53)

<sup>21</sup> (Rawls 1971: 165-68)

<sup>22</sup> (Rawls 1993: 48-54)

Third, citizens are not just rational. Citizens are also reasonable. Reasonable citizens are politically just, given that a political conception of justice constrains the actions of reasonable citizens. Rawls provides a conception of reasonability that contains both epistemic and moral elements.<sup>23</sup> First, reasonable citizens are epistemically reasonable, given that they follow particular epistemic norms. They base their conception of justice on reasoned arguments with informed premises and willingly change their conceptions of justice in the light of better arguments and better information.<sup>24</sup> However, reasonable citizens often accept different conceptions of justice. They are not epistemically infallible. In particular, Rawls argues that all reasonable citizens bear the “burdens of judgement.”<sup>25</sup> Any reasonable citizen must perform several epistemically difficult tasks to hold a conception of justice. They must assess conflicting empirical evidence, weigh different kinds of considerations, interpret vague moral concepts in hard cases, etc.<sup>26</sup> So, reasonable citizens often accept different conceptions of justice because of the burdens of judgement.

Second, reasonable citizens are morally reasonable, following particular moral norms. They respect the burdens of judgment and seek fair (or otherwise mutually acceptable) terms for social cooperation (in the expectation that fellow reasonable citizens will reciprocate). So, as a political liberal, Rawls defends a liberal principle of legitimacy. In Rawls’s words, “our exercise of political power is fully proper only when it is exercised in accordance with a constitution the essentials of which all citizens as free and equal may reasonably be expected to endorse in the light of principles and ideals acceptable to their common human reason.”<sup>27</sup> Independently of whichever conception of justice is true, states are not legitimate political authorities unless the reasons for state coercion are acceptable to reasonable citizens.<sup>28</sup>

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<sup>23</sup> (Rawls 1993: 62)

<sup>24</sup> (Talisso 2009b: 79-120; Talisso 2009a)

<sup>25</sup> (Rawls 1993: 54-58)

<sup>26</sup> (Rawls 1993: 56)

<sup>27</sup> (Rawls 1993: 137)

<sup>28</sup> (Rawls 1993: 41). Also see (Estlund 1993: 74-75; 2008: 21-39; Peter 2008a; Quong 2011; Galston 2012: 142).

Rawls defends abstinence over which conception of justice is true.<sup>29</sup> Rawls argues that the burdens of judgement provide a good moral reason for states to tolerate different conceptions of justice. Independently of whichever conception of justice is true, it is morally disrespectful for states to coerce reasonable citizens to obey conceptions of justice that are not acceptable to them. So, states should morally respect the judgements of every reasonable citizen equally. As Rawls says, “reasonable persons will think it unreasonable to use political power, should they possess it, to repress comprehensive views that are not unreasonable.”<sup>30</sup> Consequently, Rawls defends a *political* conception of justice as fairness in the sense that his conception of justice as fairness is acceptable to reasonable citizens independently of whether it is true or not.

Rawls argues that truth is neither necessary nor sufficient for legitimacy. False conceptions of justice can become legitimate if acceptable to reasonable citizens. Reasonable citizens have the right to be wrong. The moral (and epistemic) autonomy of reasonable citizens entitles them to have wrong views. Even if one citizen is correct, the opposing citizen is still reasonable. The opposing citizen still produced her false conception of justice with epistemically and morally acceptable reasoning. Conversely, the true conception of justice remains illegitimate if it is not acceptable to reasonable citizens. Reasonable citizens have a right to public justification. Even if many reasonable citizens often have false conceptions about justice, legitimate political authorities still must morally respect the mistaken judgements of reasonable citizens. A correct citizen is not morally or politically entitled to simply force her correct views onto reasonable citizens with wrong but reasonable views. It is morally disrespectful for reasonable citizens to not justify their conceptions of justice to each other. So, Rawls argues for an “overlapping consensus” among reasonable citizens, in the sense that some conceptions of justice are acceptable to all reasonable

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<sup>29</sup>Political theorist Joseph Raz argues that political theorist John Rawls aims to abstain from deciding the truth-value of every view which is itself an incoherent view (Raz 1990).

Alternatively, political theorist David Estlund argues that Rawls need only aim to abstain from deciding the truth-value of every comprehensive doctrine which is not an incoherent view (Estlund 2008: 55-64).

<sup>30</sup> (Rawls 1993: 60)

citizens independently of whatever else they might accept. In particular, Rawls defends his conception of justice as fairness as the most reasonably acceptable conception of justice.<sup>31</sup>

An alternative approach to social contract theory is contractarianism. Some paradigmatic contractarians are political theorists David Gauthier and Jan Narveson and economists James M. Buchanan and Gordon Tullock.<sup>32</sup> Contractarians argue that states would become legitimate political authorities if rational citizens would agree to obey. In Rawlsian terminology, rational citizens pursue a reflective conception of the good life based on valid deductions and reliable inferences. Alternatively, in economic terminology, rational citizens seek to maximise individual utility. Rational citizens are not reasonable (in Rawls's sense). Rational citizens are not politically just, given that a political conception of justice does not constrain their actions. However, contractarians argue that calculations of their long-term self-interest constrain how rational citizens' act. So, contractarians often defend what I call "peaceful instrumentalism." They aim to implement procedures that avoid political violence and preserve a mutually beneficial peace.

Political liberalism is more morally attractive than contractarianism. Contractarians put rationality at the centre of human psychology. They assume citizens seek to maximise individual utility and that only calculations of long-term self-interest constrain them. Contractarians then put Pareto optimality at the centre of the concept of social welfare, meaning social institutions should aspire not to make anybody worse off than they currently are. Social institutions should primarily incentivise self-interested citizens not to make anybody worse off. In contrast, political liberals put reasonability at the centre of human psychology. They do not assume only calculations of long-term self-interest constrain citizens. They assume a conception of justice in general and justice as fairness in particular also constrains citizens. Contractarians then put fairness at the centre of the

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<sup>31</sup> (Rawls 1993: 56)

<sup>32</sup> (Buchanan 1975; Gauthier 1986; Narveson 1988). Also see (Kraus 1993; Moehler 2018, 2020).

concept of justice, meaning social institutions should aspire to provide fair terms for social cooperation. Consequently, political liberalism provides a less reductive approach to normative political theory. Social institutions should primarily empower reasonable citizens to cooperate on fair terms.

#### IV. TWO THEORETICAL APPROACHES

Liberal democrats accept liberal democratic states are (or aspire to become) legitimate political authorities. However, liberal democrats disagree over why liberal democratic states are legitimate political authorities. In particular, liberal democrats disagree over whether democratic or liberal values should take priority.<sup>33</sup>

On the one hand, liberal democrats can prioritise democratic values over liberal values. I call this a political or majoritarian approach.<sup>34</sup> In the Rousseauian tradition, political approaches prioritise political equality over economic liberty.<sup>35</sup> They provide a substantive conception of democracy to promote particular political ideals. Democracy becomes a political ideal that aspires to a substantive conception of political equality. They prioritise universal suffrage, political participation, public deliberation and whatever else is closely associated with democratic politics. In particular, they empower the electorate and the elected legislature to constrain economic liberties to promote a substantive conception of political equality.<sup>36</sup>

On the other hand, liberal democrats can prioritise liberal values over political values. I call this an economic or constitutionalist approach. In the Schumpeterian tradition, economic approaches prioritise economic liberty over political equality. They prioritise property rights, voluntary exchange, freedom of contract and whatever else is closely associated with capitalist economies. In particular, they empower constitutions and appointed judiciaries to constrain the electorate and the elected legislature to protect

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<sup>33</sup> Liberal democrats could defend a “no priority” view that says both democratic and liberal values are equally fundamental (Habermas 1995: 17-18). Unfortunately, this exceeds the scope of this dissertation.

<sup>34</sup> (Rawls 1993: 423-24). Both approaches are only intended to provide useful ideal types. Neither approach is intended to perfectly represent any particular political theory.

<sup>35</sup> (Rousseau 1997: 41)

<sup>36</sup> (Rawls 1993; Christiano 1996; Waldron 1999)

economic liberties. So, they provide a minimal conception of democracy as employing particular political mechanisms. In economist Joseph Schumpeter's words, "the democratic method is that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's vote."<sup>37</sup> Democracy does not become a political ideal that aspires to a substantive conception of political equality. Democracy becomes a political mechanism that regularly replaces unpopular governments with popular governments.

## V. TWO ECONOMIC APPROACHES

### A. Lockean Libertarianism

Lockean libertarianism and Hobbesian contractarianism provide two popular economic approaches to legitimacy. Political theorists Robert Nozick and John Simmons and economist Murray Rothbard are paradigmatic Lockean libertarians.<sup>38</sup> Lockean libertarians intrinsically value the economic liberty of capitalist economies independently of the outcomes they are likely to produce. They prioritise economic liberty over political equality because they argue that property rights are natural rights (property rights exist independently of state fiat).<sup>39</sup> They say every citizen has a natural right to own herself, to privately own whatever unowned resources she acquires first and to privately own whatever owned resources the owner voluntarily transfers to her as a gift or in exchange (and to own whatever she is owed to rectify past injustices privately).<sup>40</sup> Lockean libertarians argue that natural property rights act as side-constraints on state action. States must uncompromisingly respect the natural property rights of every citizen to become legitimate political authorities.

Lockean libertarians disagree over both the legitimacy and the abolition of states. Nozick argues for the legitimacy of states. Nozick argues that

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<sup>37</sup> (Schumpeter 1943: 269)

<sup>38</sup> (Nozick 1974; Rothbard 1982; Simmons 2001)

<sup>39</sup> It is controversial what else property rights could depend on except state fiat (Nagel 1975). Unfortunately, this exceeds the scope of this dissertation.

<sup>40</sup> (Nozick 1974: 150-53)

protective states that protect natural property rights with an army, police, courts and prisons are the only legitimate type of state. Nozick argues that only protective states are consistent with uncompromising respect for natural property rights.<sup>41</sup> In particular, Nozick argues that Rawlsian states providing primary social goods are inconsistent with uncompromising respect for natural property rights. Before Rawlsian states can provide primary social goods, they must first violate natural property rights. Rawlsian states must coercively tax citizens regardless of whether they agreed to pay before they can finance the provision of primary social goods. So, Rawlsian states are illegitimately predatory states.

Simmons argues against the legitimacy of states (but not for their abolition). Simmons claims that Lockean libertarians should become actual consent theorists.<sup>42</sup> Unless citizens have actually agreed to obey states (to comply with state laws and contribute towards state services), state coercion will often violate the natural property rights of citizens. So, Lockean libertarians should become anarchists. No state is a legitimate political authority since it often violates the natural property rights of the many citizens that never actually agreed to obey. Consequently, Simmons defends philosophical anarchism.<sup>43</sup> Simmons argues that states are an illegitimate political authority, but illegitimacy should not become the decisive factor in whether to abolish states or not.

Third, Rothbard argues for both the illegitimacy and the abolition of states. Rothbard argues that even protective states are an illegitimate type of state. Rothbard argues that even protective states are inconsistent with an uncompromising respect for natural property rights. Before protective states can protect natural property rights, they must first violate them. Protective states must coercively tax citizens regardless of whether they agreed to pay before they can finance their protection services. So, protective states are illegitimately predatory states.<sup>44</sup> Consequently, Rothbard defends political anarchism. Rothbard argues for the abolition of states because states are an

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<sup>41</sup> (Nozick 1974: 149-296). Also see (Hospers 1995; Machan 2002).

<sup>42</sup> (Simmons 2005)

<sup>43</sup> (Simmons 2001: 104). Also see (Simmons 1979).

<sup>44</sup> (Rothbard 1977). Also see (Barnett 1977; Childs 1977; Mack 1978; Benson 1990).

illegitimate political authority. Rothbard argues for the privatisation of protection services alongside whatever else states provide. As consumers and producers, the public should become free to voluntarily buy and sell whatever goods and services are consistent with an uncompromising respect for natural property rights.

## **B. Hobbesian Contractarianism**

Hobbesian contractarianism provides an alternative economic approach to legitimacy. In an economic context, contractarians instrumentally value economic liberty because they argue that mutual respect for property rights avoids violent conflict over who should possess scarce resources and acquires a peaceful coexistence and even mutually beneficial cooperation.<sup>45</sup>

Similarly, in a political context, economic liberals tend to instrumentally value the political equality of democratic politics because they argue that mutual respect for democratic decisions avoids violent conflict over who should possess political power and acquires a peaceful coexistence and even mutually beneficial cooperation. Popper says, “only democracy provides an institutional framework that permits reform without violence.”<sup>46</sup> In economist F.A. Hayek’s words, “it [democracy] is one of the most important safeguards of freedom. As the only method of peaceful change of government yet discovered, it is one of those paramount though negative values, comparable to sanitary precautions against the plague, of which we are hardly aware while they are effective, but the absence of which may be deadly.”<sup>47</sup> As economist Ludwig von Mises says, “democracy is that form of political constitution which makes possible the adaptation of the government to the wishes of the governed without violent struggles.”<sup>48</sup> The public can observe that (almost) everybody swaps the pitchfork for the vote. In political scientist (and Analytical Marxist) Adam Przeworski’s words, “in the end, the

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<sup>45</sup> (Buchanan 1975: 23-27)

<sup>46</sup> (Popper 1945: 4)

<sup>47</sup> (Hayek 1973: 5). Also see (Hayek 1973: 465-67).

<sup>48</sup> (von Mises 1927: 42). Economist Ludwig von Mises argues that the state is necessary to preserve social cooperation. As Mises says “government as such is not only not an evil, but the most necessary and beneficial institution, as without it no lasting social cooperation and no civilization could be developed and preserved” (Von Mises 2006: 98).

miracle of democracy is that conflicting political forces obey the results of the voting. People who have guns obey those without them. Incumbents risk their control of governmental offices by holding elections. Losers wait for their chance to win office. Conflicts are regulated, processed according to rules and hence limited. This is not consensus, yet not mayhem either. Just limited conflict; conflict without killing.<sup>49</sup> The public can observe that (nearly) nobody swaps the vote back for the pitchfork.

Hobbesian contractarianism is a morally attractive alternative to Lockean libertarianism. Economic liberty is not the only political value worth promoting. Economic liberty is only one political value among many that must compete against and compromise with each other.<sup>50</sup> So, economic liberals should accept that liberal democratic states are legitimate political authorities. Even if liberal democratic states lacking unanimous actual consent often violate natural rights, they are still legitimate political authorities because they tend to avoid violent conflict over who should possess political power. Consequently, liberal democratic states have a moral or political right to coerce citizens and citizens have a moral or political duty to obey states (to comply with state laws and contribute towards state services). Alternatively, even if liberal democratic states are illegitimate political authorities because they often violate natural rights without unanimous actual consent, citizens should not aim to abolish them because liberal democratic states tend to avoid violent conflict over who should possess political power.<sup>51</sup> In particular, political theorist Gerald Gaus provides a Lockean reason to accept the legitimacy of liberal democratic states. Gaus argues that liberal democratic states are (or can become) legitimate political authorities because they are (or aspire to become) unbiased adjudicators of the rules for social cooperation. He says, “recall

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<sup>49</sup> (Przeworski 1999: 15-16). Also see (Schumpeter 1943; Riker 1982; Hardin 1999).

<sup>50</sup> First, libertarians and liberal egalitarians disagree over the nature of property rights (Friedman 1962; Christman 1994; Cohen 1995; Nagel and Murphy 2002). Second, right-libertarians and left-libertarians disagree over the constraints on property rights. Right-libertarians tend to argue for minimal to no constraints on the acquisition of property rights (Nozick 1974; Rothbard 1982; Mack 1995; Feser 2005; van der Vossen 2009; Wendt 2018). In contrast, left-libertarians tend to argue for strong constraints on the acquisition of property rights (Steiner 1994; Van Parijs 1995; Otsuka 2003). Third, libertarians and classical liberals disagree over whether property rights are morally or politically on a par with democratic rights (Mack and Gaus 2004; Hayek 2011; Tomasi 2012).

<sup>51</sup> (Wolff 1970: 18-19; Simmons 2001: 104)

Locke's proposal that, in order to escape the inconveniences of each relying on his own moral judgment, we appoint an "Umpire." ... Players are committed to accepting the umpire's practical authority even when they are confident that his decision is wrong. Unless players were prepared to do so they could not proceed with the game."<sup>52</sup> Liberal democratic states are legitimate political authorities partially because they adjudicate the rules for social cooperation unbiasedly enough to preserve a mutually beneficial peace.

## VI. TWO POLITICAL APPROACHES

### A. Fair Proceduralism

Fair proceduralism and epistemic instrumentalism provide two popular political approaches to legitimacy. Political theorists Thomas Christiano, Henry Richardson and Jeremy Waldron are paradigmatic fair proceduralists.<sup>53</sup> Proceduralists intrinsically value particular procedures independently of the outcomes they are likely to produce. In particular, fair proceduralists intrinsically value the political equality of democratic politics independently of the effects they are likely to have. They intrinsically value political equality because they argue that it is procedurally fair. It respects every citizen equally. In particular, it gives every citizen an opportunity to influence democratic decisions. In national elections (and referendums), every citizen gains a vote. In public deliberations, every citizen gains a voice.<sup>54</sup>

Fair proceduralism is a morally attractive alternative to Hobbesian contractarianism. Hobbesian contractarianism faces what I call the "problem of fairer procedures." Suppose an unfair procedure produces peaceful outcomes and a fair procedure also produces peaceful outcomes. Neither procedure is preferable for instrumentalist reasons because they both have similar results. However, the fair procedure is preferable for procedural

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<sup>52</sup> (Gaus 1991: 263)

<sup>53</sup> (Christiano 1996; Waldron 1999; Richardson 2002). Also see (Arendt 1967; Dahl 1989; Young 2000).

<sup>54</sup> (Gutmann and Thompson 2004)

reasons because it is procedurally fair. So, peace is not the only political value worth promoting. Procedural fairness is also a weighty political value worth promoting. Consequently, the vote is not just more morally attractive than the pitchfork because national elections are more peaceful than violent revolutions. The vote is more morally attractive than the pitchfork because national elections are fairer than violent revolutions.

## **B. Epistemic Instrumentalism**

Epistemic instrumentalism provides an alternative political approach to legitimacy. Political theorists Hélène Landemore, Robert Goodin and Kai Spiekermann are paradigmatic epistemic instrumentalists. Epistemic instrumentalists aim to employ whichever procedures most effectively publicly reveal what promotes justice and the common good.<sup>55</sup> (Estlund defends epistemic proceduralism. Epistemic proceduralism is explored later.)

Rawls distinguishes between pure and impure procedural justice. Pure procedural justice means the fairness of the procedure makes the outcome fair by definition. The fairness of a lottery that gives every ticket an equal chance of winning makes the outcome fair by definition.<sup>56</sup> In contrast, impure procedural justice means the fairness of the procedure does not make the outcome fair by definition. Rawls distinguishes between perfect and imperfect procedural justice. Perfect procedural justice means the fairness of the procedure makes a fair outcome certain (but not by definition). If a cake-cutter must take whichever slice nobody else chooses, the cake-cutter is certain to aim to cut the cake fairly.

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<sup>55</sup> Instrumentalists aim to employ whichever procedures are most likely to promote justice and the common good. In particular, instrumentalist democrats argue that democracy is most likely to promote justice and the common good. So, they assume a particular conception of justice and the common good. First, economist Amartya Sen argues that democracy reliably avoids famine (Sen 1999). Second, economists Daron Acemoglu et al. argue that democracy does cause economic growth (Acemoglu et al. 2019). Third, political theorists Philippe Van Parijs, Richard Arneson and Steven Wall argue that democracy reliably promotes justice (Van Parijs 1996; Arneson 2003, 2004a; Wall 2007; Arneson 2009). In contrast, epistemic instrumentalists aim to employ whichever procedures are most likely to publicly reveal what promotes justice and the common good. In particular, epistemic instrumentalist democrats argue that democracy is most likely to publicly reveal what promotes justice and the common good. So, it appears they do not assume any particular conception of justice and the common good.

<sup>56</sup> (Rawls 1993: 427-29)

In contrast, imperfect procedural justice means the fairness of the procedure makes a fair outcome likely (but not certain). In a trial by jury, the fairness of the deliberation and the vote make the verdict likely to convict the guilty and acquit the innocent.<sup>57</sup> Epistemic democrats defend the imperfect procedural justice of democracy. In a democracy, the fairness of national elections (and referendums) and public deliberations make democratic decisions likely to choose what promotes justice and the common good.

Epistemic instrumentalism is a morally attractive alternative to fair proceduralism. Fair proceduralism faces what I call the “problem of bad outcomes.” In a bad hypothetical case, suppose a fair procedure produces bad results and an unfair procedure produces good results. The fair procedure is preferable for procedural reasons as it is procedurally fair. However, the unfair procedure is preferable for instrumentalist reasons as it produces good outcomes. This shows that procedural fairness is not the only political value worth promoting. Substantive justice is also a weighty political value worth promoting. So, the vote should not become morally attractive only because national elections are fair. The vote should become morally attractive because national elections also publicly reveal what promotes justice and the common good.<sup>58</sup>

## VII. EPISTEMIC DEMOCRACY

### A. Three Central Assumptions

Epistemic democrats defend three central assumptions.<sup>59</sup> First, epistemic democrats assume a procedure-independent standard of correctness exists. In a trial by jury, the jury’s verdict is not, by definition, infallible. The guilt of the defendant exists independently of the verdict. Similarly, in a democracy, democratic decisions are not, by definition, infallible. Epistemic

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<sup>57</sup> (Rawls 1993: 422-23). A coin flip is fair, but is not very accurate. In a binary choice between the right answer and a wrong answer, the coin will choose the wrong answer as often as it chooses the right answer. So, a trial by jury is preferable to a coin flip because it is as fair and more accurate. The jury will choose the right answer more often than the wrong answer. The jury is more accurate than a coin flip because the jury deliberate before they vote. Both deliberation and voting contribute towards the accuracy of the jury’s verdict.

<sup>58</sup> (Estlund 2008). Also see (Nino 1996; Rousseau 1997; Mill 2017).

<sup>59</sup> (Cohen 1986: 34)

democrats assume the good of a policy exists independently of the vote. So, a standard of correctness must exist independently of democratic decisions. In theory, epistemic democrats could associate the procedure-independent standard of correctness with any particular bundle of political values. However, epistemic democrats often associate the procedure-independent standard of correctness with justice and the common good.<sup>60</sup> The correct decision is whichever decision would promote justice and the common good more effectively.

The following two assumptions make democratic decisions fallible evidence for what promotes justice and the common good. Second, epistemic democrats assume a cognitive account of voting.<sup>61</sup> A cognitive account of voting assumes citizens are public-spirited or sincere in voting to express their views about justice. It assumes a politics of judgement.<sup>62</sup> They express what Rousseau calls a “general will.”<sup>63</sup> In contrast, a non-cognitive account of voting assumes citizens are self-interested or strategic because they vote to satisfy self-interested political preferences.<sup>64</sup> It assumes a politics of interest. They express what Rousseau calls a “private will.”<sup>65</sup> In trials by jury, the juror should seek the truth. The juror should not seek to promote self-interest. Similarly, in a democracy, citizens should seek to promote justice and the common good. Citizens should not seek to promote self-interest.

Third, epistemic democrats assume a particular democratic mechanism makes democratic decisions fallible evidence for what promotes justice and the common good. In a trial by jury, the jury deliberates before they vote. Similarly, in a democracy, the public deliberate before they vote. So, epistemic democrats value public participation. As explored next, aggregative conceptions of democracy assume the aggregation of votes in

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<sup>60</sup> (Estlund 2008: 169; Landemore 2012: 45; Goodin and Spiekermann 2018)

<sup>61</sup> (Cohen 1986: 34; Estlund 2008: 14; Landemore 2012: 154-56; Goodin and Spiekermann 2018: 5)

<sup>62</sup> (Goodin and Spiekermann 2018: 19, 49)

<sup>63</sup> (Rousseau 1997: 50). Also see (Cohen 2010: 33).

<sup>64</sup> In my view, it is confusing to associate sincere voting with public-spirited voting and strategic voting with self-interested voting. It appears self-interested citizens could vote to sincerely promote their self-interest and public-spirited citizens could vote strategically to promote their view of justice and the common good.

<sup>65</sup> (Rousseau 1997: 60). Also see (Cohen 2010: 34).

national elections (and referendums) makes democratic decisions fallible evidence for what promotes justice and the common good. Alternatively, deliberative conceptions of democracy assume that the exchange of views in public deliberations makes democratic decisions fallible evidence for what promotes justice and the common good.

Epistemic democrats argue that the epistemic qualities of particular mechanisms publicly reveal the morally correct democratic decision. When the public can become reasonably confident that particular mechanisms function properly, the public can become reasonably confident that democratic decisions become fallible evidence for what promotes justice and the common good. In Rousseau's words, "when, so, the motion which I opposed carries, it only proves to me that I was mistaken and that what I believed to be the general will was not so."<sup>66</sup> Consequently, the losing minority should not just accept that the winning majority won a fair election. The losing minority also gains fallible evidence that they were mistaken about what promotes justice and the common good and that the winning majority was correct.

## **B. Aggregative Conceptions**

Aggregative conceptions of democracy put the aggregation of votes in national elections (and referendums) at the centre of democratic politics. Democracy is defined by "one person, one vote." Epistemic democrats argue that aggregating individually competent votes in national elections expresses a close to infallible collective view about what promotes justice and the common good.<sup>67</sup>

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<sup>66</sup> (Rousseau 1997: 95-96)

<sup>67</sup> Perhaps citizens votes to satisfy self-interested political preferences and the election aggregates self-interested votes (Buchanan and Tullock 1962: 114-15). This would express what political theorist Jean-Jacques Rousseau calls the "will of all" (Rousseau 1997: 60; Cohen 2010: 26). With an "equal intensity" assumption that assumes an equal intensity of preferences among citizens, the Rae-Taylor theorem shows majority rule can maximise total utility (Rae 1969; Taylor 1969; Mueller 2003: 136-37). However, an "equal intensity" assumption is controversial since the weaker preferences among the majority can outvote the stronger preferences of a minority (Brighouse and Fleurbaey 2010). Unfortunately, this exceeds the scope of this dissertation.

The Condorcet jury theorem and the “miracle of aggregation” theorem provide two popular aggregative conceptions of democracy. Goodin and Spiekermann defend the assumptions of the Condorcet jury theorem.<sup>68</sup> It makes two central assumptions. First, it assumes all citizens are competent. A competent citizen performs better than random. A fair coin flip performs no better than random. A fair coin flip will choose the wrong answer as often as the right answer in a binary choice between the right answer and a wrong answer. In contrast, a competent citizen will choose the right answer more often than the wrong answer.<sup>69</sup> Second, the Condorcet jury theorem assumes all citizens are independent. Independent citizens vote to express their views about justice independently of the opinions of their neighbours. So, nobody copies her competent but incorrect neighbours (even if somebody does make the same mistake as her neighbours independently).<sup>70</sup> When competent citizens vote independently, the probability that the majority has chosen the right answer increases as the size of the group increases.<sup>71</sup> Consequently, the aggregation of competent and independent votes makes democratic decisions fallible evidence for what promotes justice and the common good.

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<sup>68</sup> (Goodin and Spiekermann 2018). Also see (Grofman and Feld 1988; Estlund et al. 1989; List and Goodin 2001; Goodin 2003: 91-108; Dietrich and Spiekermann 2013).

<sup>69</sup> (Goodin and Spiekermann 2018: 17-18, 23-30). Political theorist David Estlund rejects the average citizen performs better than random (Estlund 2008: 16, 235-36). Political theorists Robert Goodin and Kai Spiekermann argue that the mean competence of the average citizen need only become better than random (Goodin and Spiekermann 2018: 23-25) and that they need only average better than random across specific topics (Goodin and Spiekermann 2018: 25-26). First, they argue that to increase the competence of any proper subsection of the public is to increase the mean competence of the average citizen. They need not make every citizen competent. Second, to make the most incompetent politically abstain is to increase the mean competence of the average citizen. Third, formal civil education and informal political participation at a young age could make modest increases in the mean competence of the average citizen over time (Goodin and Spiekermann 2018: 92-95).

<sup>70</sup> (Goodin and Spiekermann 2018: 18). Public deliberation could violate independence if citizens just copy the views of their neighbours. In particular, political theorist John Rawls rejects citizens are independent. As Rawls says, “it is clear that the votes of different persons are not independent. Since their views will be influenced by the course of the discussion, the simpler sorts of probabilistic reasoning do not apply” (Rawls 1971: 358). Similarly, political theorist Joshua Cohen argues that citizens are not independent. As Cohen’s words, “theorem requires that individual judgments be independent. But if people are talking to each other the judgments do not meet that condition” (Cohen 2010: 79). The problem is that, before citizens vote in national elections (and referendums), public deliberations induce dependence. However, public deliberation need not violate independence if citizens change their views in the light of the better arguments and better information. Epistemic democrats can argue that public deliberations promote competence before now competent citizens vote independently in national elections (Goodin and Spiekermann 2018: 68-82). Also see (Estlund et al. 1989; List and Goodin 2001; Dietrich and Spiekermann 2013).

<sup>71</sup> (Goodin and Spiekermann 2018: 21-22, 228-29). Also see (Lippert-Rasmussen 2012: 246).

The “miracle of aggregation” theorem provides an alternative aggregative conception of democracy. Political scientist Philip Converse defends the assumptions of the “miracle of aggregation” theorem.<sup>72</sup> It makes two central assumptions. First, it assumes not all but only some citizens are competent. They perform better than random. A competent citizen will choose the right answer more often than the wrong answer in a binary choice between the right answer and a wrong answer. So, when competent citizens vote, it is most likely that more choose the right answer than the wrong answer. On average, the competent votes choose the right answer. Second, “the miracle of aggregation” theorem assumes citizens who are not competent perform no worse than random. In a binary choice between the right answer and a wrong answer, an incompetent citizen will choose the right answer as often as the wrong answer. When incompetent citizens vote, it is most likely that as many choose the right answer as choose the wrong answer. On average, the incompetent but correct votes cancel out the incompetent and incorrect votes. Consequently, when many incompetent citizens and a few competent citizens vote together, the few competent votes mean that it is most likely that more choose the right answer than the wrong answer. The aggregation of competent and incompetent votes makes democratic decisions fallible evidence for what promotes justice and the common good.

The “miracle of aggregation” theorem is (marginally) less demanding than the Condorcet jury theorem. The Condorcet jury theorem assumes all citizens perform better than random. In contrast, “the miracle of aggregation” theorem assumes only some citizens perform better than random (even if it also assumes no citizen performs worse than random).

### **C. Unrealistic Mechanisms**

Economic liberals argue against epistemic democracy on two levels.<sup>73</sup> On a mechanistic level, economic liberals rely on social choice theory to say

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<sup>72</sup> (Converse 1990). Also see (Galton 1907; Berelson, Lazarsfeld, and McPhee 1954; Page and Shapiro 1992, 1993; Wittman 1995; Surowiecki 2004; Page 2007; Hong and Page 2012). Political theorist Hélène Landemore distinguishes between elitist, democratic and distributed models of the “miracle of aggregation” (Landemore 2012: 156-60). Unfortunately, this exceeds the scope of this dissertation.

<sup>73</sup> (Hardin 1990; List 2018)

epistemic democrats defend unrealistic mechanisms. The mechanism that aggregates individual votes rarely, if ever, makes democratic decisions fallible evidence for what promotes justice and the common good. On a motivational level, economic liberals rely on rational choice theory to argue that epistemic democrats assume unrealistic motivations. Citizens are rarely motivated by views about justice and the common good based on reasoned arguments with informed premises.

Economic liberals argue that epistemic democrats defend unrealistic mechanisms. In 1951, economist Kenneth Arrow defended a general possibility theorem that is now more commonly known as the impossibility theorem.<sup>74</sup> Arrow aims to show that any mechanism for aggregating individual preferences expressed in votes into a social preference risks cyclical outcomes. The problem with cyclical outcomes is that they are unstable outcomes. No particular outcome wins against all alternatives. Whichever outcome wins depends on which alternative it is paired against. So, the winning outcome does not reveal the one socially preferred outcome. The winning outcome just indicates whichever outcome the chosen aggregation mechanism privileged.

In 1982, economist William Riker weaponised the impossibility theorem against epistemic democracy.<sup>75</sup> Riker shows both citizens and politicians can manipulate democratic decisions. First, the problem of strategic voting shows that citizens can vote strategically.<sup>76</sup> Citizens can control which outcome wins if they strategically vote against whichever outcome they would prefer to lose. So, democratic decisions need not become fallible evidence for what promotes justice and the common good. Democratic decisions could just reveal whichever outcome the voting strategies privileged. Second, the problem of agenda control shows that politicians can control the political agenda.<sup>77</sup> The politicians can manipulate which outcome wins if they can control which alternative the outcome they would prefer to

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<sup>74</sup> (Arrow 1963). Also see (Buchanan 1954; Maskin et al. 2014).

<sup>75</sup> (Riker 1982). Mackie provides one of the most extensive replies to Riker (Mackie 2003). Also see (McGann 2006).

<sup>76</sup> (Riker 1982: 137-68). Also see (Gibbard 1973; Satterthwaite 1975; Mueller 2003: 296-302).

<sup>77</sup> (Riker 1982: 169-96). Also see (Lukes 1974: 57; Mueller 2003: 112-14).

win is paired against. Consequently, democratic decisions are not fallible evidence for what promotes justice and the common good. They just reveal whichever outcome the political agenda privileged.

#### **D. Deliberative Conceptions**

Deliberative democrats put the exchange of views in public deliberations at the centre of democratic politics. Democracy is defined as “government by discussion.”<sup>78</sup> Epistemic democrats argue that the exchange of views in national elections (and referendums) tends to improve otherwise incompetent views enough for national elections to express a competent collective view about what promotes justice and the common good.

It is helpful to distinguish between deliberation and bargaining. In bargaining, self-interested citizens aim to advance separate interests, seek a middle ground and compromise only when strategically advantageous. So, strategic self-interest primarily motivates bargaining. In contrast, public-spirited citizens aim to advance shared interests, seek common ground and a sincere consensus in deliberation.<sup>79</sup> So, a sincere public spirit primarily motivates deliberation. Deliberative democrats argue that public deliberation is morally virtuous. Political theorists Amy Gutmann and Dennis Thompson argue that public deliberation tends to encourage the winners to publicly justify themselves to the losers and to strengthen a mutual respect for diverse views, a public spirit that aims to promote the common good and

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<sup>78</sup> (Cohen 1989a; Mill 1991; Knight and Johnson 1994; Gutmann and Thompson 1996; Elster 1998b; Dryzek 2000; Freeman 2000; Dryzek and List 2003; Ackerman and Fishkin 2005; Sunstein 2006; Goodin 2008; Fishkin 2009; Mansbridge et al. 2010). Also see (Buchanan 1954: 120; Knight 1960: 163; Ostrom 1997: 272-79; 2008: 67; Bagehot 2009: 17; Emmett 2020).

<sup>79</sup> (Cohen 1989a, 1997; Gutmann and Thompson 2004; Fishkin 2009; Landemore 2012; Fuerstein 2014). In practice, consensus is often unattractive. First, a substantive problem with consensus is that a consensus need not provide the right answer. An incorrect consensus is possible. Second, a procedural problem with consensus is that, unless everyone is infallible, some errors are expected. So, consensus provides fallible but good evidence that the procedure that produces the consensus (unfairly) advantages the consensus answer and (unfairly) disadvantages alternative answers. Third, a practical problem with consensus is that it is costly to acquire. Once enough scarce resources are spent to get a majority to accept the same answer, even more scarce resources must be spent to get everybody else to accept that answer. Fourth, a strategic problem with consensus is that a minority can strategically withhold consent. The last few can strategically holdout unless the agreement gives them unfair advantages (Ostrom and Ostrom 1999: 96; Ostrom 2008: 50). Unfortunately, this exceeds the scope of this dissertation.

constructive criticism that seeks to correct mistakes.<sup>80</sup> As political theorists Jane Mansbridge et al. say, “when interests and values conflict irreconcilably, deliberation ideally ends not in consensus but in a clarification of conflict and structuring of disagreement.”<sup>81</sup> Consequently, deliberative democrats argue that public deliberations induce morally better views about justice in citizens.

Independently of moral virtues, public deliberation can become epistemically virtuous.<sup>82</sup> In particular, epistemic democrats rely on public deliberation to defend epistemic democracy against economic liberals. In 1986, political theorists Jules Coleman and John Ferejohn put public deliberation (back) into the centre of democratic politics. In Coleman and Ferejohn’s words, “voting may give evidence of the general will in a particular way— by public forum, discussion and participation.”<sup>83</sup> In the same year, political theorist Joshua Cohen advances the centrality of public deliberation to democratic politics. As Cohen says, “populist conceptions emphasize that political participation and public deliberations can serve to articulate and advance a “general will.””<sup>84</sup> Epistemic democrats often argue that public deliberation is the missing piece of the puzzle that solves many problems with aggregative conceptions of democracy. In political scientist Gerry Mackie’s words, “the deliberative conception of democracy, by many accounts, arose in reaction to the aggregative conception of democracy.”<sup>85</sup> Epistemic democrats (re)discover the epistemic value of public deliberation.

Epistemic democrats need not argue that public deliberations eliminate the possibility of any cyclical outcome. They need only say that public deliberations reduce the probability of cyclical outcomes. As Coleman and Ferejohn say, “most paths lead toward alternatives that are attractive to large

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<sup>80</sup> (Gutmann and Thompson 2004: 10-13, 26-29). Also see (Cohen 1997: 414; Elster 1998a; 1998b: 12; 2000: 349; Goodin and Spiekermann 2018: 140-41).

<sup>81</sup> (Mansbridge et al. 2010: 68). Also see (Gutmann and Thompson 1996; Mouffe 1996; Gaus 1997; Shapiro 1999).

<sup>82</sup> (Waldron 1995: 564; Bohman 1999; Hong and Page 2001; Luskin, Fishkin, and Jowell 2002; Barabas 2004; Fishkin and Luskin 2005; Bohman 2006; Goodin 2006; Martí 2006; Goodin 2008: 109; Fishkin 2009; Farrar et al. 2010; Anderson 2012; Landemore 2012; List et al. 2013)

<sup>83</sup> (Coleman and Ferejohn 1986: 17). Also see (Pateman 1986).

<sup>84</sup> (Cohen 1986: 26)

<sup>85</sup> (Mackie 2018: 218). Also see (Miller 1992; Knight and Johnson 1994).

numbers of people so that such paths tend to stay among relatively attractive alternatives.”<sup>86</sup> Similarly, in Joshua Cohen’s words, “the basic institutions that provide the framework for political deliberation are such that outcomes tend to advance the common good.”<sup>87</sup> Epistemic democrats argue that public deliberations induce competence in otherwise incompetent citizens. Mackie says, “predeliberative preferences ideally become more accurate and fair in public deliberations. Those preferences improved by public deliberations ideally are made even more accurate and fair through being aggregated by a properly democratic voting rule.”<sup>88</sup> So, public deliberations need only filter out incompetent judgements that produce cyclical outcomes and popularise competent judgements that make democratic decisions fallible evidence for what promotes justice and the common good.

The "diversity trumps ability" theorem and the "numbers trump ability" theorem provide two popular deliberative conceptions of democracy. Economist Lu Hong and political scientist Scott Page defend the "diversity trumps ability" theorem. They argue that more cognitively diverse groups with less cognitively capable members tend to outperform less cognitively diverse groups with more cognitively capable members. In Hong and Page’s words, “a collection of agents have an advantage over individuals in reaching a better solution simply because different perspective[?] heuristic pairs lead to the examination of more potential solutions and thus a better final solution.”<sup>89</sup> The more cognitively capable individuals know, the better problem-solving heuristics for particular problems. However, better problem-solving heuristics for a plurality of problems are not gathered in the single mind of the more cognitively capable individual. Still, they are scattered among the many minds of the more cognitively diverse individuals.<sup>90</sup> So, the members of the cognitively diverse group are individually incompetent, but they are collectively competent. Nobody in particular knows the better problem-solving heuristics for a plurality of problems, but somebody in general knows them. No member knows the

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<sup>86</sup> (Coleman and Ferejohn 1986: 24)

<sup>87</sup> (Cohen 1986: 31)

<sup>88</sup> (Mackie 2018: 224)

<sup>89</sup> (Hong and Page 2001: 135)

<sup>90</sup> (Popkin 1991; Sniderman, Brody, and Tetlock 1991; Page and Shapiro 1992)

better problem-solving heuristics for a plurality of problems by themselves, but together the members know the better problem-solving heuristics.<sup>91</sup>

Landemore develops the "diversity trumps ability" theorem into the "numbers trump ability" theorem.<sup>92</sup> As Landemore says, "larger deliberating groups are simply more likely to be cognitively diverse."<sup>93</sup> The "numbers trump ability" theorem makes four central assumptions. First, the question is too hard for any individual to answer correctly easily. Second, some citizens are competent. They are not competent in the sense that they perform better than random. They are competent because they know some effective problem-solving heuristics that solve some problems correctly. To distinguish between the two conceptions of competence, I call the better than random performance "moderate competence" and the knowledge of some effective problem-solving heuristics "minimal competence."

Third, all citizens recognise the best solutions whenever they come into contact with them. In Landemore's words, "the participants think very differently, even though the best solution must be obvious to all of them when they are made to think of it."<sup>94</sup> Fourth, some problem-solving heuristics that will correctly solve a plurality of problems are scattered throughout the membership of the more cognitively diverse group. So, when many minimally competent but cognitively diverse citizens deliberate together, they popularise effective problem-solving heuristics. Landemore says, "it is often better to have a group of cognitively diverse people than a group of very smart people who think alike."<sup>95</sup> Popularising problem-solving heuristics during public deliberations makes democratic decisions fallible evidence of what promotes justice and the common good.

The "numbers trump ability" theorem is less demanding than the Condorcet jury theorem. The Condorcet jury theorem assumes all citizens are moderately competent because they perform better than random. So, Estlund

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<sup>91</sup> Political theorist H el ene Landemore uses social scientist Page's conception of heuristics (Page 2007: 7).

<sup>92</sup> (Landemore 2012: 102-03)

<sup>93</sup> (Landemore 2012: 104)

<sup>94</sup> (Landemore 2012: 102)

<sup>95</sup> (Landemore 2012: 103)

argues that the Condorcet jury theorem is unattractively demanding. Estlund says, “it isn’t easy to say what level above random we are entitled to assume. . . . I doubt that we can simply assume they are better than random at all.”<sup>96</sup> In contrast, “the numbers trump ability” theorem only assumes some citizens are minimally competent because they know some effective problem-solving heuristics.<sup>97</sup> The different theories give different epistemic democrats good theoretical reasons to expect democracy to publicly reveal what promotes justice and the common good.

### **E. Unrealistic Motivations**

Economic liberals also argue that epistemic democrats assume unrealistic motivations. Citizens are rarely motivated by views about justice and the common good based on reasoned arguments with informed premises.<sup>98</sup> Economic liberals can argue that epistemic democrats assume unrealistic motivations on two levels. On the level of human nature, self-interested preferences to acquire ever more scarce resources motivate citizens more strongly than public-spirited judgements about justice. So, human nature is not public-spirited enough for epistemic democracy ever to become realistic. Alternatively, on a structural level, the costs of competence alongside the uncertainty of success demotivate otherwise public-spirited citizens from voting and deliberating competently. Consequently, the political environments in which actual elections and deliberations occur are too bad for epistemic democracy to become realistic.

In 1957, economist Antony Downs extensively defended the paradox of voting. The paradox of voting says rational citizens do not vote because they should expect that their vote is not pivotal.<sup>99</sup> To add just one more vote to the pile is very unlikely to change who wins any national election. In 1965,

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<sup>96</sup> (Estlund 2008: 16)

<sup>97</sup> The Condorcet jury theorem is not incompatible with public deliberation. Public deliberation need not violate the independence of citizens (Estlund et al. 1989; List and Goodin 2001; Dietrich and Spiekermann 2013; Goodin and Spiekermann 2018: 68-82). Condorcetian democrats can even accept the epistemic virtues of public deliberation. In particular, Condorcetian democrats can argue that public deliberation induces competence in otherwise incompetent citizens because it empowers them to perform better than random in national elections (and referendums) (Goodin and Spiekermann 2018: 135-38, 78-82).

<sup>98</sup> (Hardin 1990; List 2018)

<sup>99</sup> (Downs 1957: 36-50). Also see (Meehl 1977; Mueller 2003: 303-32; Kagan 2011).

political scientist Mancur Olson extensively analysed the problem of collective action.<sup>100</sup> The collective action problem is when nobody contributes toward a common good, even if everybody should expect to become better off if everybody did contribute. (Almost) everybody expects to become even better off if everybody else contributes towards a common good except them. So, the costs of contribution demotivate self-interested citizens from contributing towards a common good, especially if they expect everybody else is as capable of contributing as them. Conversely, everybody expects to become worse off if (nearly) nobody else contributes to the common good except them. Consequently, the uncertainty of success demotivates public-spirited citizens from contributing toward the common good, especially if they expect (nearly) nobody else to be as willing to contribute to the common good as them.

## VIII. A DEMOCRACY OF REAL PEOPLE

### A. Real Citizens

In this section, I introduce real democracies of real people, by real people, for real people. I define ideal democratic citizens as public-spirited, competent and reasonable. In the expectation that fellow reasonable citizens will reciprocate, they aim to promote justice and know what promotes justice (or they know how to promote justice even if they do not know what promotes it).<sup>101</sup>

In real politics, most citizens are very unlikely ever to become ideal citizens. On the one hand, not all public-spirited citizens are always competent.<sup>102</sup> Many real citizens are epistemically limited. Citizens need not always spend enough time, money and similarly scarce resources to competently judge what promotes justice and the common good based on reasoned arguments with informed premises. So, in real politics, many public-spirited citizens remain incompetent. The costs of competence, alongside the uncertainty of

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<sup>100</sup> (Olson 1965). Also see (Ostrom and Ostrom 1999: 76-79).

<sup>101</sup> (Rawls 1971: 316; Canovan 1996: 20-25, 30-35; Cohen 2010: 40-54)

<sup>102</sup> Some empirical evidence suggests that real citizens tend to become public-spirited when the decision is not pivotal (Bowles and Gintis 2006; Feddersen, Gailmard, and Sandroni 2009).

success, tend to demotivate them from acquiring political competence. Consequently, many public-spirited citizens use their votes and voices incompetently. As political scientist Larry Bartel says, “the political ignorance of the American voter is one the best documented features of contemporary politics.”<sup>103</sup> They vote and deliberate incompetently. They aim to promote justice, but they do not know what promotes justice (or how to promote justice).

On the other hand, not all competent citizens are always public-spirited.<sup>104</sup> Many real citizens are motivationally limited. Citizens occasionally do expect competent political activism to get them big practical benefits (financial or otherwise). So, in real politics, only a few self-interested citizens become competent. The benefits of activism motivate them to acquire a strategic competence and use it to advance their narrow individual and group interests in politics. Consequently, a few self-interested citizens strategically abuse their votes and voices. They vote and deliberate strategically. A few self-interested citizens even change the political environments where real elections and real deliberations occur. They could fund the research of sincere experts they expect to benefit them strategically, donate to political parties and lobby individual politicians. Similarly, a few self-interested politicians could also change the political environment.<sup>105</sup> They could strategically support whichever public-spirited policies they expect to benefit current contributors, donors, or future employers. They aim to promote self-interest and they know what promotes it.

## **B. Real Elections**

Contrary to Downs’s paradox of voting, not all rational citizens do abstain from voting in real elections. Citizens still have several reasons to vote even if no vote is pivotal. First, perhaps citizens do not vote to make a pivotal

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<sup>103</sup> (Bartel 1996: 194). Also see (Converse 1990; Carpini, X., and Keeter 1996; Althaus 2003; Converse 2006; Hardin 2006; Somin 2006; Freiman 2020).

<sup>104</sup> Some empirical evidence suggests that real citizens tend to become public-spirited when the decision is not pivotal (Bowles and Gintis 2006; Feddersen, Gailmard, and Sandroni 2009).

<sup>105</sup> Political theorist Alexander Guerrero argues that it is often more effective to aim to capture political representatives than to aim to deceive the wider public (Guerrero 2014: 165-66).

difference, but they do vote to make an alternative type of difference. In particular, a contributory account of voting says citizens tend to vote to add to the democratic mandate of whichever individual politician, political party, policy platform or political ideology they support.<sup>106</sup> A contributory account shows that voting can still make a socially valuable difference to the election outcome. Voting contributes toward democratic mandates.

Unfortunately, a contributory account swaps the minimal chance of making a big difference for the certainty of making a minimal difference. A contributory account swaps the minimal chance of casting a pivotal vote for the certainty of making a minimal contribution towards a democratic mandate. First, the vote count is not always accurate down to the single vote. So, one more vote does not always increase the mandate. Second, the public perception of the vote count is often rounded to the nearest hundred, thousand or million votes or the nearest percentage point. Consequently, one more vote is very unlikely to contribute to the mandate. Third, one more vote is very unlikely to change how politicians behave.<sup>107</sup> Hence, a contributory account of voting struggles to avoid the irrationality of voting. To vote to contribute towards a democratic mandate is to throw but one more grain of sand onto the heap.<sup>108</sup>

Second, maybe citizens do not vote to make any difference, but they do vote out of moral duty. A duty account of voting says citizens should vote to obey the moral duty to vote.<sup>109</sup> Voting is morally obligatory. In J.S. Mill's words, "the voter is under an absolute moral obligation to... give his vote to the best of his judgement, exactly as he would be bound to do if he were the

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<sup>106</sup> (Mackie 2003; Guerrero 2010; Mackie 2012, 2015)

<sup>107</sup> (Dahl 1990; Noel 2010; Achen and Bartels 2016: 21-51)

<sup>108</sup> Similar non-pivotal difference accounts also exist. Epistemologist Alvin Goldman's vectorial account of voting and political theorist Julia Nefsky's helping account of voting make the voting but not pivotal citizen share causal and moral responsibility for election results (Goldman 1999; Nefsky 2017). Unfortunately, non-pivotal difference accounts make citizens certain of making only a minimal difference to the procedure and no difference to the outcome. So, the expected benefits of voting still do not exceed the expected costs even if non-pivotal difference accounts do helpfully uncover some previously unseen mild procedural benefit of voting.

<sup>109</sup> (Maskivker 2019). Also see (Buchanan 1999: 372; Goldman 1999; Hill 2006; Lacroix 2007; Beerbohm 2012; Becker 2014: 106; Zakaras 2018).

sole voter and the election depended on him alone.”<sup>110</sup> Citizens have a moral duty to vote as if they did make a pivotal difference.

Unfortunately, a moral duty to vote is a close to completely inconsequential duty.<sup>111</sup> Consequences need not count for everything, but they should count for something. A moral obligation need not maximise total utility. However, a moral obligation should become likely to do some good.<sup>112</sup> Otherwise, the opportunity costs exceed the compliance costs. Citizens must spend their time, money and similarly scarce resources to vote and they are very unlikely to do themselves or the wider society any good in return. Worse, wider society would have become better off if citizens had abstained from voting and had done something likely to do wider society some good instead. Everything else equal, the many consequential duties should take priority over a close to completely inconsequential duty to vote. The nonconsequential virtues of voting should count for something, but they need not count for everything. So, the many significantly consequential duties to benefit wider society should still take priority over the close to completely inconsequential duty to vote, even if voting has some mild nonconsequential virtues. Consequently, a duty account of voting struggles to avoid the irrationality of voting. Perhaps voting out of a sense of duty makes citizens feel righteous, but it does little good for the wider society.

Third, maybe citizens do not vote out of a sense of moral duty, but they vote to express political views. An expressivist account of voting says citizens should vote to express political views (whether they are self-interested or public-spirited). Voting is expressive. In sports, spectators still cheer for whichever sports team they loyally support, even if it makes no difference to the game's outcome. They cheer to express support for their sports team. Similarly, in politics, citizens still vote for whichever political team they

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<sup>110</sup> (Mill 1991: 355). Also see (Freeman 2000: 416).

<sup>111</sup> The metaphysician and ethicist Derek Parfit (and later political theorist Brian Barry) argues that the social benefits of voting could exceed the very small chance of making a pivotal difference (Barry 1978a: 39; Parfit 1984: 73-75). However, political theorists Loren Lomasky and Geoffrey Brennan argue that Parfit defends an exceptional circumstance instead of the norm (Lomasky and Brennan 2000; Brennan 2012: 15-42; Freiman 2020: 43-66).

<sup>112</sup> Weak consequentialism holds that consequences often hold some moral weight and occasionally decisive moral weight (Melden 1959; Lyons 1977; Feinberg 1980: 131-55; Barry 1991: 40-77; Nielsen 1992).

loyally support, even if it makes no difference to the election outcome.<sup>113</sup> They vote to express support for a political party, a social or economic class, a special interest group or something else they loyally support.

An expressivist account shows citizens have a good practical reason to vote. However, it does not show that citizens have a good practical reason to vote *competently*. Epistemic democrats face the problem of public ignorance. Citizens should expect that they are very unlikely to make a pivotal difference. So, the expected practical costs involved in information acquisition tend to exceed the expected practical benefits of becoming informed. Citizens must spend their time, money and similarly scarce resources to do political research. One citizen's considerable cost is another citizen's small cost. Perhaps some citizens are more capable of getting political information. Maybe their work already requires them to acquire political information. Alternatively, one citizen's cost is another citizen's benefit. Perhaps some citizens are more willing to get political information. Maybe they enjoy doing political research for leisure. Nevertheless, rational citizens tend to remain politically ignorant because they do not expect one more informed vote to benefit themselves or the wider society. Consequently, a politically ignorant citizen is not politically informed enough to vote competently. Downs calls this the "problem of rational ignorance."<sup>114</sup> Political theorist Jason Brennan calls a specific type of rationally ignorant citizen "hobbits."<sup>115</sup> Hobbits tend to know something about the good of their local community and express political opinions acceptable to fellow hobbits. Still, they manage to remain ignorant about the national interest and international priorities.

Second, economist Bryan Caplan advances the problem of public ignorance with political bias. Rational citizens expect they are very unlikely to make a

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<sup>113</sup> (Fiorina 1976; Brennan and Lomasky 1989, 1993; Brennan and Hamlin 1998; Mueller 2003: 320-22; Brennan and Hamlin 2004; Gaus 2009)

<sup>114</sup> (Downs 1957: 259). Similarly, political theorist Alexander Guerrero argues that real citizens tend to suffer from conduct ignorance (ignorance about what one's representative is doing), problem ignorance (ignorance about a particular political problem), broad evaluative ignorance (ignorance about whether what one's representative is doing is a good thing in general) and narrow evaluative ignorance (ignorance about whether what one's representative is doing will be good for oneself) (Guerrero 2014: 140).

<sup>115</sup> (Brennan 2016: 4). Also see (Achen and Bartels 2016: 1-20).

pivotal difference. So, the expected practical costs of avoiding political bias are prohibitively big. Whenever citizens do their political research, they must spend their time, money and similarly scarce resources checking and correcting their political biases. Consequently, rational citizens remain politically biased because they do not expect one more politically unbiased vote to benefit themselves or the wider society. Conversely, the expected practical benefits of political biases can become irresistibly big. Whenever citizens do their political research or discuss politics at political or social events, they can enjoy confirming their political biases instead of correcting them. Hence, rational citizens remain politically biased. If they do not expect one more politically biased vote to harm themselves or the wider society, they often lack sufficiently strong incentives to check their biases and correct them. Therefore, politically biased citizens are too biased to vote competently. Caplan calls this the “problem of rational irrationality.”<sup>116</sup> In particular, Jason Brennan calls a specific type of rationally irrational citizen “hooligans.”<sup>117</sup> The loyal support for specific political teams tends to politically bias the political priorities of individual hooligans.

Citizens also face the problem of collective action. First, the practical costs involved in information acquisition tend to demotivate self-interested citizens, especially if they expect (almost) everyone else is as capable of becoming informed as them. So, citizens hope to become better off if everyone else becomes informed except them. Second, the uncertainty of success demotivates public-spirited citizens, especially if they expect (nearly) nobody else to be as willing to become informed. Consequently, citizens expect to become worse off if (nearly) nobody else becomes informed except them. The ideal citizen always holds informed and reasoned views about justice. However, the real citizen often holds uninformed or biased views about justice.

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<sup>116</sup> (Caplan 2007: 114-41)

<sup>117</sup> (Brennan 2016: 5). Also see (Achen and Bartels 2016: 213-96; Talisse 2022).

### C. Real Deliberations

Epistemic democrats argue that good public deliberations enable good national elections (and referendums). Mackie says, “public deliberations over alternatives tend to improve the accuracy and fairness of people’s judgments.”<sup>118</sup> Similarly, in political theorist Samuel Freeman’s words, “the revival of interest in democratic deliberation can bring welcome relief from the seeming predominance of rational choice theory in normative discussions.”<sup>119</sup> Good public deliberations empower reasonable citizens to express public-spirited views about justice based on reasoned arguments with informed premises in national elections.

Unfortunately, epistemic democrats underestimate the risk that national elections do not inherit the epistemic virtues associated with public deliberations. Perhaps public deliberations inherit the epistemic vices associated with national elections.<sup>120</sup> As political theorist Jensen Sass says, “deliberation is analogous to voting in being constitutive of democracy and necessary for its competent functioning. But if the problem of voter motivation is a central question in empirical democratic theory, it is rarely asked of deliberation.”<sup>121</sup> In the Schumpeterian tradition, economic liberals argue that the problem of public ignorance in national elections spills over into public deliberations. Public deliberations do not improve ignorance during national elections, but ignorance during national elections worsens public deliberations. In Schumpeter’s words, “the typical citizen drops down to a lower level of mental performance as soon as he enters the political field.”<sup>122</sup> So, public deliberations do not motivate citizens to vote competently. National elections motivate citizens to deliberate as

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<sup>118</sup> (Mackie 2018: 233)

<sup>119</sup> (Freeman 2000: 416)

<sup>120</sup> First, political theorists Jack Knight and James Johnson argue that it is unrealistic to expect public deliberations to reduce the diversity of views among citizens in order to reduce the probability of cyclical outcomes. Similarly, economic liberals could argue that it is unrealistic to expect public deliberations to induce an informed consensus among ignorant citizens. Second, Knight and Johnson argue that it is unattractive to expect public deliberations to reduce the diversity of views among citizens to reduce the probability of cyclical outcomes because it could filter out the views of persistent minorities (Knight and Johnson 1994).

<sup>121</sup> (Sass 2018: 86)

<sup>122</sup> (Schumpeter 1943: 262)

incompetently as they vote since they should expect that neither their vote nor their voice is pivotal.

Economists Fernando Tesón and Guido Pincione advance the problem of public ignorance with public deliberations. Citizens should expect they are no more likely to make a pivotal difference in public deliberations than in national elections. So, the expected practical costs of getting political information also tend to exceed the expected practical benefits of becoming informed in public deliberations. As Tesón and Pincione say, “citizens will not invest much time in careful deliberation... actual deliberation just moves the rational ignorance problem one step further.”<sup>123</sup> Similarly, the legal theorist Ilya Somin argues that both the problem of rational ignorance and rational irrationality in national elections could even spill over into public deliberations. In Somin’s words, “the combination of rational ignorance and irrationality is a powerful obstacle to the achievement of the deliberative ideal.”<sup>124</sup> Citizens must still spend their time, money and similarly scarce resources to do political research. Consequently, citizens tend to also remain politically ignorant in public deliberations because they do not expect one more informed voice to benefit themselves or the wider society. It is quicker, cheaper and easier to deliberate incompetently than competently. So, they need only exchange uninformed rhetoric to (falsely) feel politically competent rather than exchange informed judgements to actually become politically competent. Schumpeter says, “we fight for and against not men and things as they are, but for and against the caricatures we make of them.”<sup>125</sup> Tesón and Pincione call this the “problem of discourse failure.”<sup>126</sup>

I bundle the problems of rational ignorance, rational irrationality and discourse failure into the problem of public ignorance. The problem of public ignorance is a problem for epistemic democracy. Economic liberals need not reject a politics of judgement for a politics of interest. They need only distinguish between good and bad judgements. In particular, it is

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<sup>123</sup> (Pincione and Tesón 2006: 14)

<sup>124</sup> (Somin 2013: 231). Also see (Friedman 1998; Somin 1998: 440-41; Posner 2003: 151-52, 63-66; Friedman 2005).

<sup>125</sup> (Schumpeter 1954: 90)

<sup>126</sup> (Pincione and Tesón 2006: 13-20)

helpful to distinguish between “interest-free” and “interest-laden” judgements. An “interest-free” judgement is a public-spirited political judgment about justice that is entirely unbiased by what citizens expect to advance their narrow individual and group interests. Political judgements are simply separable from political interests.

In contrast, an “interest-laden” judgement is a public-spirited political judgment about justice that is implicitly biased by what citizens expect to advance their narrow individual and group interests. Political judgements are deeply entangled with political interests. Alternatively, an “interest-laden” judgement can become subtly manipulated by what special interest groups expect to benefit them. So, public deliberations might just popularise the best views out of a bad bunch. They are not always a very effective filter. Public deliberations popularise the most informed and least biased views out of a pool of very uninformed and biased views. Worse, public deliberations could even popularise some of the worst views out of a bad bunch. They can become counterproductive. Public deliberations popularise some of the least informed and most biased views that are politically attractive to uninformed, biased and otherwise politically incompetent citizens. They need not even induce morally better views about justice in citizens. Public deliberations need not encourage the winners to justify themselves to the losers publicly or strengthen a mutual respect for diverse views, a public spirit that aims to promote the common good or constructive criticism that seeks to correct mistakes.<sup>127</sup> Public deliberations could even encourage the winners to push publicly unjustifiable policies onto the losers and strengthen a mutual disdain for opposing views, a mean spirit that aims to protect against a common enemy and a corrosive self-validation that seeks to confirm biases.

I will not argue that epistemic democrats overestimate the moral motivations of real citizens. Many citizens often seek to promote justice in national

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<sup>127</sup> Some empirical evidence suggests many public-spirited citizens willingly deliberate (Neblo et al. 2010). However, it remains controversial whether public-spirited citizens deliberate competently or if ignorance and bias corrupt public-spirited deliberations (Page 2007: 212-14, 391).

elections.<sup>128</sup> I will argue that epistemic democrats overestimate the epistemic capabilities of reasonable citizens. It is often challenging for citizens to know what promotes justice or how to promote justice in national elections. So, economic liberals need not argue that citizens are often unjustifiably or inexcusably unwilling to vote and deliberate competently in national elections because they are badly motivated. They need only argue that citizens are often justifiably or excusably reluctant to vote and deliberate competently because of their limited epistemic capabilities. It is often just too epistemically difficult for public-spirited citizens to vote and deliberate competently.

## IX. ESTLUND AGAINST EPISTOCRACY

### A. The Spectre of Epistocracy

In this section, I introduce the central elements of Estlund's epistemic proceduralism as one of the best highly moralised conceptions of legitimacy after I introduce the spectre of epistocracy. The philosopher Plato, political scientist Claudio López-Guerra and political theorist Jason Brennan are paradigmatic epistocrats.<sup>129</sup> Epistocrats prefer the rule of the knowers to democracy's commitment to majority rule because of the problem of public ignorance. Plato argues against democracy because it conflicts with political wisdom. In Socrates's words, "there is no end to suffering, Glaucon, for our cities and none, I suspect, for the human race, unless either philosophers become kings in our cities, or the people who are now called kings and rulers become real, true, philosophers."<sup>130</sup> In the parable of the ship, Plato compares political rulers to the captain of a ship.<sup>131</sup> An elected captain would lack the wisdom they need to sail competently and the wise captain tends to lack the popularity they would need to win elections. Similarly, the

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<sup>128</sup> (Sears et al. 1978; Sears, Hensler, and Speer 1979; Sears et al. 1980; Feldman 1982; Sears and Lau 1983; Citrin and Green 1990; *Beyond Self-Interest* 1990; Sears and Funk 1990; Mutz 1992; Brennan and Lomasky 1993: 108-14; Mutz 1993; Holbrook and Garand 1996; Funk and Garcia-Monet 1997; Mutz and Mondak 1997; Miller 1999; Funk 2000; Mutz 2006; Caplan 2007: 148-51; Brennan 2012: 162-63)

<sup>129</sup> (Plato 2000; Lopez-Guerra 2014; Brennan 2016). Also see (Jeffrey 2017; Moyo 2018; Malcolm 2021b; Brennan 2022).

<sup>130</sup> (Plato 2000: 473d)

<sup>131</sup> (Plato 2000: 488a-89d)

elected politician tends to lack the wisdom they need to rule competently and the wise philosopher tends to lack the popularity they would need to win elections.

Political theorist David Estlund argues that epistocracy assumes three tenets.<sup>132</sup> The truth tenet says some normative political judgements are true. The knowledge tenet says some citizens — the knowers — know which normative political judgements are true more often than anybody else. The authority tenet says the knowers are morally or politically entitled to more political power than the ignorant. So, epistocrats accept the political reality of public ignorance. They assume the public is politically ignorant and that experts are politically wise. They then accept epistemic instrumentalism. They aim to employ whichever procedure most effectively lets the public know what promotes justice and the common good. Plato argues that political knowledge morally or politically entitles the knowers to political power.<sup>133</sup> Alternatively, Jason Brennan swaps the authority tenet for the antiauthority tenet.<sup>134</sup> The ignorant are not entitled to as much political power as the knowers. So, epistocrats accept the rule of the experts. Epistocrats say epistocratic states are legitimate political authorities because epistocratic states would publicly reveal what promotes justice and the common good more effectively than liberal democratic states independently of whether epistocratic mechanisms are fair or otherwise reasonably acceptable procedures. Experts know best.

Plato defends the rule of philosopher-kings. In “philosopher kings” models of epistocracy, unelected philosophers make political decisions.<sup>135</sup> Alternatively, Jason Brennan provides multiple modern models of epistocracy. In “extra votes” models of epistocracy, informed citizens should acquire more votes than ignorant citizens. Perhaps citizens cannot receive votes unless they can pass a political competence test, or maybe citizens acquire more votes the better they perform on the test.<sup>136</sup> In “expert veto”

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<sup>132</sup> (Estlund 2008: 30). Also see (Estlund 1993: 72).

<sup>133</sup> (Plato 2000). Also see (Mill 2017).

<sup>134</sup> (Brennan 2016: 17). Also see (Brennan 2011).

<sup>135</sup> (Plato 2000: 473d-84c)

<sup>136</sup> (Brennan 2016: 211-15). Also see (Caplan 2007; Cook 2013; Lopez-Guerra 2014; Moyo 2018; Malcolm 2021b).

models of epistocracy, epistocratic councils should gain the power to veto any democratic decision. Perhaps individual experts cannot join epistocratic councils unless they can pass a political competence test.<sup>137</sup>

To defend democracy, liberal democrats should argue against one of the three tenets. In my terminology, confident liberal democrats become reasonably confident that one of the three tenets is false. In contrast, cautious liberal democrats remain reasonably cautious that one of the three tenets is true.<sup>138</sup> To defend democracy, liberal democrats need not become reasonably confident that any three tenets are false. They need only remain reasonably cautious that one of the three tenets is true. They need only show that epistocracy has not yet met or will probably never meet its burden of proof for one of the tenets.

Epistocrats argue that experts should rule because experts know best. Conversely, liberal democrats can say experts do not know best. First, liberal democrats can argue against the truth tenet. No normative political judgements are true.<sup>139</sup> Estlund calls the “no truth” reply “political nihilism.”<sup>140</sup> The existence of normative political truth is controversial. Political approaches to legitimacy often reject it. First, Rawls aims to abstain from deciding which, if any, doctrines are true. He argues that normative political truth is an unacceptably exclusionary, sectarian and divisive concept.<sup>141</sup> Second, political theorist Hannah Arendt argues that normative political truth is anti-democratic. As Arendt says, “seen from the viewpoint of politics, truth has a despotic character.”<sup>142</sup> Perhaps anti-liberal democratic states could become legitimate political authorities if they promoted the one

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<sup>137</sup> (Brennan 2016: 215-20)

<sup>138</sup> It is helpful to distinguish between *a posteriori* anarchism and cautious liberalism. *A posteriori* anarchism says states do not satisfy particular conceptions of legitimacy (Simmons 2001: 105). In contrast, in my terminology, cautious liberalism says reasonable citizens will probably never become reasonably confident that states satisfy particular conceptions of legitimacy.

<sup>139</sup> (Arendt 1967; Barber 1984; Dahl 1989: 66; Miller 1992: 56; Copp 1993; Cohen 1997; Young 2000; Peter 2008a). Independently of whether any procedure-independent standard of correctness exists, political theorists Claus Offe and Ulrich Preuss argue that citizens should consider their fellow citizens, the future and the facts in public deliberations (Offe and Preuss 1991: 156-57).

<sup>140</sup> (Estlund 2008: 25-28, 34-35)

<sup>141</sup> (Rawls 1993: 129)

<sup>142</sup> (Arendt 1967: 114). Also see (Williams 2002: 3-4).

true conception of justice more effectively than any democratic alternative.<sup>143</sup>

Third, political theorist Fabienne Peter defends a particular type of epistemic democracy that rejects the truth tenet and any procedure-independent standard of correctness. She calls this “pure epistemic proceduralism.”<sup>144</sup> Peter denies that the epistemic virtue of public deliberation is that it tends to induce true views about justice in otherwise mistaken citizens. Instead, she argues that the epistemic virtue of public deliberation is that it tends to encourage epistemic responsibility among citizens. So, Peter argues that liberal democratic states are legitimate political authorities if public deliberation is politically and epistemically fair. It empowers epistemic peers to hold fellow citizens epistemically accountable for whatever views they have.

Similarly, economic approaches to legitimacy often reject normative political truth. Arrow says, “for the single isolated individual there can be no other standard than his own values.”<sup>145</sup> Riker says, “social choice theory forces us to recognize that the people cannot rule as a corporate body in the way the populists suppose. Instead officials rule and they do not represent some indefinable popular will.”<sup>146</sup> In Buchanan and Tullock’s words, “we shall reject at the outset any organic interpretation of collective activity... only some organic conception of society can postulate the emergence of a mystical general will that is derived independently of the decision-making process.”<sup>147</sup> There are just no true normative political judgements.

Estlund rejects nihilist strategies for two reasons. First, Estlund argues that normative political truth does exist. Whenever anybody morally evaluates political decisions, they must implicitly assume some procedure-

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<sup>143</sup> Seen from the viewpoint of politics, the absence of truth also has a despotic character, given that it constrains the ability of the unjustly disadvantaged under despots to publicly argue that the disadvantages they experience are *truly* unjust. Unfortunately, this exceeds the scope of this dissertation.

<sup>144</sup> (Peter 2008a: 74, 132-36). Also see (Peter 2008b, 2013).

<sup>145</sup> (Arrow 1983: 63). Also see (Black 1958: 163).

<sup>146</sup> (Riker 1982: 244)

<sup>147</sup> (Buchanan and Tullock 1962: 11-12). Also see (Buchanan 1999: 120, 95, 203, 462).

independent standard of correctness.<sup>148</sup> Second, even if normative political truth does not exist, Estlund argues that liberal democrats should not rely on “exotic” and “eternally controversial” views to avoid epistocracy.<sup>149</sup> So, they should not rely on political nihilism to avoid epistocracy. They should rely on less exotic and less controversial views instead.

Second, liberal democrats can argue against the knowledge tenet. Nobody knows which normative political judgements are true more often than anybody else. Perhaps nobody knows which normative political judgements are true at all. Estlund calls the “no knowledge” reply “political scepticism.”<sup>150</sup> Socrates argues that nobody knows which normative political judgements are true.<sup>151</sup> Perhaps normative political truth is entirely unknowable. I call this “strong political scepticism.” Alternatively, maybe normative political truth is not unknowable but unknown. I call this “weak political scepticism.” In contrast, perhaps normative political truth is occasionally known, but nobody knows which normative political judgements are true more often than anybody else. I call the “no the knowers” reply “epistemic egalitarianism.” Hobbes argues that (almost) everybody self-identifies as politically knowledgable and identifies everybody else as politically ignorant. So, Hobbes infers that (almost) everybody possesses a self-serving bias and nobody knows which normative political judgements are true more often than anybody else.<sup>152</sup> Similarly, liberal democrats could argue that all citizens are epistemic peers and that no citizen is (significantly) epistemically superior to anybody else.<sup>153</sup>

Estlund rejects sceptical strategies (and epistemic egalitarian strategies) for two reasons. First, Estlund argues that the knowers do exist. As Estlund says, “it is certain that there are subsets of citizens that are wiser than the group as a whole.”<sup>154</sup> Liberal democrats should accept both moral egalitarianism and political egalitarianism. All citizens are moral and

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<sup>148</sup> (Estlund 2008: 31). Also see (Landemore 2012: 219; Goodin and Spiekermann 2018: 38-41).

<sup>149</sup> (Estlund 1993: 74)

<sup>150</sup> (Estlund 2008: 24-26). Also see (Estlund 1993: 80; Peter 2013).

<sup>151</sup> (Plato 2004: 33-40)

<sup>152</sup> (Hobbes 1994: 74-75, 96-97)

<sup>153</sup> (Talisso 2009b; Peter 2013; Reiss 2019b)

<sup>154</sup> (Estlund 2008: 40)

political peers and no citizen is morally or politically superior to anybody else. However, liberal democrats should not accept epistemic egalitarianism since some citizens are just epistemically superior because they are more politically informed and epistemically rational than everybody else. Second, even if the knowers do not exist, Estlund argues that liberal democrats should not rely on political scepticism or epistemic egalitarianism to avoid epistocracy. They should rely on less exotic and less controversial views instead.

Third, liberal democrats can argue against the authority tenet. The knowers are not morally or politically entitled to more political power. Alternatively, liberal democrats can argue against the antiauthority tenet. The ignorant do not become morally or politically entitled to less political power. As explored next, liberal democrats can employ several different strategies against the authority tenet.

They can use instrumentalist strategies against the authority tenet. First, liberal democrats can accept epistemic instrumentalism. They can argue that experts do not know best and that democratic decisions publicly reveal what promotes justice and the common good more effectively than any anti-democratic alternative.<sup>155</sup> Second, liberal democrats can reject epistemic instrumentalism. They can argue, even if experts do know best, democracy provides a different type of instrumental value that makes democracy preferable to epistocracy. In particular, democracy induces moral (and epistemic) virtues in citizens more effectively than any anti-democratic alternative.<sup>156</sup> They could argue that national elections (and referendums) provide citizens with good practical reasons to become public-spirited and competent enough to avoid unjust governments and gain just governments. Third, liberal democrats can argue that democracy induces moral (and epistemic) virtues in individual politicians more effectively than any anti-democratic alternative.<sup>157</sup> National elections provide the individual

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<sup>155</sup> (Surowiecki 2004; Landemore 2012; Goodin and Spiekermann 2018)

<sup>156</sup> (Krouse 1982: 513-15; Elster 2002: 152; Peter 2008a; Farrelly 2012; Mill 2017: 74; Hannon 2020)

<sup>157</sup> (Krouse 1982: 513-15)

politician with good practical reasons to become public-spirited and competent enough to avoid electoral defeat and win the next election.

Rather than taking one of these paths, liberal democrats can employ procedural arguments against the authority tenet. They can argue that legitimacy is not purely grounded in how well political authorities know what promotes justice and the common good. In particular, Estlund rejects epistemic instrumentalism and advances Rawls's liberal principle of legitimacy. He argues that legitimate political authorities need to become acceptable to reasonable citizens. In Estlund's words, "no doctrine is available in justification unless it is acceptable to reasonable citizens, not even this doctrine itself (this makes it undogmatic), because such an acceptability criterion is true or correct independently of such acceptability (this makes it substantive)."<sup>158</sup> Legitimate political authorities morally owe reasonable citizens justifications for whichever doctrines it promotes.<sup>159</sup>

Estlund accepts a synthesis of epistemic instrumentalism and fair proceduralism. No procedure is legitimate unless it is acceptable to reasonable citizens, even if it does tend to publicly reveal what promotes justice and the common good more effectively than any alternative procedure. So, Estlund argues that epistemic performance and procedural fairness (as the early Estlund argues) or reasonable acceptability (as the later Estlund argues) are necessary for legitimacy.<sup>160</sup> Consequently, Estlund aims to employ whichever *fair* (as the early Estlund argues) or otherwise *reasonably acceptable* (as the later Estlund argues) procedure tends to publicly reveal what promotes justice and the common good more effectively than any *fair* or otherwise *reasonably acceptable* alternative.

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<sup>158</sup> (Estlund 2008: 57). Also see (Estlund 1997: 175). Political theorist David Estlund has an extensive conception of doctrines which includes factual statements, principles, practical proposals, moral or normative political judgments and so on (Estlund 2008: 44). Estlund argues that his undogmatic but substantive type of political liberalism is itself legitimate because no citizen is reasonable unless they accept his principle (Estlund 2008: 61). Estlund's qualified acceptability requirement is controversial (Enoch 2009; Copp 2011). Unfortunately, this exceeds the scope of this dissertation.

<sup>159</sup> (Estlund 1993: 85-92)

<sup>160</sup> See (Estlund 1997: 174; 2008: 102). Also see (Saunders 2010).

Estlund calls this “epistemic proceduralism.”<sup>161</sup> Estlund says, “according to epistemic proceduralism, the law is legitimate and binding on me even though it is unjust and this is owed partly to the fact that the procedure has epistemic value that is publicly recognizable.”<sup>162</sup> Hence, epistemic proceduralism is less epistemically demanding than epistemic instrumentalism but more epistemically demanding than fair proceduralism.

Epistemic proceduralism is a more complex view than fair proceduralism and epistemic instrumentalism. Christiano distinguishes between monistic and non-monistic conceptions of legitimacy.<sup>163</sup> Monistic conceptions of legitimacy make legitimacy depend on either exclusively procedural conditions or solely instrumentalist conditions. So, fair proceduralism and epistemic instrumentalism are monistic conceptions of legitimacy. In contrast, non-monistic conceptions make legitimacy depend on procedural and instrumentalist conditions for legitimacy. Epistemic proceduralism is a non-monistic conception of legitimacy. In Estlund’s words, “democracy will be the best epistemic strategy from among those that are defensible in terms that are generally acceptable. If there are epistemically better methods, they are too controversial—among qualified [reasonable] points of view, not just any points of view—to ground legitimately imposed law.”<sup>164</sup> First, Estlund provides procedural reasons to prefer epistemic proceduralism to epistemic instrumentalism. Epistemic instrumentalism is not acceptable to reasonable citizens. Second, Estlund provides instrumentalist reasons to choose epistemic proceduralism over fair proceduralism. Fair proceduralism cannot decide between comparably fair procedures that perform differently. Consequently, it is not just the general moral qualities and the procedural fairness in particular of democratic mechanisms that make liberal democratic states legitimate political authorities. As explored below, the

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<sup>161</sup> Political theorist Fabienne Peter defends a view she calls “pure epistemic proceduralism.” She does not argue that democratic mechanisms tend to make better decisions than a fair coin flip because she does not accept a procedure-independent standard of correctness exists. Peter argues that liberal democratic states are legitimate political authorities if public deliberations are both politically fair and epistemically fair in the sense that they empower epistemic peers to hold their fellow citizens epistemically accountable (Peter 2008a, 2013).

<sup>162</sup> (Estlund 2008: 8)

<sup>163</sup> (Christiano 2004: 266-68)

<sup>164</sup> (Estlund 2008: 42)

general epistemic qualities and the epistemic reliability in particular of democratic mechanisms make liberal democratic states legitimate political authorities.

The non-monistic defence of Estlund's epistemic model of democracy makes it one of the most morally attractive conceptions of legitimacy among the highly moralised conceptions. It is sensitive to highly moralised procedural concerns about procedural fairness (or reasonable acceptability) and highly moralised instrumentalist concerns about substantive justice when evaluating the legitimacy of political authority.

### **B. Against Epistemic Instrumentalism**

Epistemic proceduralism is a morally attractive alternative to epistemic instrumentalism. Epistemic instrumentalism faces what I call the "problem of unfair (or otherwise reasonably unacceptable) procedures." Suppose a fair (or otherwise reasonably acceptable) procedure produces bad outcomes and an unfair (or otherwise reasonably unacceptable) procedure produces good outcomes. Substantive justice is not the only political value worth promoting. Procedural fairness or reasonable acceptability is also a weighty political value worth promoting. In particular, the liberal principle of legitimacy says promoting substantive justice is not sufficient for legitimate political authority. It says legitimate political authorities need to become reasonably acceptable. As Estlund says, "unless all reasonable citizens actually agreed with the decisions of some agreed moral/political guru, no one could legitimately rule based on wisdom. So there might be political truth and even the knowers of various degrees, without any moral basis for epistocracy."<sup>165</sup> So, even if an unfair or otherwise reasonably unacceptable procedure promotes justice more effectively than any fair or otherwise reasonably acceptable alternative, it would remain an illegitimate procedure because it is an unfair or otherwise reasonably unacceptable procedure.

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<sup>165</sup> (Estlund 1997: 183). The unreasonability of epistocracy is controversial (Brennan 2014a; Mulligan 2015). Unfortunately, this exceeds the scope of this dissertation.

Instrumentalists only intrinsically value particular goals and instrumentally value whichever procedures promote them. So, proceduralists cannot persuade instrumentalists to value certain procedures intrinsically. However, it is arbitrarily single-minded for instrumentalists to accept that only some goals can hold independent value. In Gaus's words, "people care about the *process* through which outcomes come about, not just the outcome."<sup>166</sup> If instrumentalists can value particular goals independently of the procedures that promote them, proceduralists can value specific procedures independently of their likely consequences. Alternatively, liberal pluralists can accept both substantive and procedural values that must often compete against and compromise with each other.<sup>167</sup>

To avoid epistocracy, Estlund argues against a hidden fourth second-order knowledge tenet. (Nearly) nobody knows who the knowers are. Liberal democrats need not accept that experts do know best or that experts do not know best. Liberal democrats can abstain from deciding who knows best. Estlund argues that it is not enough for the knowers to know which normative political judgements are true. Estlund calls this "first-order political knowledge." It refers to knowledge about truth claims. Citizens know the rose is red if they just look at the rose. Similarly, experts often acquire true normative political judgements partially because of their expertise. Estlund argues that reasonable citizens need to know which experts are the knowers. Estlund says, "the trick is knowing and publicly justifying, which experts to rely on for which problems."<sup>168</sup> Estlund calls this "second-order political knowledge."<sup>169</sup> It refers to knowledge about knowledge claims. Citizens must pass an eyesight test before knowing that they know the rose is red. Similarly, experts must pass a test for political competence before knowing that they hold true normative political judgements.

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<sup>166</sup> (Gaus 2008a: 306). Also see (Bicchieri 2006: 100-39).

<sup>167</sup> (Berlin 1969; Williams 1981; Stocker 1990; Chang 1997; Bellamy 1999; Hampshire 1999; Gray 2000; Crowder 2002; Galston 2002; Gaus 2003; McCabe 2010)

<sup>168</sup> (Estlund 2008: 262)

<sup>169</sup> (Estlund 1993: 84-85)

Estlund argues that reasonable citizens should lack confidence in which experts are the knowers. Estlund calls the “no knowledge of the knowers” reply “second-order political scepticism.”<sup>170</sup> Perhaps the knowers are entirely unknowable. I call this “strong second-order political scepticism.” Alternatively, maybe the knowers are not completely unknowable, but they are often unknown to many. I call this “weak second-order political scepticism.” Estlund defends weak second-order political scepticism. Estlund argues that no test for political competence is acceptable to reasonable citizens. Any test for political competence remains controversial among reasonable citizens. Estlund argues that (weak) second-order political scepticism is less exotic and less controversial than first-order political scepticism. It is less exotic and controversial to argue that the knowers in particular are not known than to argue that no normative political truths are known.

Estlund argues that the knowers are often unknown to many reasonable citizens. In Estlund’s words, “no the knower is knowable enough to be accepted by all reasonable citizens.”<sup>171</sup> So, epistocratic states are not legitimate political authorities because they are not acceptable to reasonable citizens. As Estlund says, “sovereignty is not distributed according to moral expertise unless that expertise would be beyond the reasonable objections of individual citizens.”<sup>172</sup> Epistocratic states cannot provide ordinary citizens with the justifications they are morally owed to know who the knowers are.

Estlund argues that epistocracy commits an “expert/boss” fallacy.<sup>173</sup> To infer that more normative political knowledge morally or politically entitles the knowers to more political power is to ignore the illegitimacy of epistocratic states. In Estlund’s words, “experts should not be privileged because citizens can not be expected or assumed (much less encouraged or forced) to surrender their moral judgment, at least on important matters.”<sup>174</sup> The burdens of judgement provide a good moral reason to tolerate diverse views.

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<sup>170</sup> (Estlund 1993: 85-88). Also see (Hayek 2011: 524; 2018: 60; Gunn 2019; Kuljanin 2019; Somin 2022).

<sup>171</sup> (Estlund 1993: 71)

<sup>172</sup> (Estlund 1997: 183)

<sup>173</sup> (Estlund 2008: 3–4, 22, 40)

<sup>174</sup> (Estlund 1997: 183)

Even if experts are reasonably confident that they are correct and the non-expert is mistaken, it is still morally disrespectful for epistocratic states to enforce an unacceptable political competence test on reasonable citizens. Epistocratic states would not morally respect every reasonable citizen equally. A political competence test would express a morally unacceptable reverence for experts and a morally unacceptable disrespect towards less knowledgeable but reasonable citizens. So, even if epistocratic states would publicly reveal what promotes justice and the common good more effectively than any democratic alternative, no epistocratic state is fair or otherwise reasonably acceptable. Consequently, the knowers do know more than everybody else. Nevertheless, they are not morally or politically entitled to any more power than anybody else because it is not fair or otherwise reasonably acceptable.<sup>175</sup>

This makes epistemic proceduralism less epistemically demanding than epistemic instrumentalism. Liberal democratic states need not outperform epistocratic states because epistocratic states are not a fair or otherwise reasonably acceptable alternative. Liberal democratic states need only outperform fair or otherwise reasonably acceptable alternatives.

### **C. Against Fair Proceduralism**

Epistemic proceduralism is a morally attractive alternative to fair proceduralism. First, fair proceduralists face what I call the “problem of better outcomes.” Suppose the first fair (or otherwise reasonably acceptable) procedure produces worse outcomes and the second fair (or otherwise reasonably acceptable) procedure produces better outcomes. Procedural fairness or reasonable acceptability cannot become the decisive factor in which procedure is better. Substantive justice must become the decisive factor. So, procedural fairness or reasonable acceptability is not the only political value worth promoting. Substantive justice is also a weighty political value worth promoting. Estlund says, “the idea of procedural

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<sup>175</sup> Perhaps epistocracy is publicly justifiable (Brennan 2014a; Mulligan 2015). However, if competence demands the competent to answer questions correctly, any interpretation of competence is likely to remain controversial, given that which answers are correct is controversial. Unfortunately, this exceeds the scope of this dissertation.

fairness... is too thin and occasional a value to explain, without any appeal to procedure-independent standards of good outcomes, the moral significance of democracy.”<sup>176</sup> Consequently, a fair or otherwise reasonably acceptable procedure is not legitimate if a fair or otherwise reasonably acceptable alternative produces better outcomes.

In particular, Estlund argues that a fair coin flip is as procedurally fair as a fair election.<sup>177</sup> So, Estlund argues that liberal democratic states are not legitimate political authorities because democracy is procedurally fair. In Estlund’s words, “if fairness is the main basis of democracy’s importance, why not flip a coin instead?”<sup>178</sup> Liberal democratic states are legitimate political authorities partially because democracy makes better decisions than a fair coin flip. As Estlund says, “according to epistemic proceduralism, democratic authority rests on democracy’s tending to make better decisions than random and more effectively than alternative arrangements, so far as can be determined within public reason.”<sup>179</sup> Consequently, epistemic proceduralism is more epistemically demanding than fair proceduralism. Liberal democratic states must outperform a fair coin flip.<sup>180</sup> A fair coin flip will choose the wrong answer as often as the right answer in a binary choice between the right answer and a wrong answer. In contrast, liberal democratic states are legitimate political authorities only if democratic decisions will choose the right answer more often than not.

Second, fair proceduralists face what I call the “problem of the worst outcomes.” In a bad hypothetical case, suppose a fair or otherwise reasonably acceptable procedure produces the worst results and an unfair or otherwise reasonably unacceptable procedure does not produce the worst consequences. Procedural fairness or reasonable acceptability is not the only

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<sup>176</sup> (Estlund 2010: 53)

<sup>177</sup> Fair proceduralists can argue that democracy is fair in ways that a fair coin flip is not. First, political theorist Thomas Christiano argues that only democracy publicly treats citizens as equals (Christiano 1996). Second, political theorist Niko Kolodny argues that only democracy provides an equal opportunity to influence political decisions (Kolodny 2014a, 2014b).

<sup>178</sup> (Estlund 2008: 6)

<sup>179</sup> (Estlund 2008: 160)

<sup>180</sup> Perhaps fair proceduralists should prefer a fair coin flip to democracy, given that a fair coin flip is cheaper, quicker and easier to administer than fair elections and fair deliberations.

political value worth promoting. The worst injustices are also weighty political bads worth avoiding. So, a fair or otherwise reasonably acceptable procedure is not legitimate if it produces the worst outcomes. Estlund calls the worst effects all reasonable citizens wish to avoid “primary bads.” He says war, famine, economic collapse, political collapse, epidemic and genocide are paradigmatic primary bads.<sup>181</sup> Consequently, Estlund argues that liberal democratic states are not legitimate political authorities because democracy makes better decisions than a fair coin flip. Liberal democratic states are legitimate political authorities partially because democratic decisions also reliably avoid primary bads.<sup>182</sup>

#### **D. Epistemic Modesty**

Estlund provides one of the least demanding epistemic models of democracy. First, He does not require liberal democrats to defend excessively exotic or controversial assumptions. Estlund does not require liberal democrats to reject the existence of normative political truth, of normative political knowledge or the knowers. He enables liberal democrats to accept normative political truth, knowledge and the knowers exist. Second, Estlund does not require liberal democrats to defend an excessively demanding epistemic conception of legitimacy. In particular, He does not require liberal democrats to support epistemic instrumentalism. So, democracy need not outperform epistocracy. Estlund enables liberal democrats to defend epistemic proceduralism. In his words, “some democratic arrangements are epistemically better than random, the argument proceeding within the terms of public reason. It is a very modest epistemic claim that is required, so modest that I believe opponents are immediately in an awkward position.”<sup>183</sup> Democracy need only outperform a fair coin flip.

Third, Estlund does not require liberal democrats to defend an excessively demanding mechanism. He does not need liberal democrats to support the

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<sup>181</sup> (Estlund 2008: 163). Political theorist Judith Shklar also argues that liberal democratic states should primarily aim to avoid the “summum malum” or the most feared cruelties which all of us know and would avoid if only we could (Shklar 1998: 10-12).

<sup>182</sup> In exceptional circumstances where democracy must choose between two primary bads, Estlund argues that it must choose the lesser primary bad (Estlund 2008: 163-64).

<sup>183</sup> (Estlund 2008: 168)

Condorcet jury theorem (or the “miracle of aggregation” theorem).<sup>184</sup> No citizen must outperform a fair coin flip. Estlund enables liberal democrats to keep the epistemic virtues of public deliberation. He says, “it is very natural and plausible to think that if democracy has any epistemic value it is partly to do with the sharing of diverse perspectives.”<sup>185</sup> Public deliberation need only induce competence in otherwise incompetent citizens. Hence, Estlund enables liberal democrats to defend an epistemically modest epistemic model of democracy where public deliberations generate enough competence in otherwise incompetent citizens for democracy to outperform a fair coin flip.

The epistemic modesty of Estlund’s epistemic model of democracy makes it an excellent test case for the defensibility of epistemic conceptions of legitimacy in particular and highly moralised conceptions of legitimacy in general. Suppose he can meet his burden of proof and show reasonable citizens can become reasonably confident that public deliberations empower democracy to outperform a fair coin flip. So, Estlund can show that liberal democratic states can become credible political authorities under epistemic proceduralism. However, suppose he cannot meet his burden of proof. Estlund cannot show that reasonable citizens can become reasonably confident that public deliberations empower democracy to outperform a fair coin flip. Economic liberals gain good reason to accept that liberal democratic states will probably never become credible political authorities even under one of the most modest epistemic conceptions of legitimacy.

## X. PUBLIC CONFIDENCE IN DEMOCRATIC AUTHORITY

In this section, I introduce the central elements of the dissertation. I will defend an epistemic type of realism. Political theorists John Horton, John Gray and David McCabe are paradigmatic political realists.<sup>186</sup> Political realism contains diverse views, but political realists often prioritise stability

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<sup>184</sup> (Estlund 2008: 223-36)

<sup>185</sup> (Estlund 2008: 232)

<sup>186</sup> (Gray 2000; Horton 2010; McCabe 2010). Also see (Machiavelli 1981; Hobbes 1994; Hampshire 1999; Plato 2000: 338c2–3; Williams 2005; Geuss 2008; Galston 2010; Rossi 2012; Sleat 2013; Wendt 2016; Hall 2020).

over justice for feasibility reasons.<sup>187</sup> States are more likely to preserve peace than promote justice, especially since the public often holds conflicting interests and values. So, they defend mutual respect for majority rule as a peaceful compromise.<sup>188</sup> If the public is capable of peacefully voting the government out of power, the public becomes less willing to overthrow the government violently and the government also becomes less inclined to oppress the public violently.<sup>189</sup>

Independently of feasibility reasons, I will defend a type of realism that prioritises stability over justice for primarily epistemic reasons. My innovation with the problem of political credibility uncovers the need for a different type of realism that I call “epistemic realism.” Epistemic realism concedes to the epistemic capabilities of reasonable citizens. Given the epistemic capabilities of reasonable citizens, reasonable citizens are much more likely to become reasonably confident liberal democratic states preserve peace than that it promotes justice. In my terminology, political credibility demands political authorities satisfy the confidence tenet. It requires that the public can become reasonably confident that political authorities are legitimate.

Rawls’s conception of reasonability contains moral elements and epistemic elements. Out of a sense of moral respect, public justification demands reasonable citizens to justify to each other which conception of justice the state should promote. However, not only the moral norms provide reasonable citizens with good reasons to tolerate diverse views. I argue that epistemic norms also give reasonable citizens good reasons to tolerate

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<sup>187</sup> Moralism says normative political theory is a special subset of moral theory. Normative political theory depends on moral theory, given that normative political theory directly applies moral theory to politics. In contrast, realism says normative political theory is not a special subset of moral theory. Normative political theory is independent of moral theory, given that normative political theory does not directly apply moral theory to politics (Williams 2005; Farrelly 2007; Geuss 2008; Galston 2010; Horton 2010; Valentini 2012).

<sup>188</sup> As UK prime minister Winston Churchill says, “no one pretends that democracy is perfect or all-wise. Indeed it has been said that democracy is the worst form of Government except for all those other forms that have been tried from time to time” (House of Commons, 11 November 1947). Also see (Campbell et al. 1960: 545; Dahl 1989; Mueller 1999; Przeworski et al. 2000; Achen and Bartels 2016: 12).

<sup>189</sup> (Sartori 1987: 343; Shklar 1998; Gray 2000; Posner 2003; Shapiro 2003; Williams 2005; Philp 2007; Geuss 2008; Galston 2010; Horton 2010; McCabe 2010; Freedman 2012; Runciman 2012; Newey 2013; Sleat 2013)

diverse views. In particular, I express the epistemic virtue of epistemic humility.<sup>190</sup> In Landemore's words, "the correct instinct behind Rawls' move to epistemic abstinence was to encourage epistemic humility and modesty toward citizens' own truth-claims, as well as epistemic skepticism toward other people's truth-claims."<sup>191</sup> So, I argue that epistemic humility should constrain conceptions of legitimacy. Legitimacy should depend on conditions reasonable citizens can become reasonably confident that political authorities do satisfy. Consequently, legitimacy should not depend on the promotion of justice given epistemic humility demands reasonable citizens to remain reasonably cautious about which conception of justice the state should promote.

The burdens of judgement do not just provide reasonable citizens with a good moral reason to express moral respect towards the normative political judgments of fellow reasonable citizens. Independently of moral reasons, the burdens of judgement provide reasonable citizens with excellent epistemic reason to tolerate different normative political judgments. Reasonable citizens can become reasonably confident that epistemically unreasonable (politically uninformed and epistemically irrational) normative political judgments are not true. However, epistemically reasonable (politically informed and epistemically rational) normative political judgments are not just controversial. They are often incommensurable.<sup>192</sup> They all aim to track the truth and they are all based on reasoned arguments with informed premises. Out of the many incommensurable views, only one view can count as true and all else must count as false. So, the incommensurability of epistemically reasonable views provides reasonable citizens with excellent epistemic reason to become epistemically humble.<sup>193</sup> Epistemically

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<sup>190</sup> Similar views already exist. First, political theorist Judith Shklar defends epistemic humility (Shklar 1998: 7). Second, economists F.A. Hayek and Israel Kirzner and political scientist Vincent Ostrom defend epistemic humility (Ostrom 1999c: 392; Hayek 2014c: 372; 2018: 74; Kirzner 2018b: 428).

<sup>191</sup> (Landemore 2017: 284). It is helpful to distinguish between political liberalism and cautious liberalism. Political liberalism says legitimate political authorities need public justification, given that legitimate political authorities must become acceptable to reasonable citizens. In contrast, cautious liberalism says credible political authorities need public confidence, given that stable political authorities need reasonable citizens to become reasonably confident that they are legitimate.

<sup>192</sup> (Gaus 2003: 31-42). Also see (D'Agostino 2003).

<sup>193</sup> (Huemer 1996; D'Agostino 2003; Gaus 2003: 216-17; Huemer 2013: 48-50; Gaus 2016, 2018; Barrett 2020)

reasonable views about which normative political judgments are true are not just fallible.<sup>194</sup> They are often fragile in the sense that reasonable citizens should not become unreasonably confident that they are among the few with true views.<sup>195</sup> If anything, they should expect they are more likely among the many with false views about which normative political judgments are true.

Epistemic realism shows the fragility of normative political judgements about which conception of justice the state should promote. So, reasonable citizens should avoid unjustifiably high levels of confidence in which conception of justice the state should promote and unjustifiably low levels of confidence in reasonable opposing judgements that the state could promote instead. They should not epistemically revere any particular conception of justice as the best reasoned and best informed and they should epistemically respect reasonable opposing judgements. Consequently, reasonable citizens should avoid any highly moralised conception of legitimacy, making legitimacy depend on promoting justice. In high-stakes political contexts, reasonable citizens should aim to avoid likely errors.<sup>196</sup> Otherwise, they would risk avoidable harm. In particular, if reasonable citizens should lack confidence in whether the state does promote justice, highly moralised conceptions of legitimacy risk destabilising the legitimacy of the state. The epistemic immodesty of highly moralised conceptions of legitimacy risk instability.

Epistemic democrats provide a particular type of highly moralised conception of legitimacy. They say liberal democratic states are legitimate political authorities partially because they tend to publicly reveal what promotes justice and the common good. So, epistemic democrats do not privilege any particular conception of justice. They argue that epistemically virtuous democratic mechanisms make democratic decisions fallible evidence for what does promote justice. However, reasonable citizens will

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<sup>194</sup> Epistemic fallibility also provides excellent epistemic reason to tolerate diverse views (Mill 1921: 277; Hayek 2011: 81-83).

<sup>195</sup> (Feldman 2006; Christensen 2007; Elga 2007b, 2007a; Feldman 2007; Christensen 2009; Talisse 2009b: 79-120; Talisse 2009a; Kornblith 2010)

<sup>196</sup> In real politics, high stakes decisions are the norm instead of an exception (Hampshire 1978; Williams 1978).

probably never become reasonably confident liberal democratic states are legitimate political authorities with epistemic conceptions of legitimacy. Whether democratic mechanisms are epistemically good and reliable can become as controversial as whether democratic decisions are morally sound and promote justice. Worse, disagreement over whether democratic decisions were morally sound and promote justice can even spill over into disagreement over whether democratic mechanisms were epistemically good and reliable.

In chapter one, I introduce what I call the “problem of tragic democracies.” In tragic democracies, competent but self-interested citizens are motivated to “rent-seek,” public-spirited but epistemically limited citizens lack the motivation to competently oppose them and public-spirited but motivationally limited citizens can even become motivated to join the rent-seekers. So, I introduce an epistemic type of realism that says a conception of legitimacy should concede to the epistemic limits of reasonable citizens. They should lack confidence in whether liberal democratic states do in some sense promote justice given the problem of tragic democracies.

In the following chapters, I argue against highly moralised conceptions of legitimacy that prioritise the promotion of justice. I argue that reasonable citizens will probably never become reasonably confident liberal democratic states tend to promote justice because they should lack confidence in which values justice should prioritise.

In chapters two and three, I argue against epistemic democracy. I apply the spirit of Estlund’s scepticism about epistocracy to epistemic democracy itself. Reasonable citizens should not become more confident in whether democratic mechanisms are reliable than in which experts should rule.

Epistemic democrats argue that liberal democratic states are legitimate political authorities because democratic decisions publicly reveal what promotes justice and the common good. In chapter two, I argue that no standard of correctness is credible. I introduce the problem of picking the losers that shows reasonable citizens should lack confidence in which

demographics can legitimately lose out in morally correct decisions. In chapter three, I argue that the reliability of democratic mechanisms is not credible. I use the fundamental problem of measurement from the philosophy of science to introduce an innovative fundamental problem of evaluation for epistemic democracy. It shows that reasonable citizens should lack confidence in whether bad inputs corrupt the reliability of democratic mechanisms if they lack confidence in which democratic decisions are morally correct in advance.

Perhaps reasonable citizens can become more confident in which experts should rule than whether democratic mechanisms are reliable. So, epistemic democrats could turn to epistocracy. However well democracy performs, reasonable citizens can become reasonably confident that epistocracy would perform better independently of whether epistocratic mechanisms are fair or otherwise reasonably acceptable procedures. In chapter four, I argue against epistocracy. I push the spirit of Estlund's scepticism about epistocracy further. I argue that the political competence of the knowers is not credible. I use the problem of fact/value entanglement from the philosophy of science to introduce an innovative problem of morally incompetent experts for epistocracy. It shows that reasonable citizens should lack confidence in whether morally incompetent values corrupt the political competence of the knowers.

Maybe reasonable citizens can become more confident in which terms for public deliberation are fair than in whether democratic mechanisms are reliable. So, epistemic democrats could return to fair proceduralism. However well democracy performs, reasonable citizens can become reasonably confident that the terms for public deliberation are fair independently of whether democratic decisions tend to publicly reveal what promotes justice and the common good. In chapter five, I argue against fair proceduralism. I argue that the fairness of public deliberations is not credible. I introduce the problem of exploitative deliberation to show that reasonable citizens should lack confidence in whether public deliberations are fair.

In search of a solution to the problem of political credibility, I introduce a cautious conception of legitimacy that prioritises the avoidance of harm over the promotion of justice. In particular, I introduce a peaceful instrumentalist conception of legitimacy that makes legitimacy depend on the preservation of a mutually beneficial peace. Independently of whether democratic decisions publicly reveal what promotes justice and the common good, which experts know best and if the terms for public deliberation are fair, reasonable citizens can publicly observe that democratic decisions tend to make the vote remain more politically attractive than the pitchfork.

**Chapter One**  
**Tragic Democracies:**  
**Politics With Caution**

I. INTRODUCTION

In this chapter, I will argue for an epistemic type of realism. Epistemic realism concedes to the epistemic capabilities of reasonable citizens. It avoids normative political principles that reasonable citizens will probably never become reasonably confident are satisfied. Political theorist and epistemic democrat David Estlund defends epistemic conceptions of legitimacy. Liberal democratic states are legitimate political authorities partially because democratic decisions tend to publicly reveal what promotes justice and the common good. Estlund argues against utopophobia or an aversion towards highly moralised ideals within normative political theory. I advance Estlund's analysis of utopophobia to provide a more fine-grained analysis of realism within normative political theory. Estlund accepts that some highly moralised conceptions of legitimacy are utopian. They are not realistic, given that they make demands real citizens are incapable of ever satisfying. Normative political theories should concede to what real citizens are capable of because human capabilities are indispensable to liberal democratic politics. However, Estlund argues that his highly moralised conception of legitimacy is not utopian. It is realistic, given that it makes demands real citizens are often capable of satisfying. Estlund argues that to reject highly moralised, but non-utopian approaches to legitimacy is utopophobic. He argues that non-utopianism is sufficient for realism.

In contrast, I argue that non-utopianism is not sufficient for realism. I argue against a binary utopian/realism distinction that makes all non-utopian theories that concede to human capabilities realistic theories. I introduce a sliding scale where realistic theories should also concede to human motivations, given the incentives intrinsic to liberal democratic politics. Realism should not just concede to what real citizens are capable of doing. Realism should also concede to what real citizens are motivated to do. I do not argue that realism should concede to what real citizens are motivated to

do, given an intrinsic human nature. I argue that realism should concede to what real citizens are motivated to do, given the incentives intrinsic to liberal democratic politics. I concede to bad incentives rather than to bad individuals. Normative political theories should also concede to the incentives intrinsic to liberal democratic politics because the incentives are also indispensable to liberal democratic politics. To not concede to human motivation is to fundamentally neglect the tragic type of choice environment that is intrinsic to liberal democratic politics. Liberal democratic politics is not an “incentive-free” environment and political actors are not “economic eunuchs” completely deprived of self-interest (or concerns about efficacy).

I advance an analysis of liberal democratic politics analogous to a tragic commons. Public choice theorists defend a non-utopian and more realistic normative political theory, given that it aims to concede to human motivation. It aims to avoid predictable harm caused by the strategic abuse of democratic procedures. I advance a public choice approach to provide a more fine-grained concession to human motivation independent of self-interest. It is dependent on bad incentives intrinsic to liberal democratic politics. A tragic democracy is analogous to a tragic commons. In the tragic commons, self-interested farmers overgraze at the expense of everybody else. Public-spirited do not stop them and even join them.<sup>197</sup> Similarly, in a tragic democracy, rent-seeking citizens unfairly advantage themselves at the expense of wider society. At the same time, public-spirited citizens can lack the motivation to competently oppose them. A tragic democracy can even motivate otherwise public-spirited citizens to seek unfair advantages alongside everybody else.

I uncover the implications of tragic democracies for epistemic democracy. The bad incentives intrinsic to liberal democratic politics give reasonable citizens a good reason to remain reasonably cautious about whether democratic decisions ever publicly reveal what promotes justice and the common good. Epistemic democrats tend to neglect the self-interested and demotivated type of citizens tragic democracies tend to turn otherwise

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<sup>197</sup> (*Managing the Commons* 1977; Ostrom 1990)

public-spirited and motivated citizens into. So, epistemic democrats tend to overestimate the competence of public-spirited citizens and the good they are ever likely to do and underestimate the competence of self-interested citizens and the harm they are often likely to cause. My analysis of tragic democracies shows that epistemic democracy is too unrealistic.

I argue that realism should not just concede to what real citizens are capable of doing. Realism should also concede to what real citizens are capable of knowing or what real citizens are capable of knowing reasonably confidently. Stable political authorities should satisfy what I call the “confidence tenet.” They should become credible because reasonable citizens can become reasonably confident that they are legitimate. So, cautious liberalism rejects highly moralised conceptions of legitimacy for primarily epistemic reasons. Reasonable citizens will probably never become reasonably confident liberal democratic states promote justice in some sense, given the type of agent tragic democracies incentivise real citizens to become. In particular, a tragic liberal democratic state strategically abused by competent rent-seeking citizens and incompetently misused by public-spirited but incompetent citizens would not publicly reveal what promotes justice and the common good. Consequently, cautious liberalism prefers a cautious conception of legitimacy that makes the legitimacy of political authority depend on the avoidance of harm for primarily epistemic reasons. Reasonable citizens can become reasonably confident liberal democratic states avoid harm in some sense, given the type of agent tragic democracies incentivise real citizens to become.

## II. THE SLIDING SCALE OF REALISM

### **A. Utopophobia**

In this section, I introduce the sliding scale of realism. Estlund distinguishes between utopian and realist approaches to normative political theory. On the one hand, utopians defend very optimistic theories. They defend very unrealistic normative political principles that are always impossible to satisfy. First, some utopian principles are impossible to meet because they

do not concede to generally uncontroversial empirical facts about the natural world. They could assume away the scarcity of natural resources or the mortality of humans.<sup>198</sup> Estlund calls this “factual utopianism.”<sup>199</sup> Factual utopians accept normative political principles the world will never become capable of satisfying. Second, some utopian principles are impossible to satisfy because they do not concede to generally uncontroversial empirical facts about human capabilities. They overestimate what real humans are capable of. Estlund calls this “moral utopianism.”<sup>200</sup> Moral utopians accept normative political principles citizens will never become capable of satisfying.

On the other hand, radical realists defend very pessimistic theories. They reject all normative political principles as viciously utopian. They reject any normative political principle that demands change to the status quo as unrealistic. As Estlund says, “the most realistic normative theory of all, of course, would recommend or require people and social institutions to be just as they actually are already.”<sup>201</sup> Estlund calls this “complacent realism.”<sup>202</sup> Complacent realists do not assume the status quo is perfect or that the status quo is in some sense better than any alternative. They argue that any better alternative to the status quo is unrealistic. So, complacent realists just let the status quo stay exactly the same.

Estlund argues that normative political theory should avoid both utopianism and complacent realism. To accept or approach complacent realism to avoid utopianism expresses what Estlund calls “utopophobia.”<sup>203</sup> In Estlund’s words, “jumping all the way to a complacent realism to avoid utopianism would suggest an irrational utopophobia, or exaggerated fear of utopianism. In between these extremes lies what I call *aspirational theory*.”<sup>204</sup> Political theorists need not jump from a very optimistic utopian theory to a very

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<sup>198</sup> (Estlund 2008: 263)

<sup>199</sup> (Estlund 2008: 263)

<sup>200</sup> (Estlund 2008: 263)

<sup>201</sup> (Estlund 2008: 263; 2019: 5)

<sup>202</sup> (Estlund 2008: 263; 2019: 5). Also see (Williams 2005; Pateman and Mills 2007: 21; Geuss 2008: 11; Tully 2008: 17; Bellamy 2010: 416; Horton 2010: 444-45; Freedman 2012).

<sup>203</sup> (Estlund 2008: 14; 2019: 6). Political theorist David Estlund references theorists closely associated with public choice in his analysis of utopophobia. He references (Schumpeter 1943; Arrow 1963; Przeworski 1999; Posner 2003; Caplan 2007).

<sup>204</sup> (Estlund 2008: 259; 2019: 6, 26)

pessimistic complacently realistic theory. They need only step away from a very optimistic utopian theory and step towards a moderately optimistic non-utopian but non-complacently realistic theory.

It is helpful to explore the minimum political theorists must do to avoid moral utopianism. Moral utopians do not concede to generally uncontroversial empirical facts about human capabilities. They defend normative political principles that citizens are incapable of ever satisfying. So, to avoid moral utopianism, political theorists should concede facts about human capabilities. They should accept the Kantian dictum “ought implies can.” Estlund says, “you are not morally required to do anything you cannot do... it is one way in which moral requirements must be realistic.”<sup>205</sup> They should concede to what real humans are capable of. Estlund argues that non-utopianism is sufficient for realism. Non-utopian realists defend realistic normative political principles in the sense that citizens are capable of satisfying them.

Estlund argues that political theorists need not concede or “bend” to generally uncontroversial empirical facts about human motivations to avoid moral utopianism. The Kantian dictum does not say “ought implies will.”<sup>206</sup> So, political theorists need not concede to what motivates real humans (under the current status quo).<sup>207</sup> Estlund calls this “nonconcessive realism.”<sup>208</sup> Nonconcessive realists aim to show which normative political principles social institutions should promote under the assumption of full individual moral compliance. They do not concede to what motivates real humans. Consequently, they defend realistic normative political principles in the sense that citizens are capable of satisfying them. However, nonconcessive realists can still defend unrealistic normative political principles in the sense that citizens are unwilling ever to satisfy them. Nevertheless, political theorists can (and I argue that should) concede to generally uncontroversial empirical facts about human motivations. They

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<sup>205</sup> (Estlund 2019: 26-27)

<sup>206</sup> (Estlund 2019: 26-28, 86-91). Also see (Estlund 2008: 265).

<sup>207</sup> Some political theorists say the motivations of real citizens would radically change with a truly just system (Cheng 2008). Unfortunately, this exceeds the scope of this dissertation.

<sup>208</sup> (Estlund 2019: 31). Also see (Rawls 1971: 8-9, 215, 44-48; Phillips 1985; Stemplowska 2008; Swift 2008).

can concede or “bend” to what motivates real humans (under the current status quo). Estlund calls this “concessive realism.”<sup>209</sup> Estlund argues that concessive realists aim to show which normative political principles social institutions should promote under the assumption of partial individual moral deficiency.<sup>210</sup> Concessive realists to what motivates real humans. So, concessive realists defend realistic normative political principles in the sense that citizens are willing to satisfy them.<sup>211</sup>

## **B. The Sliding Scale**

Estlund provides a binary choice.<sup>212</sup> Either normative political theories are utopian, or they are not. If a normative theory is not utopian, it is realistic (including aspirational realism and complacent realism). In contrast, I provide a sliding scale.<sup>213</sup> Some normative political theories are more utopian and some are less utopian. Similarly, some normative political theories are more realistic and some are less realistic. Political theorists must do more than just avoid utopianism on the sliding scale. They must aim to occupy the golden mean that is neither too utopian nor too realistic. In political theorist Laura Valentini’s words, “keeping the facts in sight... is crucial for getting the distance between the ideal and the real right, so as to produce a theory that is both critical and action-guiding.”<sup>214</sup> The golden mean should uncover both what is bad about the status quo and how to improve it.

On the sliding scale, political theorists primarily disagree over which normative political theories occupy the golden mean. Perhaps political theorist John Rawls’s conception of justice as fairness occupies the golden

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<sup>209</sup> (Estlund 2008: 268; 2019: 31, 101). Also see (Rawls 1971: 8).

<sup>210</sup> Political theorist David Estlund argues that it is not circular to assume some facts are morally bad and to know them (Estlund 2019: 186-87). However, circularity is not the only theoretical vice to avoid.

<sup>211</sup> Some paradigmatic nonconcessive realists are (Rawls 1971; Dworkin 2000; Cohen 2008). Some paradigmatic concessive realists are (Brennan 2007; Gaus 2011b; Tomasi 2012).

<sup>212</sup> (Estlund 2008: 264; 2019: 84)

<sup>213</sup> Aristotle defends the concept of the golden mean in normative ethical theory between the vice of extreme excess and the vice of extreme deficiency (Aristotle 2014: 1106a26–b28). Political theorists Alan Hamlin and Zofia Stemplowska defend a similar concept of the ideal/nonideal distinction as a multi-varied continuum instead of binary (Hamlin and Stemplowska 2012).

<sup>214</sup> (Valentini 2009)

mean. Rawls is not utopian. He concedes to the rational self-interest of citizens, given that they all pursue different conceptions of the good life. He concedes to the epistemic fallibility of citizens, given that they all bear the burdens of judgement.<sup>215</sup> However, Rawls is not complacent. He defends the reasonability of citizens, given that a public conception of justice constrains the actions of reasonable citizens that seeks fair terms for social cooperation with fellow reasonable citizens. Nevertheless, political theorist G.A. Cohen argues that Rawls is too complacent. Cohen argues that Rawls concedes too much to the rational self-interest of citizens.<sup>216</sup> In contrast, political theorist John Horton argues that Rawls is too utopian. Horton argues that Rawls relies too much on the reasonability of citizens.<sup>217</sup>

It is helpful to distinguish between different levels of realism on the sliding scale. First, moral utopians are what I call “capabilities idealists.” They do not concede to the capabilities of real citizens (and what they are likely to become). So, real citizens often remain incapable of satisfying utopian principles. Second, nonconcessive realists are what I call “capabilities realists.” They do concede to the capabilities of real citizens. So, real citizens often become capable of satisfying nonconcessive principles. However, nonconcessive realists are what I call “motivation idealists.” They do not concede to the motivations of real citizens (and what they are likely to become). Consequently, real citizens often remain reluctant to satisfy nonconcessive principles. Third, concessive realists are what I call “motivation realists.” They do concede to the motivations of real citizens. So, real citizens often become willing to satisfy concessive principles.

On the sliding scale, nonconcessive realists are closer to utopianism and concessive realists are closer to complacent realism. Neither nonconcessive realists nor concessive realists are perfect. They both face different trade-offs. It is helpful to explore them one by one. The concessive realists are closer to complacent realism than the golden mean. So, concessive realists risk what I call the “concessive error.” The concessive realists do not

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<sup>215</sup> (Rawls 1993: 54-58)

<sup>216</sup> (Cohen 2008: 116-50) Also see (Nozick 1974: 204-12)

<sup>217</sup> (Horton 2018)

concede everything to the motivations of real citizens (under the current status quo). They are not complacent realists. However, concessive realists can concede too much to the motivations of real citizens. When a normative political principle demands citizens to do something they will never become willing to do, concessive realists blame non-compliance on the normative political principle instead of on citizens.<sup>218</sup> However, even if citizens are unwilling ever to comply, perhaps the normative political principle is not too demanding of them. Consequently, concessive realists can mistake unjustifiably (or inexcusably) reluctant citizens for justifiably (or excusably) unwilling citizens. This is the concessive error.

In contrast, the nonconcessive realists are closer to utopianism than the golden mean. So, concessive realists risk what I call the “nonconcessive error.” The concessive realists do concede something to the capabilities of real citizens. They are not moral utopians. However, nonconcessive realists can concede too little to the capabilities of real citizens. When a normative political principle demands citizens to do something they can do, concessive realists blame non-compliance on citizens instead of on the normative political principle. However, even if citizens are capable of compliance, maybe the normative political principle is just too demanding of them. Consequently, nonconcessive realists can mistake justifiably (or excusably) reluctant citizens for unjustifiably (or inexcusably) unwilling citizens. This is the nonconcessive error.

### **C. Utopophilia**

Nonconcessive realists aim to design normative political principles that fit the capabilities of real citizens. Still, they do not seek to design them to fit the motivations of real citizens. They are motivation idealists. So, nonconcessive realists do not design normative political principles to fit real citizens properly. They aim to fit an unreal agent with the capabilities of real citizens but not their motivations. In contrast, concessive realists aim to design normative political principles that fit the motivations of real citizens. They are motivation realists. Consequently, concessive realists design

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<sup>218</sup> (Ostrom 1990: 46)

normative political principles to fit real citizens properly. They aim to fit the motivations of real citizens instead of the hypothetical motivations of an unreal agent. They can take “cues” from the motivations of real citizens to design normative political principles that better fit the type of agent citizens actually are and tend actually to become when they participate in liberal democratic politics.

It is helpful to provide a theorist/tailor analogy.<sup>219</sup> Fashion designers could aim to design the most beautiful show dress. The most beautiful show dress need not fit most citizens. It needs only a few professional models capable and willing to make themselves fit the dress and it still needs not fit them comfortably. The show dress does not compromise fashion for fit. In contrast, high street designers could aim to design the most beautiful shop dress. The most beautiful shop dress must fit real citizens comfortably. The shop dress does compromise fashion for fit. It is designed to fit the shape and size of real citizens. The fashion designer should not blame real citizens for not fitting the show dress. They should not say real citizens are of the wrong shape or size. To blame real citizens instead of the show dress for the bad fit is to express an unfair bias towards the show dress and against real citizens. The show dress was not designed to fit real citizens to begin with.

Similarly, nonconcessive realists should not blame real citizens for non-compliance with their nonconcessive principles. They should not say real citizens are even partially morally defective. To blame real citizens instead of the nonconcessive principle for the non-compliance is to express an unfair bias towards the nonconcessive principle and against real citizens. The nonconcessive principle was not designed to fit the motivations of real citizens to begin with. In the opposite direction to utopophobia, to not concede to the type of agent citizens actually are and tend actually to become in national elections and public deliberations is to fail to let go of preconceived political principles. This would suggest irrational factophobia or exaggerated fear of the motivations of real citizens. Conversely, it would also suggest an irrational utopophilia or an exaggerated love of preconceived

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<sup>219</sup> The analogy is not intended as an argument. The analogy is primarily intended to clarify the view rather than to convince the unconvinced.

political principles that were never designed to fit the motivations of real citizens to begin with.

### III. EPISTEMIC DEMOCRACY

Epistemic democrats are nonconcessive realists or motivation idealists. They construct normative political principles under the assumption of full individual moral compliance. They argue that democratic decisions can become fallible evidence for what promotes justice and the common good if citizens become public-spirited and competent when they vote and deliberate.

Epistemic democrats start with a normative theory of democracy.<sup>220</sup> As the Introduction explored, epistemic democrats argue that liberal democratic states are legitimate political authorities because democratic decisions tend to publicly reveal what promotes justice and the common good. Epistemic democrats rely on three central assumptions. The first assumption is a procedure-independent standard of correctness exists. The correct decision is whichever decision would promote justice and the common good more effectively. The second assumption is a cognitive account of voting. A cognitive account of voting assumes citizens vote to express their views about justice.<sup>221</sup> The third assumption is that some democratic mechanism makes democratic decisions fallible evidence for what promotes justice and the common good. Aggregative epistemic conceptions of democracy assume the aggregation of votes in national elections (and referendums) can make democratic decisions become fallible evidence for what promotes justice and the common good.<sup>222</sup> Alternatively, deliberative epistemic conceptions of democracy assume improving judgements in public deliberations can make democratic decisions become fallible evidence for what promotes justice and the common good.<sup>223</sup>

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<sup>220</sup> (Converse 1990; Estlund 2008: 275; Landemore 2012: 89-117; Goodin and Spiekermann 2018: 17-22)

<sup>221</sup> (Goodin and Spiekermann 2018: 19, 49)

<sup>222</sup> (Converse 1990; Goodin and Spiekermann 2018)

<sup>223</sup> (Estlund 2008; Landemore 2012)

Epistemic democrats then provide a descriptive or explanatory theory of democracy. Epistemic democrats then concede that citizens are not fully public-spirited or competent. So, epistemic democrats tend to provide a second normative theory of democracy in the light of the explanatory theory. Epistemic democrats argue that citizens are (or could become) public-spirited enough and competent enough. They say public deliberations could induce enough public spirit and competence in otherwise self-interested and incompetent citizens to make democratic decisions become fallible evidence of what promotes justice and the common good.<sup>224</sup> Alternatively, they argue that social institutions could induce enough of a public spirit and enough competence in otherwise self-interested and incompetent citizens.<sup>225</sup>

#### IV. PUBLIC CHOICE THEORY

##### **A. An Economic Theory of Democracy**

In this section, I critically introduce central elements of public choice theory. Public choice theorists are concessive realists or motivation realists. They construct normative political principles under the assumption of partial individual moral compliance. Public choice theorists argue that democratic decisions can cause harm if citizens are self-interested and incompetent when they vote and deliberate.

Public choice theorists provide an economic theory of democracy made by economists for economists.<sup>226</sup> In 1942, economist Joseph Schumpeter provided the foundations for an economic theory of democracy.<sup>227</sup> In 1957, economist Anthony Downs built on Schumpeter's foundations to provide one of the first extensive economic theories of democracy.<sup>228</sup> Shortly after, in 1962, economists James M. Buchanan and Gordon Tullock used the economic theory to defend the need for constitutional rules to avoid the strategic abuse of majority rule by special interest groups.<sup>229</sup> In the same

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<sup>224</sup> (Estlund 2008; Landemore 2012; Goodin and Spiekermann 2018)

<sup>225</sup> (Dryzek 1990; Wittman 1995; Elkin and Soltan 1999)

<sup>226</sup> For critical overviews of public choice theory, see (Barry 1978b; Barry and Hardin 1982; Udehn 1995; Mueller 2003; Brennan and Lomasky 2008).

<sup>227</sup> (Schumpeter 1943)

<sup>228</sup> (Downs 1957)

<sup>229</sup> (Buchanan and Tullock 1962)

decade, in 1965, political scientist Mancur Olson extensively analysed the logic of collective (in)action, given the risk of free riders.<sup>230</sup>

Public choice theorists provide an alternative methodology to epistemic democrats. They are concessive realists. Public choice theorists start with a distinctively economic explanation of politics. In economics, economists assume economic actors are self-interested in explaining (micro-)economic behaviour. As Olson says, “no one is surprised when individual businessmen pursue higher profits, when individual workers pursue higher wages, or when individual consumers pursue lower prices.”<sup>231</sup> Similarly, in public choice, economists assume political actors are as self-interested as economic actors in explaining (micro-)political behaviour.

Public choice theorists then provide a normative theory of democracy in the light of its distinctively economic explanation of politics. They provide a normative theory of democracy in two steps. The first step is to predict the harm that the strategic abuse of majority rule is likely to produce. The second step is to prescribe constitutional rules that aim to constrain strategic abuse and to avoid the harm it would cause.<sup>232</sup> The primary aim is to protect democracy from strategic abuse and prevent the harm it would cause.

## **B. The Unrealistic Homo Economicus**

In their explanatory account of politics, public choice theorists apply game theory to political theory. The prisoner’s dilemma is central to game theory. Uncooperative strategies are in every player’s rational self-interest in a one-shot prisoner’s dilemma.<sup>233</sup> So, political theorist and public choice critic

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<sup>230</sup> (Olson 1965)

<sup>231</sup> (Olson 1965: 1)

<sup>232</sup> (Brennan and Buchanan 1985)

<sup>233</sup> Self-interest can motivate selfish behaviour. In a one-shot prisoner’s dilemma game, uncooperative or selfish behaviour is in the self-interest of every individual player. However, self-interest need not motivate selfish behaviour. In a multiple-shot prisoner’s dilemma game, uncooperative or selfish behaviour is not in the self-interest of any individual player. So, a constrained conception of rationality says constrained rational agents do not cost their neighbours to benefit themselves in the short term because they aim to avoid the risk of retaliation in the long term (Gauthier 1986: 160-66). Also see (Downs 1957; Rapoport and Chammah 1965; Tullock 1967a; Brennan and Buchanan 1985: 67-72; Tullock 1985; Hampton 1987: 208-19; McClennen 1988; Narveson 1988: 149-59; Binmore 1994: 179-81; Kavka 1995; Overbye 1995; Tullock 1999; Mueller 2003: 9-14, 326-29; Reiss 2013: 56, 74-75).

S.M. Amadae argues that the uncooperative strategy of every individual player employed in the one-shot prisoner's dilemma expresses a human nature exhausted by very narrow self-interest.<sup>234</sup> This type of agent is often called "homo economicus" (Amadae calls her "homo straticus"). In Amadae's words, "the canonical rational actor... only considers outcomes in terms of direct personal advantage" and "even if actors agreed on a standard of harm, still they would advance their self-interest at the expense of others, breaking agreements and free riding whenever possible."<sup>235</sup> Only a very narrow self-interest motivates homo economicus. She only ever exclusively aims to promote her short-term material welfare (often with the acquisition of more material resources), regardless of the harm she does to anybody or anything else.

Homo economicus is a very controversial conception of persons. In particular, Amadae argues that homo economicus is an unrealistically amoral conception of persons. It makes even very meek and mild political aspirations for individual and collective action appear impossible ever to implement. Amadae says, "the exhaustive application of game theory... effectively distills out ethical action, other-regarding considerations and the ability to voluntarily cooperate in groups... collective action, public interest, voluntary cooperation, trades unions, social solidarity and even voting are all irrational according to rational choice theory."<sup>236</sup> Any political aspirations for individual or collective action that require more morally virtuous motivations than rational self-interest quickly become unrealistic and utopian.

Similarly, economist and public choice critic Amartya Sen calls homo economicus a "social moron."<sup>237</sup> Sen accepts rational self-interest as one motivation that explains human behaviour. However, it is not the only motivation. It is only one motivation out of many that explains human

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<sup>234</sup> (Tucker and Schuyler 1931: 92; Stigler and Becker 1977; Stigler 1982)

<sup>235</sup> (Amadae 2015: 4, 5). Also see (Urbinati 1015; Becker 1976: 282-94; Stigler 1982: 21; Brennan and Lomasky 1993: 9-10).

<sup>236</sup> (Amadae 2015: 7-10)

<sup>237</sup> (Sen 1977). Also see (Brennan 1989; Vanberg and Buchanan 1989; *Beyond Self-Interest* 1990; Dryzek 1996: 92-115; Ostrom 1999d: 406; Brennan and Hamlin 2000: 17-33; Brennan 2008; Dryzek and Dunleavy 2009: 31-33).

behaviour. (There are even worse motivations than rational self-interest. For example, self-hatred motivates some self-destructive behaviours; envy motivates some socially destructive behaviours.<sup>238</sup>) Sen argues that there are more morally virtuous motivations than rational self-interest. First, empathy motivates altruistic citizens. Altruistic citizens tend to wish that the badly off were better off than they are. However, homo economicus is unempathetically indifferent towards the badly off. Second, duty motivates responsible citizens. Responsible citizens tend to do their duty independently of their self-interested preferences. However, homo economicus is unscrupulously indifferent toward her responsibilities. There are still further motivations that are more morally virtuous than rational self-interest. Political theorist G.A. Cohen argues that solidarity motivates public-spirited citizens.<sup>239</sup> Public-spirited citizens tend to wish that their community and wider society were better off than they are. However, homo economicus is atomistically indifferent towards her community and wider society. So, homo economicus is not a realistic conception of persons.<sup>240</sup> It is an excessively pessimistic or utopophobic conception of persons as unrealistically unempathetic, unscrupulous and atomistic agents. Consequently, a homo economicus assumption is likely to produce excessively pessimistic political aspirations that are (mis)informed by an excessively pessimistic explanation of politics.

Public choice theorists need not assume the homo economicus Amadae describes.<sup>241</sup> It is helpful to distinguish between very narrow self-interest

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<sup>238</sup> Political theorist David Gauthier does defend a conception of rationality that excludes any and all preferences about the welfare of anybody else (Gauthier 1986: 87). In contrast, political theorist Michael Moehler defends a conception of rationality that excludes sympathetic and generally virtuous preferences about the welfare of anybody else but includes envy and generally vicious preferences about the welfare of everybody else (Moehler 2018).

<sup>239</sup> (Cohen 2011: 161-62)

<sup>240</sup> (Green and Shapiro 1994; *The Rational Choice Controversy: Economic Models of Politics Reconsidered* 1996)

<sup>241</sup> Public choice theorists could defend a purely formal conception of rationality. A purely formal conception of rationality says a rational agent aims to employ whatever they expect are the most effective means to pursue the ends they wish to pursue. In a purely formal sense, self-interest refers to whatever the self is interested in (Buchanan 1999: 34, 59, 250, 457; 2000: 6-10, 12-18; Hayek 2007: 102; Mises 2007: 242, 382; Ostrom 2008: 44; Hayek 2018: 59, 66). Alternatively, public choice theorists could defend a substantive conception of rationality (Rawls 1993: 51; Ostrom 1997: 90; Ostrom 1998; Gaus 2008b: 11; Ostrom 2010: 664). In contrast, a substantive conception of rationality says a rational agent aims to employ whatever they expect are the most effective means to pursue the ends that benefit them. In a substantive sense, self-interest refers to whatever is in the interest of the self.

and moderately narrow self-interest. A very narrow self-interest motivates homo economicus because she always exclusively aims to promote her short-term material welfare, regardless of the harm she does to anybody or anything else. Economist F.A. Hayek argues that the association of self-interest with a very narrow self-interest is ahistorical. In Hayek's words, "these terms, however, did not mean egotism in the narrow sense of concern with only the short-term needs of one's proper person. The "self" for which alone people were supposed to care, did as a matter of course include their family and friends".<sup>242</sup> Hayekian self-interest is moderately narrow because self-interested citizens predominantly aim to promote the long-term interests (material or otherwise) of their small inner circle of family and close friends.<sup>243</sup>

Public choice theorists can and should replace the very narrow self-interest of homo economicus with the moderately narrow Hayekian conception of self-interest. It is unrealistically pessimistic and utopophobic to assume citizens exclusively put themselves first. However, it is realistic to assume citizens primarily put the good of their small inner circle first. Citizens tend to prioritise the interest of their small inner circle over the interest of wider society. In particular, citizens often willingly spend most of their income to advantage of their small inner circle even if they know that many strangers are in much more need of care and assistance.<sup>244</sup>

### **C. The Realistic Symmetry Thesis**

The symmetry thesis says political actors are no less self-interested than economic actors.<sup>245</sup> The symmetry thesis is an implicit classical liberal assumption that often motivates caution toward states. As economist Adam Smith says, "all for ourselves and nothing for other people, seems, in every

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<sup>242</sup> (Hayek 1948: 13)

<sup>243</sup> Political theorist Gregory Kavka defends a predominant egoism or a limited altruism conception of rationality that says rational agents primarily aims to employ whatever they expect is the most effective means to benefit themselves, but they do occasionally aim to benefit their neighbours (Kavka 1986: 64-80). Also see (Smith 1976b: 30).

<sup>244</sup> (Huemer 2013: 189-91)

<sup>245</sup> (Brennan and Buchanan 1985: 48-49). Also see (Buchanan 1999: 48-49; Ostrom and Ostrom 1999: 75-76; Brennan and Buchanan 2000: 77).

age of the world, to have been the vile maxim of the masters of mankind.”<sup>246</sup> In one of the USA Founding Fathers James Madison’s words, “if men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary.”<sup>247</sup> Economist Frédéric Bastiat says, “do not the legislators and their appointed agents also belong to the human race? Or do they believe that they themselves are made of a finer clay than the rest of mankind?”<sup>248</sup> The symmetry thesis assumes the motivations of citizens remain the same whenever they participate in politics. Citizens do not put on devil horns whenever they engage in politics, but they do not put on angel wings either. They remain human. The motivations of political actors are no more virtuous or vicious than economic actors. They contain the same complex bundle of self-interested and public-spirited preferences as everybody else.

As the Introduction explored, public choice theorists can accept motivation pluralism. Citizens contain a plurality of different motivations. In particular, they have a plurality of self-interested preferences and public-spirited preferences that must often compete against and compromise with each other. In Buchanan’s words, “both images are widely interpreted, by their proponents, to be descriptions of a total reality of politics, when, in fact, both images are partial. Each image pulls out, isolates and accentuates a highly particularized element that is universal in all human behavior.”<sup>249</sup> So, the symmetry thesis could produce more optimistic explanatory accounts of economic behaviour. If political actors are not primarily self-interested, perhaps economic actors are less self-interested than economists often assume.<sup>250</sup> I call this “economic optimism.” It is primarily of interest to economists. Alternatively, the symmetry thesis can produce a more pessimistic explanatory account of political behaviour. If economic actors are primarily self-interested, maybe political actors are more self-interested than political theorists often assume. I call this “political pessimism.” It is primarily of interest to political theorists.

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<sup>246</sup> (Smith 1976a)

<sup>247</sup> (Hamilton, Madison, and Jay 1987)

<sup>248</sup> (Bastiat 1850)

<sup>249</sup>(Buchanan 1986: 11-12)

<sup>250</sup> (Cohen 2000: 148-80)

I introduce to a different interpretation of public choice that uncovers bad incentives instead of bad individuals. Political pessimism need not assume both economic actors and political actors must always act out of self-interest because of a fixed human nature. I call this the “bad individual” assumption.<sup>251</sup> It need not assume self-interest motivates everything.<sup>252</sup> As Buchanan and Tullock say, “economic theory does not try to explain all human behavior... at best, theory explains only one important part of human activity.”<sup>253</sup> Self-interest is only one motivation among many. Political pessimism need only assume both economic actors and political actors can act out of self-interest because of a bad external environment. I call this the “bad incentives” assumption.<sup>254</sup> Good incentives can bring the best out of otherwise bad individuals (and attract the best individuals). Bad incentives can bring out the worst of otherwise good individuals (and attract the worst individuals). In Buchanan’s words, “the elementary fact is, of course, that homo economicus does exist in the human psyche along with many other men and that behavior is a product of the continuing internal struggle between them”.<sup>255</sup> So, political pessimism need only assume self-interest does not disappear whenever citizens participate in politics.

Citizens do not entirely stop acting out of self-interest whenever they participate in politics. As Buchanan says, “persons do not readily become economic eunuchs as they shift from market to political participation. Those who respond predictably to ordinary incentives in the marketplace do not fail to respond at all when they act as citizens.”<sup>256</sup> Political actors are not “economic eunuchs.” Politics does not completely deprive citizens of self-interest (or concerns about efficacy). Political actors retain self-interest as one motivation among many. Consequently, self-interested political behaviour need not reflect a fixed human nature. It need only reflect a bad

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<sup>251</sup> (Estlund 2011; 2019: 86-89). Similarly, historian Nancy MacLean argues that public choice theory makes a bad individuals assumption. In MacLean’s words, “Buchanan’s school went further, projecting unseemly motives onto strangers about whom they knew nothing” (MacLean 2017: 98). Unfortunately, MacLean neglects the possibility that public choice theory need only make a bad incentives assumption.

<sup>252</sup> (Rosenberg 1979)

<sup>253</sup> (Buchanan and Tullock 1962: 17)

<sup>254</sup> (Brennan and Hamlin 2000: 34-50)

<sup>255</sup> (Buchanan 1979: 207). Also see (Buchanan and Tullock 1962: 20; Buchanan 1977: 5; Olson 1993).

<sup>256</sup> (Buchanan 2003: 17)

political environment that brings the worst out of otherwise good individuals (or attracts the worst individuals).

It is helpful to distinguish between intrinsic and extrinsic motivations. Citizens are intrinsically motivated to act if they act because they intrinsically value the act itself. Perhaps citizens are intrinsically motivated to vote because of its intrinsic value. In contrast, citizens are extrinsically motivated to act if they act because they instrumentally value the act as a means to benefit something else they value. Maybe citizens are extrinsically motivated to vote because of its expected benefits for themselves or wider society. Alternatively, perhaps citizens are extrinsically motivated to not vote because of the time and effort it takes for them to vote. Often, intrinsic and extrinsic motivations conflict. Even if citizens are intrinsically motivated to vote because of its intrinsic value, they can still become extrinsically motivated to not vote because of the time and effort it takes. Alternatively, even if individual politicians are intrinsically motivated to support a particular policy, they can still become extrinsically motivated to support a different policy because of its expected financial or electoral benefits for them. Since political actors are not economic eunuchs completely deprived of self-interest (or concerns about efficacy), a bad political environment can incentivise and induce bad political behaviour in otherwise good political actors.

An asymmetry thesis would say political actors are not as self-interested as economic actors. An asymmetry thesis is often an implicit assumption of the aspiration for public-spirited political actors in state institutions to regulate self-interested economic actors in the marketplace. In political theorist Christopher Freiman's words, "it's only when people are saints in the state but not the market and civil society that you want the former to extensively regulate the latter."<sup>257</sup> If economic actors are public-spirited, political actors' regulation of economic actors becomes less necessary. Alternatively, if political actors are self-interested, political actors' regulation of economic actors becomes less desirable.

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<sup>257</sup> (Freiman 2017: 34)

Perhaps political actors are not as self-interested as economic actors. Economic actors are self-interested because they tend to bear the expected costs and benefits of their economic decisions. In contrast, political actors are public-spirited because the expected costs and benefits of their political decisions tend to disperse throughout society.<sup>258</sup> However, this defence of an asymmetry thesis overlooks that both economic and political actors tend to bear the practical costs (financial or otherwise) involved in producing public-spirited judgements about justice and acting on them. So, political actors tend to become (or remain) as self-interested as economic actors. Both economic and political actors must spend their time, money and similarly scarce resources to produce public-spirited judgements about justice and act on them with little chance of making much difference to themselves or wider society in return.

## V. TRAGIC DEMOCRACIES

### A. The Tragic Commons

In sections V-VII, I advance the analogy of liberal democratic politics to a tragic commons. I argue that bad political environments in which national elections (and referendums) and public deliberations can externally motivate or incentivise bad political behaviour of otherwise good citizens. In particular, I argue that democratic politics can become analogous to the tragic commons. I call this the problem of tragic democracies. This is a problem for nonconcessive realism. If realism should concede to human capabilities because they are indispensable to liberal democratic politics, realism should also concede to the incentives intrinsic to liberal democratic politics for the same reason. In particular, this is a problem for epistemic democracy. The central claim of epistemic democrats that democratic decisions publicly reveal what promotes justice and the common good is too unrealistic. It does not concede enough to the incentives intrinsic to liberal democratic politics.

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<sup>258</sup> (Christiano 1996). Also see (Rawls 1971: 316-18; Elster 2002; Gaus 2010; Sandel 2012; Saunders 2012; Mackie 2015).

The ecologist Garrett Hardin provides one of the best-known analyses of the tragic commons.<sup>259</sup> Hardin starts with the observation of economist William Forster Lloyd that pastures open to all farmers to graze cattle on tend to become overgrazed. The farmers choose to graze too much cattle on the commons. Lloyd says, “why are the cattle on a common so puny and stunted? Why is the common itself so bare-worn and cropped so differently from the adjoining inclosures?”<sup>260</sup> The overgrazed commons is a tragic commons because (almost) everybody should want to avoid overgrazing, but nobody does prevent it. Everybody or most should want to graze responsibly, but nobody or too few do graze responsibly. Everybody or most overgraze the commons until it is infertile.

Both Buchanan and Olson argue that self-interested farmers tend to overgraze because they prefer free riding on responsible grazers to becoming responsible grazers themselves.<sup>261</sup> It is helpful to explore some of the possible goals of self-interested farmers. First, self-interested farmers could aim to get short-term material gain. Short-sighted farmers prefer getting more minor material benefits now to avoiding more considerable material costs later. So, short-sighted farmers prefer overgrazing the commons to avoiding the infertility of the commons. The individual farmer primarily gains the short-term material benefits by overgrazing. The benefits are “internalised” because the individual farmer privately owns more cattle. In contrast, the short-term material costs of overgrazing disperse throughout the community. The costs are “externalised” because the community shares the less fertile commons. In other words, short-sighted farmers produce “negative externalities” because they produce costs that their fellow farmers must bear.<sup>262</sup> Consequently, short-sighted farmers expect short-term material gain by overgrazing. Short-sighted farmers expect the concentrated benefits of overgrazing to exceed their small share of the dispersed costs of overgrazing. Hence, the asymmetry of the concentrated benefits and the dispersed costs motivates short-sighted farmers to overgraze.

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<sup>259</sup> (Garrett 1968). Also see (Ostrom 1990: 1-5; Ostrom 2008: 49-51).

<sup>260</sup> (Lloyd 1964: 37)

<sup>261</sup> (Buchanan 1965: 13; Olson 1965: 38; Buchanan 1968: 87; 1975: 27, 65; Ostrom 1990: 38-39; Aristotle 1995: Book 2, Part 3; Ostrom 2008: 74)

<sup>262</sup> (Ostrom 1999b: 144-45; Ostrom 2008: 60)

Second, self-interested farmers could aim to get lasting material gain. Long-sighted farmers prefer avoiding high material costs later to getting small material benefits now. So, long-sighted farmers would prefer preventing the infertility of the commons to overgrazing the commons. However, no one cow of any one farmer is pivotal. Everybody overgrazing together causes infertility, but nobody overgrazing in particular causes it. Consequently, the certainty of failure demotivates long-sighted farmers from unilaterally grazing responsibly. Long-sighted farmers would still expect infertility unless they expected everybody else or enough would graze responsibly alongside them.

Third, self-interested farmers could aim to reduce their contributions toward infertility. Medium-sighted farmers prefer foregoing small material benefits now to delaying considerable material costs. So, medium-sighted farmers would like to graze responsibly to delay the infertility of the commons unilaterally. However, medium-sighted farmers would expect to gain even more if everybody else grazed responsibly except them. No responsible farmer can stop any irresponsible farmer from sharing the benefits of her grazing responsibly. Everybody would share the more fertile commons. Consequently, medium-sighted farmers would prefer somebody else to graze responsibly instead of them. Medium-sighted farmers would choose free riding on responsible grazers to becoming responsible grazers themselves. Medium-sighted farmers expect to gain even more if everybody else grazes responsibly except them.

The outcome is not much better for public-spirited farmers. It is helpful to explore some of the possible goals of public-spirited farmers. First, public-spirited farmers could aim to graze responsibly, but only if (almost) everybody bears a fair share of the costs of grazing responsibly.<sup>263</sup> However, public-spirited farmers are not reasonably confident that everybody else (or enough) does take a fair share of the costs of grazing responsibly. So, the responsible grazer would start to contribute to the social good of a fertile commons and pay the price of privately owning less cattle. In contrast,

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<sup>263</sup> (Rawls 1993: 54). Also see (Ostrom, Tiebout, and Warren 1999: 46-47; Miller 2011).

suspected free riders would continue to contribute to the social bad of an infertile commons and reap the reward of privately owning more cattle than the responsible grazer. Public-spirited farmers are not reasonably confident in how many of their fellow farmers are free riders. Even if everybody is reasonable, nobody is reasonably confident that everybody is reasonable. Consequently, the uncertainty of reciprocity demotivates public-spirited farmers from unilaterally grazing responsibly. Public-spirited farmers expect to pay the price of grazing responsibly as free riders pay nothing.

Second, public-spirited farmers could aim to graze responsibly even if nobody else or too few bear a fair share of the costs, but only if the benefits of grazing responsibly are likely. However, public-spirited farmers are not reasonably confident that the benefits of grazing responsibly are likely. Political theorist Philip Pettit describes a nasty type of free rider that he calls “foul dealers.” As Pettit says, “the free rider seeks to benefit by the efforts of others, the foul dealer to benefit at their expense.”<sup>264</sup> When the responsible grazer grazes less, free riders continue to overgraze. In contrast, foul dealers start to overgraze even more when the responsible grazer grazes less. So, the responsible grazer would pay the price of privately owning less cattle and foul dealers would reap the reward of privately owning even more cattle in return. Public-spirited farmers are not reasonably confident in how many of their fellow farmers are foul dealers. Consequently, the uncertainty of success demotivates public-spirited farmers from unilaterally grazing responsibly. Public-spirited farmers expect to pay the price of grazing responsibly as foul dealers reduce the benefits to nothing.

Political theorist Geoffrey Brennan and economist James M. Buchanan argue that the possibility of self-interested behaviour deters public-spirited behaviour.<sup>265</sup> In particular, the uncertainty of reciprocity and success demotivates otherwise public-spirited farmers from grazing responsibly. In the expectation that their fellow farmers will overgraze, the concentrated benefits of overgrazing still motivate otherwise public-spirited farmers to

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<sup>264</sup> (Pettit 1986: 374)

<sup>265</sup> (Brennan and Buchanan 1985: 68-72). Also see (Hayek 1973: 414; Buchanan 1975: 123-29; Putnam 2000).

overgraze alongside them. Even if every farmer is public-spirited, they will still all overgraze unless they are reasonably confident that everybody else or enough will reciprocate and that grazing responsibly is likely to succeed in avoiding an infertile commons.

One popular solution to the tragic commons is to regulate the commons.<sup>266</sup> It appears a regulation solution must satisfy two conditions. First, good regulations must be effective. They should effectively discourage overgrazing and encourage responsible grazing. So, the regulators must effectively enforce sufficiently harsh punishments for overgrazing that exceed the expected benefits of overgrazing. Alternatively, they must enforce sufficiently generous rewards for grazing responsibly that exceed the anticipated costs of grazing responsibly. Second, good regulations must be fair. Everybody should bear a fair share of the costs of grazing responsibly. Consequently, the regulators should not let responsible farmers bear more than a fair share of the costs of grazing responsibly. Conversely, they should not let free riders bear less than a fair share of the costs of grazing responsibly.

However, regulations need not always solve the problem of the tragic commons. Bad incentives could spill over into regulation production and just push the problem back a step to produce the problem of tragic regulations.<sup>267</sup> Even if the regulators regulate the grazing on the commons, little regulates the regulators themselves.<sup>268</sup> The discovery of good regulations that are effective and fair is costly.<sup>269</sup> The regulators must spend

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<sup>266</sup> (Ostrom 1990: 8-12). Also see (Ostrom 2008: 55-57; Kahn 2014). A second popular solution to the tragic commons is to privatise the commons (Ostrom 1990: 12-13). However, if democratic politics is analogous to the tragic commons, an analogous privatisation solution would require the complete privatisation of reasonable citizens services the state currently provides (Friedman 1973; Rothbard 1982; Leeson 2007). Unfortunately, this exceeds the scope of this dissertation.

<sup>267</sup> Similar regress problems already exist (Sugden 1986: 3; Bates 1988: 394; Elster 1989: 40-41; Ostrom 1990: 42-45; 2010: 648-49).

<sup>268</sup> Glaucon argues that it would be absurd for the guardian to need a guardian (Plato 2000: 73). Worse, economists Michael Taylor and Frey Bruno argue that regulations unintentionally discourage public-spirited behaviour and encourage self-interested behaviour (Taylor 1987; Frey 1997; Ostrom, Tiebout, and Warren 1999: 41; Mueller 2003: 9-14). Unfortunately, this exceeds the scope of this dissertation.

<sup>269</sup> Economists Ludwig von Mises, F.A. Hayek and Israel Kirzner argue that the individual regulator is often unable even if willing to discover effective regulations (Mises 2007: 237-39; 2008: 42-45, 47-48; Kirzner 2018b: 429-32). In contrast, I argue that the individual regulator is often reluctant even if able to discover effective regulations.

much time, money and similarly scarce resources to discover which punishments are sufficiently harsh, which rewards are adequately generous, which burdens are fair, which enforcement mechanisms work and so on. So, self-interested regulators remain reluctant to discover which regulations are good if everybody else or enough are as capable of discovering which regulations are good as them. Conversely, public-spirited regulators become unwilling to discover which regulations are good if nobody else or too few are willing to discover which regulations are good alongside them. Consequently, both self-interested and public-spirited regulators have good practical reasons to undersupply good regulations that are effective and fair and to overproduce bad regulations that are ineffective and unfair. As a result, the uncertainty of reciprocity and the uncertainty of success can continue to demotivate public-spirited farmers from grazing responsibly even if the commons is regulated.

## **B. Tragic Elections**

A democratic politics can become analogous to a tragic commons. In competitive markets, economic actors are likely to produce negative externalities, especially if they do not expect that they are likely to bear much of the total cost of their economic decisions. However, epistemic democrats should not underestimate the possibility of negative externalities in democratic politics. In democratic politics, political actors are also likely to produce negative externalities, especially if they do not expect that they are likely to bear much of the total cost of their political decisions. They are likely to support socially bad policies that unfairly advantage them, especially if they do not expect that they are likely to bear much of the policy's total cost. Epistemic democrats do concede that democratic politics can contain some bad incentives. In political theorist Joshua Cohen's words, "in assessing the decision procedures, we need to know what the inputs to the procedures are likely to be and this depends partly on the sorts of motivations that the procedures themselves encourage. Concerns about such incentive problems provide the epistemic populist with a rationale for

placing some problems out of the reach of simple majorities.”<sup>270</sup> Nevertheless, democratic politics contain worse incentives than epistemic democrats tend to concede.

It is helpful to explore a hypothetical democracy analogous to the tragic commons. Tilly is a butcher, Rachel is a baker and Harriet is a candlestick maker. The status quo unfairly advantages butchers over bakers and candlestick makers. They get an unfairly generous government subsidy. So, baker Rachel campaigns that bakers should also get a generous government subsidy. In contrast, candlestick maker Harriet campaigns that butchers should lose the unfairly generous subsidy. Rachel’s “pro-baker” campaign is more successful than Harriet’s “anti-butcher” campaign. The elected politician prefers appearing pro-baker to appearing anti-butcher. Consequently, the elected politician supports a “just desserts” policy that would implement a less than £1 tax increase on everybody to give a few bakers a more than £1,000,000 government subsidy.

After the “just desserts” policy is implemented, the status quo no longer unfairly advantages butchers over bakers (but it still unfairly disadvantages candlestick makers). Nevertheless, after the success of the first campaign, Rachel starts a second campaign. Rachel campaigns that the “just desserts” policy only half corrected the unfair status quo. The elected politician prefers appearing pro-baker to appearing anti-baker. So, the elected politician supports an “unjust desserts” policy that would implement a second £1 tax increase on everybody to give a few bakers a second £1,000,000 government subsidy. After the “unjust desserts” policy is implemented, the status quo now unfairly advantages bakers over butchers (and candlestick makers).

It appears the “unjust desserts” policy should fail. It financially benefits a few bakers and financially costs everybody else. So, only Rachel should vote for it and both Tilly and Harriet should vote against it. However, “the unjust desserts” policy actually succeeds. The “unjust desserts” policy *concentrates* the financial benefits and gives them to a few bakers and

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<sup>270</sup> (Cohen 1986: 36-37)

*disperses* the financial costs among everybody. Consequently, Rachel actively supports the “unjust desserts” policy, but neither Tilly nor Harriet actively oppose it. The expectation of concentrated benefits motivates self-interested citizens to acquire unfair advantages. In economic terminology, the anticipation of “rent” or *receipt in excess of opportunity cost* motivates self-interested citizens to “rent-seek.”<sup>271</sup> Rent-seeking citizens expect to gain more in rent acquisition than in acquiring any alternative asset in competitive markets. In other words, rents provide huge benefits for a few and their costs often disperse throughout society. In contrast, the expectation of a tiny share of the dispersed costs demotivates self-interested citizens from avoiding unfair but minimal disadvantages. The expected practical costs (financial or otherwise) involved in political opposition often exceed their small share of the (unfair) costs of the policy itself.<sup>272</sup> Political opposition is not free. It costs citizens time, money and similarly scarce resources to know which policies they have good practical reasons to oppose and how to fight them effectively. Hence, the asymmetry of the concentrated benefits and the dispersed costs empowers rent-seeking citizens to acquire unfair advantages even if they unfairly disadvantage wider society.

It is helpful to explore what I call the “problem of incompetent misuse.” Epistemically limited citizens have good practical reasons to use their vote in national elections (and referendums) incompetently. First, the minimal chance of success demotivates rational citizens. As the Introduction explored, economist Anthony Downs analysed the paradox of voting. The paradox of voting says rational citizens have good practical reasons not to vote since they should expect that their vote is not pivotal.<sup>273</sup> One more vote is very unlikely to change the winner of any national election. Downs also

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<sup>271</sup> (Buchanan 1999: 103). Also see (Downs 1957: 252-57; Buchanan and Tullock 1962: 282-95; Olson 1965: 165-68; Tullock 1967b; Friedman 1973: 39-45; Krueger 1974; Tullock 1980; Ostrom 1999a: 176-79; Hillman and Heinrich 2000; Mueller 2003: 333-58; Carney 2006; Reiss 2019a: 333-34).

<sup>272</sup> (Buchanan and Tullock 1962: 44-46, 48, 60-61)

<sup>273</sup> (Downs 1957: 36-50)

analysed the problem of “rational ignorance.”<sup>274</sup> Voting competently is expensive. The individual primarily bears the practical costs of voting competently. In particular, Tilly must spend her time, money and similarly scarce resources to know which policies she has good practical reasons to oppose and how to fight them effectively. However, no vote is pivotal. So, rational citizens have good practical reasons to remain politically ignorant about which policies they should oppose. One more informed vote is similarly unlikely to make a pivotal difference to who wins the election.

Second, the minimal benefit of success also demotivates rational citizens. Rational citizens expect to gain next to nothing if their vote succeeds and lose little to nothing if their vote fails. Tilly only expects to gain (or keep) £1 if her vote succeeds and she expects to lose only £1 if her vote fails. So, Tilly is reluctant to spend more than £1 to politically oppose the unfair but dispersed costs of the “unjust desserts” policy. Consequently, rational citizens expect the concentrated costs involved in voting competently to exceed their small share of the policy's dispersed costs. The tiny share of the policy's dispersed costs that (almost) everybody would bear makes the practical costs involved in voting competently prohibitively big.

The minimal chance of a minimal benefit makes ignorance bliss. So, rational citizens have good practical reasons to prefer free riding on competent voters to becoming competent voters. The expected benefits of voting competently would disperse throughout wider society. (Almost) everybody would avoid a tiny share of the policy's dispersed costs. So, the dispersed costs of the policy produce a massive group of citizens with a very weak political interest in competent opposition. First, (almost) everybody with this interest only expects to avoid a tiny share of the policy's dispersed costs. Second, they all know that many more citizens share a similarly strong (or weak) interest if they choose to remain politically incompetent or even politically idle. Consequently, rational citizens have good practical reasons

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<sup>274</sup> (Downs 1957: 207-78). Similarly, political theorist Alexander Guerrero argues that reasonable citizens tend to suffer from conduct ignorance (ignorance about what one's representative is doing), problem ignorance (ignorance about a particular political problem), broad evaluative ignorance (ignorance about whether what one's representative is doing is a good thing in general) and narrow evaluative ignorance (ignorance about whether what one's representative is doing will be good for oneself) (Guerrero 2014: 140).

to stay unwilling to participate in competent opposition because everybody else or enough are capable of competent opposition instead of them.<sup>275</sup>

### **C. Tragic Deliberations**

Epistemic democrats can argue that rational citizens should not remain politically ignorant in national elections (and referendums). Rational citizens can become politically informed during public deliberations. In public deliberations, different voices can contribute to discovering which policies rational citizens have good practical reasons to oppose. In particular, various heuristics can provide shortcuts to discover which policies rational citizens have good practical reasons to fight.<sup>276</sup> However, public deliberations need not always solve the problem of tragic elections. Bad incentives could spill over into public deliberations and just push the problem back a step to produce the problem of tragic deliberations. Even if public deliberations do regulate the views rational citizens express in national elections; little regulates the views rational citizens express in public deliberations. (I explore if social institutions competently regulate public deliberations below.)

It is helpful to extend the problem of incompetent misuse. Epistemically limited citizens have good practical reasons to use their voice in public deliberations incompetently. First, the minimal chance of success still demotivates rational citizens. Talk is not cheap. As economists Brink Lindsey and Steven Teles say, “deliberation also requires information and information is costly. Someone has to produce it, whether it is the state or organized critics of rent-seeking.”<sup>277</sup> The individual bears the practical costs (financial or otherwise) of deliberating competently. In particular, Tilly must spend her time, money and similarly scarce resources to discover which arguments are better. Alternatively, she must find reliable heuristics.<sup>278</sup>

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<sup>275</sup> (Stemplowska 2016)

<sup>276</sup> (Ostrom 1990: 15-18; McCubbins and Lupia 1998: 68-78; Lupia 2016: 240-60; Goodin and Spiekermann 2018: 178-94)

<sup>277</sup> (Lindsey and Teles 2017: 14)

<sup>278</sup> Political theorist Alexander Guerrero argues that it is hard for citizens to evaluate the efficacy of their heuristics, given that rational ignorance and rational irrationality (Guerrero 2014: 156-57).

However, no voice in public deliberations is pivotal. So, rational citizens have good practical reasons to remain politically ignorant about which arguments are better (or about which heuristics are reliable). One more informed (or reliable) voice in public deliberations is very unlikely to make a pivotal difference to who wins the election. Second, the minimal benefit of success also demotivates rational citizens. Rational citizens expect the concentrated costs involved in deliberating competently to exceed their small share of the policy's dispersed costs. Consequently, rational citizens also have good practical reasons to prefer free riding on competent deliberators to becoming competent deliberators themselves. The problem of incompetent misuse includes rational citizens using their votes in national elections incompetently and their voices in public deliberations incompetently.

#### **D. Tragic Institutions**

Epistemic democrats argue that rational citizens should not remain politically ignorant in public deliberations. In Estlund's words, "epistemic proceduralism, to have even the modest epistemic value that it requires, would need certain things from institutions and participants."<sup>279</sup> Experts in democratic institutions can politically inform rational citizens. In public deliberations, different experts in democratic institutions (opinion leaders and intellectuals, among them journalists, teachers, ministers, lecturers, publicists, radio commentators, writers of fiction, cartoonists, artists, scientists and doctors) can contribute to the discovery of which policies rational citizens have good practical reasons to oppose and how to fight them effectively.<sup>280</sup> However, democratic institutions need not always solve the problem of tragic deliberations. Bad incentives could spill over into democratic institutions and just push the problem back a step to produce the problem of tragic institutions.<sup>281</sup> Even if democratic institutions provide

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<sup>279</sup> (Estlund 2008: 268)

<sup>280</sup> (Ostrom 2010: 665; Goodin and Spieckermann 2018: 73-74, 164-77; Holst and Molander 2019)

<sup>281</sup> Economist F.A. Hayek argues that intellectuals trade in idealistic visions but lack expertise to trade in realistic visions (Hayek 1997a: 225, 31-32).

ordinary citizens with information in public deliberations, little regulates the information experts in democratic institutions provide.<sup>282</sup>

It is helpful to extend the problem of incompetent misuse further. Epistemically limited experts have good practical reasons to use their expertise in democratic institutions incompetently.<sup>283</sup> First, the minimal chance of success demotivates experts. Competent research is expensive. The individual bears the practical costs (financial or otherwise) of competent research. In particular, experts must spend their time, money and similarly scarce resources to discover which dispersed costs are unfair. However, (nearly) no competent research is pivotal. A few more pieces of competent research about which dispersed costs are unfair are very unlikely to change the winner of any national election (or referendum). So, experts have good practical reasons to remain politically ignorant about which dispersed costs are unfair. They have good practical reasons to use their salaried posts and institutional resources to competently research whatever they expect to gain esteem, employability and promotion among their similarly politically ignorant peers instead. Second, the minimal benefit of success also demotivates experts. Experts should expect to gain next to nothing if they competently research which dispersed costs are unfair and they expect to lose little to nothing if they do not. Consequently, experts have good practical reasons to prefer free riding on competent researchers to becoming competent researchers themselves. The problem of incompetent misuse includes experts using their positions in democratic institutions incompetently.

### **E. Tragic Rent-Seekers**

It is helpful to explore what I call the “problem of strategic abuse.” Motivationally limited citizens have good practical reasons to abuse their

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<sup>282</sup> Economists Gordon Tullock, Anthony Downs and William Niskanen argue that individual bureaucrats react to institutional incentives (Downs 1967; Niskanen 1971; Tullock 1986).

<sup>283</sup> Economists Ludwig von Mises, F.A. Hayek and Israel Kirzner argue for the ignorance of epistemically limited social scientific experts in general and of economic experts in particular (von Mises 2009: 89-116; Hayek 2014b: 90; 2014d: 265-6; 2014c: 362, 66; 2014e: 93-95; 2014a: 306; Kirzner 2018a: 387; 2018b: 427, 32-34).

voice in public deliberations strategically. Rent-seeking citizens are an exception to the norm of political incompetence. The huge benefits of success motivate rent-seeking citizens. Rent-seeking citizens expect to gain huge concentrated benefits if their political activism succeeds. If her political activism succeeds, baker Rachel hopes to gain a second £1,000,000 government subsidy. So, baker Rachel is willing to spend up to £1,000,000 to get the unfair but concentrated benefits of the “unjust desserts” policy. Consequently, rent-seeking citizens expect the concentrated benefits of the policy to exceed the concentrated costs involved in competent political activism. Hence, the concentrated benefits of the policy make the practical costs (financial or otherwise) involved in competent political activism permissively small. The huge benefits motivate rent-seeking citizens to make the policy more likely to win by whatever means necessary.

Rent-seeking citizens have good practical reasons to prefer becoming competent activists themselves to free-riding on competent activists. A few bakers would gain most of the expected benefits of competent activism. So, the concentrated benefits of the policy produce a tiny group of bakers with a very strong political interest in competent activism. First, the bakers with a political interest in competent activism expect to gain a huge subsidy. Second, they all know that only a few citizens share a similarly strong political interest in competent activism if they abstain. Consequently, rent-seeking citizens have good practical reasons to become competent activist. The risks involved in free riding are prohibitively high. Conversely, the costs involved in competent activism are permissibly low, given that everybody else or enough are willing to become competent activists alongside them in the expectation that they will gain a huge subsidy.<sup>284</sup>

It is helpful to extend the problem of strategic abuse. Motivationally limited citizens have good practical reasons to abuse social institutions strategically. Rent-seeking citizens can aim to change the political environments in which national elections (and referendums) take place to make unjust policies that unfairly advantage them more likely to win. First, baker Rachel can

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<sup>284</sup> (Hayek 1973: 430-33)

strategically donate to whichever political party hires and empowers sincerely “pro-baking” politicians likely to support the “unjust desserts” policy and fires or otherwise constrains sincerely “anti-baking” politicians likely to oppose it. Second, Rachel can strategically lobby sincerely “anti-baking” politicians not to fight the “unjust desserts” policy.<sup>285</sup> As Lindsey and Teles say, “when the policy is associated with attractive, widely recognized benefits or attractive symbols, policymakers will be unlikely to probe deeply into its implementation, question the claims made on its behalf, or look for indirect or hidden harms.”<sup>286</sup> So, rent-seeking citizens can strategically finance or otherwise benefit a diversity of public-spirited but mistaken political authorities to contribute towards the support of unjust policies that unfairly advantage them.

Similarly, rent-seeking citizens can even aim to change the political environments in which public deliberations occur to make the unjust policies that unfairly advantage them more likely to win. They cannot just admit that whichever policies unfairly advantage them are unjust. They must argue that they advantage wider society. In Lindsey and Teles’s words, “to be successful, rent-seekers need to do a convincing job of wrapping their claims in the mantle of the public interest.”<sup>287</sup> First, baker Rachel can strategically finance or otherwise benefit whichever public-spirited experts mistakenly judge that the “unjust desserts” policy is just.<sup>288</sup> Second, Rachel can strategically fund or otherwise benefit whichever nonpartisan journalists unintentionally discourage opposition by making simple injustices appear too complex for the public to comprehend. As Lindsey and Teles say, “when policies are complex it is easier to hide favors to organized interests... and more difficult for ordinary citizens to appreciate what is being argued about”.<sup>289</sup> Alternatively, Rachel could strategically finance or otherwise benefit whichever partisan journalists actively encourage support of the

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<sup>285</sup> Political theorist Alexander Guerrero argues that it is more effective to aim to capture political representatives than to aim to deceive the wider public (Rose-Ackerman 1999; Guerrero 2014: 155-56).

<sup>286</sup> (Lindsey and Teles 2017: 141)

<sup>287</sup> (Lindsey and Teles 2017: 140)

<sup>288</sup> Economist F.A. Hayek argues that politicians often aim to protect against known costs of the market order that particular demographics bear and neglect the unknown benefits of the market order that disperse throughout wider society (Hayek 1976: 122).

<sup>289</sup> (Lindsey and Teles 2017: 14)

“unjust desserts” policy. So, rent-seeking citizens can strategically fund or otherwise benefit a diversity of public-spirited but mistaken epistemic authorities to contribute towards the support of unjust policies that unfairly advantage them.

The asymmetry of the concentrated benefits and the dispersed costs motivate rent-seeking citizens to become politically competent as ordinary citizens are encouraged to remain politically incompetent.<sup>290</sup> So, rent-seeking citizens become more likely to effectively support unjust policies that unfairly advantage them than ordinary citizens are to oppose them effectively.

## VI. TRAGIC POLITICAL ENVIRONMENTS

### A. Reasonable Citizens

I introduce to a “bad incentives” interpretation of public choice to show that self-interested citizens, reasonable citizens and even morally perfect citizens face similarly bad incentives in tragic democracies. A bad incentives assumption is different from a bad individuals assumption. If bad individuals are replaced with good individuals, the bad individuals disappear. In contrast, even if bad individuals are replaced with good individuals, the bad incentives remain.<sup>291</sup> Public choice theorists need not assume citizens are badly motivated by a fixed human nature. They need only assume citizens can become badly motivated because of bad political environments. The bad incentives in bad political environments can bring the worst out of otherwise good individuals.

I now replace bad individuals with good individuals. In particular, I now replace self-interested individuals with reasonable individuals (in Rawls's sense). Even if the moderately narrow Hayekian conception of self-interest is more realistic than the very narrow self-interest of Amadae's homo economicus, it is not realistic enough. Maybe a Rawlsian conception of

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<sup>290</sup> Economist F.A. Hayek argues that the worst get on top, given the competent but self-interested citizen tend to outcompete the public-spirited but incompetent citizen using any means necessary (Hayek 2007: 158).

<sup>291</sup> (Downs 1962)

persons as rational and reasonable agents is even more realistic. Rawls accepts citizens are self-interested because they aim to promote their conceptions of the good life. However, Rawls also argues that citizens are reasonable. A public conception of justice constrains the actions of reasonable citizens.<sup>292</sup> In particular, they aim to promote fair (or otherwise reasonably acceptable) terms for social cooperation with fellow reasonable citizens. Nevertheless, Rawls accepts reasonable citizens require reciprocity.<sup>293</sup> They seek justice only if they reasonably expect everybody else or enough are likely to seek justice alongside them. They do not seek justice if they expect nobody else or too few are likely to seek justice alongside them. A reasonable commitment to justice is conditional on the expectation of reciprocity.

I now repopulate the tragic democracy with reasonable counterparts. Surprisingly, reasonable Rachel does not participate in democratic politics with much more political virtue than self-interested Rachel. Perhaps reasonable Rachel would abstain from rent-seeking herself, but only if everybody else (or enough) will reciprocate. However, reasonable Rachel is not reasonably confident that anybody else (or enough) would reciprocate. Even if everybody *is* reasonable, nobody is *reasonably confident that* everybody is reasonable. So, reasonable Rachel would start to contribute towards the social good of a more just society and pay the price of no rent in return. In contrast, free riders would continue to contribute to the social bad of a more unjust society and reap the reward of rents in return. Reasonable Rachel is not reasonably confident in how many of her fellow citizens are free riders. Consequently, the uncertainty of reciprocity demotivates reasonable Rachel from unilaterally abstaining from rent-seeking. Reasonable Rachel expects to pay the price of no rent as free riders pay nothing.

Alternatively, maybe reasonable Rachel would abstain from rent-seeking herself even if (nearly) nobody else reciprocates, but only if the benefits of abstinence are likely. However, reasonable Rachel is not reasonably

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<sup>292</sup> (Rawls 1993: 48-54)

<sup>293</sup> (Rawls 1993: 15-18, 50)

confident that the benefits of abstinence are likely. When reasonable Rachel abstains, free riders will continue to rent-seek. In contrast, foul dealers would start to rent-seek even more. So, reasonable Rachel would pay the price of no rent and foul dealers would reap the reward of even more rents in return. Reasonable Rachel is not reasonably confident in how many of her fellow citizens are foul dealers. Consequently, the uncertainty of success demotivates reasonable Rachel from unilateral abstinence. Reasonable Rachel expects to pay the price of no rents as foul dealers reduce the benefits to nothing.

The suspicion of rent-seeking deters abstinence. In particular, the uncertainty of reciprocity and the uncertainty of success demotivates (otherwise) reasonable citizens from abstaining from rent-seeking. In Joshua Cohen's words, "just as it is unreasonable to suppose that people never resist such temptations, so, too, it is unreasonable to think that all incentive problems are solved simply by the existence of moral and solidaristic motivations."<sup>294</sup> In the expectation that many of their fellow citizens will rent-seek, the concentrated benefits of rent-seeking still motivate (otherwise) reasonable citizens to rent-seek alongside them. Even if every citizen is reasonable, many will still rent-seek unless they can reasonably expect that everybody else or enough will abstain and that this abstinence is likely to succeed in avoiding an even more unjust society.

Similarly, reasonable Tilly does not participate in democratic politics with much more political virtue than self-interested Tilly. Reasonable Tilly would not just oppose the "unjust desserts" policy because of its financial costs to her. She would also fight it because of its unfair costs to wider society. However, the minimal moral benefit of success demotivates reasonable Tilly. She should expect the concentrated costs (financial or otherwise) involved in deliberating competently to exceed the moral need to oppose the very small injustice of every citizen's unfair £1 tax increase. So, reciprocity is not just uncertain. It is also unreasonable to expect. The very small

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<sup>294</sup> (Cohen 1986: 36-37). Also see (Brennan and Hamlin 2000: 51-66).

injustice makes the concentrated costs involved in competent opposition unreasonably big.

I call citizens willing to effectively oppose very small injustices regardless of the practical costs involved “moral fanatics.” It is reasonable to expect reasonable citizens to fight unjust policies competently independently of the practical costs involved. However, it is not reasonable to expect reasonable citizens to competently oppose very small injustices *regardless* of the practical costs. The unreasonability of reciprocity demotivates (otherwise) reasonable citizens from competently opposing rent-seeking.

Even if justice does require reasonable citizens to vote and deliberate competently, bad incentives overpower the pull of justice and the moral motivation to vote and deliberate competently. Reasonable citizens would not willingly vote and deliberate competently, given the *unreasonability* of reciprocity.

## **B. Morally Perfect Citizens**

It is helpful to push the tragic democracy problem one step further. I now replace good individuals with morally perfect individuals. In particular, I now replace Rawls’s reasonable citizens with political theorist Gregory Kavka’s morally perfect citizens.<sup>295</sup> Kavka argues that morally perfect citizens always act according to objectively justified moral beliefs. They never act contrary to them because of a weak will or similar motivational imperfections. In particular, as G.A. Cohen argues, perhaps they would always act by an egalitarian ethos.<sup>296</sup> Maybe they always aim to promote an objectively justified conception of social equality and access to equal advantage. They would never act contrary to the egalitarian ethos because of a weak will.

Morally perfect citizens need not require reciprocity. They willingly act unilaterally to promote an objectively justified conception of social equality. However, morally perfect citizens should require consequentiality. An

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<sup>295</sup> (Kavka 1996). Also see (Freiman 2017: 13-19).

<sup>296</sup> (Cohen 2008: 22)

individual moral obligation need not demand the individual to maximise total utility. However, an individual's moral obligation often should not demand the individual do something close to completely inconsequential, especially if there are consequential alternatives. Everything else equal, an individual moral obligation should aim to do wider society some likely good.<sup>297</sup> Otherwise, the moral costs of a close to completely inconsequential moral duty would exceed the moral benefits. It would ineffectively waste the dutiful citizen's time, money and similarly scarce resources that she could have spent on doing some likely good for wider society instead. Consequences need not count for everything, but they should count for something. Similarly, the nonconsequential virtues of political competence should count for something, but they need not count for everything. The many significantly consequential duties to benefit wider society should take priority over the close to completely inconsequential duty to acquire political competence, even if political competence has some mild nonconsequential virtues. Morally perfect citizens should aim to avoid whatever is close to completely ineffective at doing any likely good for wider society. Morally perfect citizens should prioritise something that seeks to do some likely good for wider society. Consequently, even if morally perfect citizens can comply, an individual moral obligation should not demand citizens do something they are justifiably (or excusably) reluctant to do because it is close to completely inconsequential for wider society.

I now repopulate the tragic democracy with morally perfect counterparts. Surprisingly, morally perfect Rachel does not participate in democratic politics with much more political virtue than reasonable Rachel. She would never intentionally rent-seek. However, even if she is morally perfect, she is not epistemically infallible. She would still bear the burdens of judgement.<sup>298</sup> So, morally perfect Rachel would never knowingly support an unjust policy that gives unfair benefits to her and disperses unfair costs throughout society. However, she could often unknowingly support an

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<sup>297</sup> Weak consequentialism holds that consequences often hold some moral weight and occasionally decisive moral weight (Melden 1959; Lyons 1977; Feinberg 1980: 131-55; Barry 1991: 40-77; Nielsen 1992).

<sup>298</sup> (Rawls 1993: 56)

unjust policy that gives unfair benefits to her because she mistakenly believes it will benefit wider society. She does not support unjust policies because of motivational imperfections. She supports unjust policies because of epistemic imperfections.

Similarly, morally perfect Tilly does not participate in democratic politics with much more political virtue than reasonable Tilly. Morally perfect Tilly would oppose the “unjust desserts” policy because it unfairly disadvantages wider society regardless of the practical costs (financial or otherwise) involved. However, she would not oppose the policy irrespective of the *moral* costs. In particular, she would not fight it regardless of the *moral opportunity costs*. Morally perfect Tilly would not ineffectively waste her time, money and similarly scarce resources on voting and deliberating competently when she could better spend her time, money and similarly scarce resources on something that aims to do some likely good for wider society instead. So, the minimal chance of a minimal moral benefit demotivates morally perfect Tilly from voting and deliberating competently. She would morally prefer to spend her time, money and similarly scarce resources assisting effective non-governmental organisations that feed the hungry, house the homeless, clothe the naked, or help the sick or the imprisoned instead of voting and deliberating competently but inconsequentially.<sup>299</sup> Everything else equal, any one of citizens’ consequential duties should take priority over a close to completely inconsequential duty.<sup>300</sup>

Morally perfect Tilly is not “rationally ignorant.” She is what I call “virtuously ignorant.”<sup>301</sup> Morally perfect citizens have good *moral* reasons to remain politically ignorant about which policies are unjust. One more

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<sup>299</sup> Some of the most effective charities provide medicine and nets to prevent malaria, supplements to prevent vitamin A deficiency, cash incentives for routine childhood vaccines, treatments for parasitic worm infections and cash transfers for extreme poverty (<https://www.givewell.org>).

<sup>300</sup> Similar views already exist. In particular, sociologist Max Weber argues that an ethics of responsibility demands elected politicians to take responsibility for the unintended but foreseeable consequences of their principled political behaviour and aim to avoid them (Weber 1994: 360). Similarly, I argue that morally perfect citizens would take responsibility for the unintended but foreseeable opportunity costs for their participation in liberal democratic politics and aim to avoid them.

<sup>301</sup> I assume morally perfect citizens are not purely self-interested (Freiman 2020: 131-37).

informed vote or voice is very unlikely to ever do wider society any good. So, I will call citizens willing to prioritise competent but inconsequential deliberation over all else regardless of the moral opportunity costs involved “deliberation fetishists.” The moral opportunity costs involved in competent but inconsequential deliberation make it morally vicious to morally fetishise competent but inconsequential deliberation and prioritise it over alternative actions that are likely to do some good for wider society.

Estlund argues that a plural moral obligation is a moral obligation that a group must satisfy.<sup>302</sup> Perhaps reasonable citizens have a *plural* moral obligation to vote and deliberate competently, but no individual has an *individual* moral obligation to vote and deliberate competently because of it. However, plural moral obligations just push the problem of virtuous ignorance back a step. Consequences need not count for everything, but they should count for something. Similarly, the nonconsequential virtues of political competence should count for something, but they need not count for everything. The many significantly consequential plural duties to benefit wider society should take priority over the plural obligation to acquire political competence, even if political competence has some mild nonconsequential virtues. So, a plural moral obligation need not demand the group to maximise total utility. However, a plural moral obligation should not require that the group do something with big moral opportunity costs. Everything else equal, a plural moral obligation should aim to do wider society some likely good.<sup>303</sup> Otherwise, the moral opportunity costs would exceed the moral benefits. It would ineffectively waste the dutiful group's time, money, and similarly scarce resources that they could have spent on something much more likely to do much more good for wider society instead.

It does appear that the public as a whole does have a plural moral obligation to vote and deliberate competently. If (almost) everybody voted and deliberated competently, it would do some likely good for wider society. The

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<sup>302</sup> (Estlund 2019: 207-12)

<sup>303</sup> Weak consequentialism holds that consequences often hold some moral weight and occasionally decisive moral weight (Melden 1959; Lyons 1977; Feinberg 1980: 131-55; Barry 1991: 40-77; Nielsen 1992).

wider society would likely avoid the unfair costs of unjust policies. However, this appearance is often deceptive. The moral opportunity costs involved in a plural moral obligation to vote and deliberate competently often greatly exceed the moral benefits. Competent voting and deliberate is not cheap. The public as a whole must spend much time, money and similarly scarce resources to discover which policies are unjust and how to oppose them effectively. In return, the public as a whole would only avoid every individual member getting a tiny share of the dispersed costs of unjust policies. So, the public as a whole does not acquire a plural moral obligation to vote and deliberate competently since they could much better spend the time, money and similarly scarce resources on something much more likely to do much more good for wider society instead. If anything, the public as a whole should acquire a plural moral obligation to assist effective non-governmental organisations that feed the hungry, house the homeless, clothe the naked, or help the sick or the imprisoned instead of a plural moral obligation to vote and deliberate competently during national elections (and referendums). Everything else equal, any alternative plural obligation that is much more likely to do much more good for wider society should take priority over a plural obligation to vote and deliberate competently.

It is not even the case that bad incentives overpower the individual or plural moral obligation to vote and deliberate competently. Bad incentives make justice itself overpower the *prima facie* moral duty to vote and deliberate competently. The morally perfect individual and the morally perfect public would prioritise a duty much more likely to do much more good for wider society. Unfortunately, the bad incentives intrinsic to liberal democratic politics induce reluctance in the self-interested citizens, reasonable citizens and even morally perfect citizens that populate the public to vote and deliberate competently.

## VII. THE HARM OF TRAGIC DEMOCRACIES

Rent-seeking is economically harmful because it contributes to regressive stagnation. In other words, it contributes to more economic inequality and

less economic growth.<sup>304</sup> It contributes to regressive stagnation because it rewards economically inefficient but politically entangled businesses (and it punishes economically efficient but politically unconnected businesses). Perhaps Rachel's bakery produces bad and expensive bread, but the "unjust desserts" policy gives her bakery a £1,000,000 government subsidy that protects it from bankruptcy. So, Rachel's bakery is less likely to innovate to produce better and cheaper bread. In contrast, maybe Harriet's candlestick company makes good and cheap candlesticks. However, "the unjust desserts" policy takes £1 away from her customers that they would have otherwise spent in her candlestick company. Consequently, Harriet's candlestick company becomes less profitable. Over time, businesses become less economically efficient and more politically entangled. They start to invest less in innovation to provide more, better, cheaper goods and services to customers and begin to spend more on rent-seeking.<sup>305</sup> Hence, the economy starts to become more stagnant.<sup>306</sup> Worse, the economy starts to become more regressive. Rents give concentrated benefits to a few and they disperse the costs among the many. Thus, rent-seekers continue to get richer as ordinary citizens continue to get poorer in an ever more stagnant economy.

Rent-seeking is not just economically harmful. It is also socially unjust. With Rawls's conception of justice as fairness, the difference principle demands socioeconomic inequalities are to the greatest benefit of the least advantaged.<sup>307</sup> In the opposite direction, rent-seeking contributes to socioeconomic inequalities that are to the greatest benefit of the most advantaged to the detriment of the least advantaged.<sup>308</sup> The most advantaged are already the most capable of rent-seeking, even if the payoffs of rent-seeking are small and unlikely. Even if the most advantaged lose a bad bet, they will remain very well off. In contrast, the least advantaged are already the least capable of opposing rent-seeking, even if the payoffs of opposition

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<sup>304</sup> (Lindsey and Teles 2017)

<sup>305</sup> (Mises 1951: 21; Tullock 1967b; Buchanan 1999: 8-14, 55-56, 76-84, 104)

<sup>306</sup> (Tullock 1967b; Krueger 1974; Hillman and Heinrich 2000; Reiss 2019a: 333)

<sup>307</sup> (Rawls 1993: 282)

<sup>308</sup> Political theorist Judith Shklar argues that the abuse of public power burdens the poor most heavily (Shklar 1998: 9-10). Also see (Ostrom and Ostrom 1999: 98-99).

are big and likely. If the least advantaged lose a good bet, they will struggle to survive. So, rent-seeking is most likely to give concentrated benefits to the most advantaged and disperse the costs among the least advantaged. Liberal democratic states should aim to constrain unacceptable socioeconomic inequalities. If anything, they should seek to implement a progressive redistribution of income and wealth from a wealthy minority to a poor majority. However, the problem of rent-seeking uncovers the opposite consequence. Rent-seeking contributes to unacceptable socioeconomic inequalities. It implements a regressive redistribution of income and wealth from a poor and politically unorganised majority to a wealthy and politically organised minority. So, it is not the case that rent-seeking worsens socioeconomic inequalities but makes the worst-off better off. It exacerbates socioeconomic inequalities and it makes the worst-off even worse off.

Regressive stagnation is not just socially unjust. It can also become a primary bad. Estlund calls the worst outcomes that all reasonable citizens should wish to avoid “primary bads.”<sup>309</sup> Estlund lists war, famine, economic collapse, political collapse, epidemic and genocide as paradigmatic primary bads. Radical regressive stagnation should become a primary bad because it is a type of economic collapse. Especially in polarised societies, many reasonable citizens are likely to disagree over the trade-offs between economic growth and economic equality. However, an extreme type of regressive stagnation is the worst of both worlds. It harms economic growth and worsens economic inequality. So, all reasonable citizens should wish to avoid extreme regressive stagnation. It is one of the worst outcomes all reasonable citizens should wish to avoid. A few starving citizens are not a primary bad, but many starving citizens in a famine are a primary bad. A few defaulted mortgages are not a primary bad, but many defaulted mortgages in a financial crisis are a primary bad. It is a type of economic collapse. Similarly, a few rent-seekers are not a primary bad, but many rent-seekers in an extremely regressive and stagnant economy are a primary bad.

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<sup>309</sup> (Estlund 2008: 163). Political theorist Judith Shklar also argues that liberal democratic states should primarily aim to avoid the “summum malum” or the most feared cruelties which all of us know and would avoid if only we could (Shklar 1998: 10-12).

It is a different type of economic collapse. It rewards rent-seekers with ever more rents as they produce fewer, worse and pricier goods and services. It punishes the worst-off with ever less income and wealth and fewer economic and employment opportunities as they become trapped in life-long poverty.

A classical problem with democracy is the tyranny of the majority.<sup>310</sup> In theory, the majority can vote for policies that advantage them and disadvantage a minority unfairly. In contrast, the problem of rent-seeking uncovers the opposite problem. It reveals the tyranny of competent minorities. In practice, a competent minority can push through policies that advantage them unfairly with concentrated benefits and that disadvantage the incompetent majority unfairly with dispersed costs.

## VIII. CAUTIOUS LIBERALISM

### **A. Public Choice Theory: Theoretical Virtues**

In this section, I introduce a view that I call “cautious liberalism.” Buchanan calls public choice theory “politics without romance.”<sup>311</sup> In Estlund's terminology, public choice theorists are concessive realists. They design the explanatory theory of democracy first. So, public choice theorists are more likely to provide a realistic explanatory theory of democracy. In particular, public choice theorists accept the symmetry thesis. Political actors are not more public-spirited or any less self-interested than economic actors. When the explanatory theory of democracy is designed before the normative theory, the normative theory cannot (mis)inform the explanatory theory. Consequently, public choice theorists cannot provide a romanticised explanatory theory of democracy in the light of any preconceived normative theory.

Public choice theorists then design the normative theory of democracy second. So, they are more likely to provide a realistic normative theory of democracy in the light of an unromanticised explanatory theory. In Hayek's

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<sup>310</sup> (Kymlicka 1996: 34-48; Christiano 2008: 260-300)

<sup>311</sup> (Buchanan 2003)

words, “the attitude of the liberal toward society is like that of the gardener who tends a plant and, to create the conditions most favorable to its growth, must know as much as possible about its structure and the way it functions.”<sup>312</sup> Similarly, when the explanatory theory of democracy is designed before the normative theory, the explanatory theory can inform the normative theory. Consequently, public choice theorists design the normative theory of democracy to fit the motivations of real citizens. They provide political ideals that fit human motivation by design. Hence, public choice theorists aim to provide unromantic explanations and realistic ideals.

### **B. Epistemic Democracy: Theoretical Vices**

In Estlund's terminology, epistemic democrats are nonconcessive realists. They design the normative theory of democracy first. So, epistemic democrats are more likely to provide an unrealistic normative theory of democracy. When the normative theory of democracy is designed before the explanatory theory, the explanatory theory cannot inform the normative theory. Consequently, epistemic democrats do not design the normative theory of democracy to fit the motivations of real citizens. They provide political ideals that would fit human motivation only by coincidence. (They must redesign political ideals to fit human motivation. I explore redesigned political ideals below.)

They then design the explanatory theory of democracy second. So, epistemic democrats are more likely to provide an unrealistic explanatory theory of democracy. Schumpeter says, “we have every reason to be on our guard against the pitfalls that lie on the path of those defenders of democracy who while accepting, under pressure of accumulating evidence, more and more of the facts of the democratic process, yet try to anoint the results that process turns out with oil taken from eighteenth-century jars.”<sup>313</sup> When the normative theory of democracy is designed before the explanatory theory, the normative theory can bias the explanatory theory. In Buchanan and Tullock's words, “we do not deny the occasional validity of this

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<sup>312</sup> (Hayek 2007: 18)

<sup>313</sup> (Schumpeter 1943: 253)

conception, in which rules of political choice-making provide means of arriving at certain “truth judgments.” However, we do question the universal, or even the typical, validity of this view of the political process.”<sup>314</sup> In particular, epistemic democrats are more likely to implicitly accept an asymmetry thesis that says political actors tend to become more public-spirited and less self-interested than economic actors. Consequently, epistemic democrats risk a romanticised explanatory theory of democracy in the light of a preconceived normative theory. Hence, in contrast to public choice theorists, epistemic democrats risk unrealistic ideals and romantic explanations.

### **C. Towards A Cautious Liberalism**

As explored above, I argued epistemic democracy is not *motivationally* realistic. It neglects the motivation of self-interested citizens to acquire rents and the reluctance of public-spirited citizens to acquire competence. As explored next, I argue that epistemic democracy is not *epistemically* realistic. It neglects the epistemic limits of reasonable citizens to become reasonably confident in whether liberal democratic states do satisfy epistemic conceptions of legitimacy that make the legitimacy of political authority depend on the public revelation of what promotes justice and the common good, especially given the bad incentives intrinsic to tragic democracies.

I argue for an epistemic type of realism that concedes to the epistemic capabilities of reasonable citizens. Epistemic realism provides good epistemic reasons to accept a cautious type of liberalism that prioritises the avoidance of harm over the promotion of justice. In particular, what I call a “peaceful instrumentalist” conception of legitimacy makes legitimacy depend on the preservation of a mutually beneficial peace. Liberal democratic states are legitimate political authorities because they implement procedures that tend to avoid political violence and preserve a mutually beneficial peace. Reasonable citizens can publicly observe that liberal democratic states tend to make the vote remain more politically attractive

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<sup>314</sup> (Buchanan and Tullock 1962: 4)

than the pitchfork independently of whether it promotes justice. So, liberal democratic states can become credible political authorities with peaceful instrumentalism. Consequently, reasonable citizens can still seek to make democratic decisions to promote justice and the common good. Still, they should not make legitimacy depend on it, given the tragic democracy problem. Legitimacy should depend on whether democratic decisions preserve a mutually beneficial peace.

An unromantic explanatory theory of democracy need not induce complacency. It need only induce caution. As Olson says, “the adherence to a moral code that demands the sacrifices needed to obtain a collective good therefore need *not* contradict any of the analysis in this study; indeed, this analysis shows the need for such a moral code.”<sup>315</sup> In particular, a cautious conception of legitimacy that makes legitimacy depend on the avoidance of harm concedes to the risk of tragic democracies. Democratic politics can become analogous to a tragic commons. The harm of the tragic commons is that repeated overgrazing contributes to the commons' infertility. The farmers are not bad individuals. Bad incentives encourage (otherwise) good farmers to overgraze and discourage responsible grazing. Similarly, the analogous harm of a tragic democracy is that repeated rent-seeking contributes to the regressive stagnation of the economy. Citizens are not bad individuals. Bad incentives encourage otherwise good citizens to rent-see and discourage abstinence.

Epistemic democrats argue that a liberal democratic state is a legitimate political authority because democratic decisions tend to publicly reveal what promotes justice and the common good. However, given the risk of tragic democracies, reasonable citizens should remain reasonably cautious if this is so. The more public-spirited citizens remain incompetent in national elections (and referendums) and public deliberations, the less likely democratic decisions are to publicly reveal what promotes justice and the common good. So, reasonable citizens should remain reasonably cautious if too many public-spirited citizens remain too incompetent to make

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<sup>315</sup> (Olson 1965: 61, 160)

democratic decisions publicly reveal what promotes justice and the common good.

In contrast, a cautious conception of legitimacy errs on the side of caution. It prioritises the avoidance of harm over promoting justice. In my terminology, confident liberal democrats become confident liberal democratic states do promote justice. In contrast, cautious liberal democrats remain cautious about whether liberal democratic states do promote justice. I call this concession to the epistemic capabilities of reasonable citizens “epistemic realism.” A conception of legitimacy should avoid normative political principles reasonable citizens should lack confidence in whether political authorities do satisfy them. Otherwise, political authorities are not credible political authorities. In my terminology, credible political authorities meet what I call the “confidence tenet,” which requires that the public can become reasonably confident that political authorities are legitimate.<sup>316</sup> Suppose a conception of legitimacy does not concede to what reasonable citizens are capable of knowing reasonably confidently. In that case, reasonable citizens will probably never become reasonably confident in whether political authorities do satisfy the conditions for legitimacy. So, legitimate political authorities would not become stable political authorities. Sooner or later, reasonable citizens will seek to replace political authorities that they are not reasonably confident are legitimate with credible political authorities that they are reasonably confident are legitimate. Consequently, stable political authorities need credibility.

Political realists often prioritise peace over justice for feasibility reasons.<sup>317</sup> Liberal democratic states are much more likely to preserve peace than promote justice. In contrast, independently of feasibility, an epistemic type of realism prioritises peace over justice for primarily epistemic reasons. Reasonable citizens are much more likely to become reasonably confident liberal democratic states preserve peace than promote justice. In particular, what I call a “peaceful instrumentalist” conception of legitimacy makes

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<sup>316</sup> I assume a majority of the public or a critical mass are reasonable.

<sup>317</sup> (Gray 2000; Horton 2010; McCabe 2010). Also see (Machiavelli 1981; Hobbes 1994; Hampshire 1999; Plato 2000: 338c2–3; Williams 2005; Geuss 2008; Galston 2010; Rossi 2012; Sleat 2013; Wendt 2016; Hall 2020).

legitimacy depend on the preservation of a mutually beneficial peace.<sup>318</sup> First, reasonable citizens can become reasonably confident that national elections empower voting citizens to peacefully replace unpopular governments with popular ones. The public can observe that most citizens swap the pitchfork for the vote. Second, reasonable citizens can become reasonably confident that public deliberations empower deliberating citizens to discover moral compromises that avoid political violence and acquire peaceful disagreement.<sup>319</sup> The public can observe that few swap the vote back for the pitchfork.<sup>320</sup> So, liberal democratic states tend to make the vote remain more politically attractive than the pitchfork. Even if national elections (and referendums) and public deliberations are strategically abused by a few competent rent-seekers and incompetently misused by many public-spirited but incompetent citizens, they still tend to remain more politically attractive than political violence.

## IX. POSSIBLE REPLIES

### A. Epistemic Democracy: Aspirational Normative Theory

In this section, I argue that epistemic democracy is too unrealistic to let liberal democratic states become credible political authorities. Suppose the fashion designers' show dress is an aspirational dress. Even if very few are willing to become capable of wearing it, it remains a dress many should aspire to wear. Similarly, Estlund can argue that epistemic democracy primarily provides an aspirational theory. Nonconcessive realists are capabilities realists because they do concede to the capabilities of real citizens. However, nonconcessive realists are motivational idealists because

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<sup>318</sup> Political theorist J.S. Mill, political theorist Judith Shklar, economist F.A. Hayek and political theorist Geoffrey Brennan and economist James Buchanan aim to avoid harm when man is at his worst (Mill 1975: 505; Shklar 1998: 9-10; Brennan and Buchanan 2000: 80-81; Hayek 2018: 57).

<sup>319</sup> (von Mises 1927: 42; Popper 1945: 4; Hayek 1973: 5; Buchanan 1975: 23-27; Hayek 1997b: 237; Bellamy 1999; Przeworski 1999: 15-16). One possible explanation for why democracy tends to discover moral compromises that avoid political violence is that elected politicians tend to seek the vote of the median voter (Black 1948). Second, elected politicians tend to "logroll" or trade votes to more effectively express the intensity of political preferences (Tullock 2004a: 51-53). So, they tend to discover moral compromises few, if any, judge are the best decisions but few, if any, judge are the worst decisions either. They tend to discover second-best decisions that are acceptable as moral compromises.

<sup>320</sup> (Przeworski 1999)

they do not concede to the motivations of real citizens. So, nonconcessive realists can provide normative political principles that real citizens are always capable of satisfying but are never willing to satisfy. Estlund calls this “hopeless realism.”<sup>321</sup> In particular, Estlund provides a “capability/probability” distinction.<sup>322</sup> Even if citizens are unlikely to satisfy particular principles, citizens could always remain capable of meeting them.

Perhaps actual citizens are never willing to satisfy hopeless principles because they are unreasonably difficult to meet. Estlund calls this “harsh realism.”<sup>323</sup> Unreasonably harsh principles are to blame for citizen non-compliance instead of citizens, given that they are unreasonably difficult to satisfy. In contrast, maybe actual citizens are never willing to meet hopeless principles even if they are not unreasonably difficult to meet. Estlund could call this “reasonably harsh realism.” In Estlund’s words, “the fact that people will not live up to them even though they could is, in that case, a defect of people, not of theory.”<sup>324</sup> Citizens are to blame for their non-compliance, given that reasonably harsh principles are not unreasonably difficult to satisfy.

However, epistemic democracy risks the nonconcessive error. It risks mistaking justifiably (or excusably) unwilling citizens for unjustifiably (or inexcusably) reluctant citizens. Perhaps real citizens are never willing to satisfy nonconcessive principles because they are impractical even if they are not unreasonably difficult to meet. I call this “impractical realism.” Impractical principles are to blame for citizen non-compliance instead of citizens since they are impractical to satisfy. Real citizens are not entirely self-interested whenever they participate in politics. However, real citizens are not entirely deprived of self-interest (or concerns about efficacy) whenever they participate in politics. Only “economic eunuchs” would vote and deliberate competently, given the concentrated costs (financial or otherwise) they would bear in the expectation of a minimal chance of a minimal benefit for themselves in return. Surprisingly, Estlund does argue

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<sup>321</sup> (Estlund 2008: 264; 2019: 83-85, 118-20)

<sup>322</sup> (Estlund 2019: 85-86). Also see (Estlund 2008: 13).

<sup>323</sup> (Estlund 2008: 267-68; 2019: 119, 35)

<sup>324</sup> (Estlund 2019: 80)

that epistemic democracy is not hopeless and that real citizens are likely to satisfy its demands.<sup>325</sup> However, real citizens are unlikely ever to vote or deliberate competently. The minimal chance of a minimal benefit for themselves makes the concentrated costs involved in voting and deliberating competently impractically big.

Alternatively, real citizens may be unwilling to satisfy nonconcessive principles because they are not just impractical but they are also *unreasonably* difficult to meet. Unreasonably harsh principles are to blame for citizen non-compliance instead of citizens since they are unreasonably difficult to meet. In particular, the very small injustice of every small share of the dispersed rent-seeking costs makes the concentrated costs involved in competent opposition unreasonably big. As explored above, only a “moral fanatic” would effectively oppose very small injustices regardless of the concentrated costs. So, the unreasonability of reciprocity makes reasonable citizens justifiably (or excusably) reluctant to vote and deliberate competently to oppose rent-seeking.

Nonconcessive principles do not just underestimate the capabilities of real citizens. They are not just too demanding. They do not make an error in degree. Worse, they fundamentally misinterpret the motivations of real citizens. They are the wrong type of demand for the type of agent actual citizens actually are and are likely to become. So, they make a category mistake. They are made to fit “economic eunuchs” completely deprived of self-interest (or concerns about efficacy). Unfortunately, they are not made to fit the self-interest of real citizens. First, they are not made to fit the demotivated type of real agent citizens are likely to become, given the uncertainty of success and the costs of competence. Second, they are not even made to fit the demotivated type of agent reasonable citizens are likely to become, given the unreasonability of reciprocity.

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<sup>325</sup> (Estlund 2008: 268)

## **B. Epistemic Democracy: Concessive Normative Theory**

Maybe high street designers can redesign the show dress to better fit real citizens. Similarly, Estlund argues that nonconcessive realists can acquire the best of both worlds. Estlund says, “we need to concede these facts in practice, but not in all of our moral conclusions. In addition to nonconcessive theory, we also need concessive normative theory.”<sup>326</sup> Nonconcessive realists can provide a nonconcessive normative theory independently of the motivations of real citizens. They can design nonconcessive principles that fit fully compliant hypothetical agents. In particular, epistemic democrats can create nonconcessive principles that fit fully public-spirited, competent, reasonable hypothetical agents. They can then redesign the nonconcessive normative theory into a concessive normative theory in light of the motivations of real citizens. They can redesign nonconcessive principles into concessive principles that fit partially compliant actual citizens. In particular, epistemic democrats can redesign nonconcessive principles into concessive principles that fit the self-interest and incompetence of real citizens. So, nonconcessive realists can defend both nonconcessive principles and concessive principles.

In response, it is helpful to distinguish between what I will call “fully” and “partially” concessive realism. Fully concessive realists aim to design new political principles to fit the motivations of real citizens. So, demands of a fully concessive principle are likely to fit the motivations of real citizens. In contrast, partially concessive realists aim to redesign nonconcessive principles to fit the motivations of real citizens. So, the demands of a partially concessive principle are unlikely ever to fit the motivations of real citizens.<sup>327</sup> The demands of the nonconcessive principles they aim to redesign were never designed to fit the motivations of real citizens to begin

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<sup>326</sup> (Estlund 2008: 268; 2019: 120)

<sup>327</sup> Similar views already exist. First, sociologist Max Weber argues that the conviction politicians do not always take enough responsibility for the unintended but foreseeable consequences of their principled political behaviour (Weber 1994: 360). Similarly, I argue that the motivations of real citizens make principled political behaviour often produce unintended but foreseeable consequences. Second, political theorist Jacob Barrett argues that the complexity of social interactions makes it very difficult to know what promotes ideal justice (Barrett 2020). Similarly, I argue that the motivations of real citizens are one complexity that makes what promotes ideal or nonconcessive justice often very difficult to believe in reasonably confidently.

with. Consequently, the demands of the nonconcessive principles that were never intended to fit the motivations of real citizens are likely to constrain how well the redesigned demands of the partially concessive principle will ever fit the motivations of real citizens. The concession of the partially concessive principle to the actual motivations of real citizens is likely always to remain partial and to misfit the motivations of real citizens.

### **C. Epistemic Democracy: Evaluative Normative Theory**

Perhaps the show dress is not intended for real citizens to ever wear. Similarly, Estlund argues that nonconcessive realists need not prescribe anything. They need only evaluate how individuals and groups behave. In Estlund's words, "I allow that there is what I call a purely evaluative "ought," which implies nothing about what any agent or plurality of agents is to do or is to be like."<sup>328</sup> It is not the case that citizens or the public as a whole is morally obliged to vote and deliberate competently. Epistemic democrats need only say it is morally good when citizens and the public as a whole do vote and deliberate competently and that it is morally bad when they do not.

However, it is not morally good when citizens and the public as a whole vote and deliberate competently, nor is it morally bad when they do not. Voting and deliberating competently will probably never become the morally best action. The morally best action is much more likely to do much more good for wider society. It feeds the hungry, houses the homeless, clothes the naked, or helps the sick or the imprisoned. Worse, it is often morally bad when citizens and the public as a whole vote and deliberate competently. Voting and deliberating competently is often a (mild) moral bad. It ineffectively wastes time, money and similarly scarce resources on close to completely inconsequential actions when much more effective actions that are much more likely to do much more good for wider society are available instead.

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<sup>328</sup> (Estlund 2008: 266-67; 2019: 169)

Morally perfect citizens would not ineffectively waste their time, money and similarly scarce resources on voting and deliberating competently but inconsequentially since many alternative actions are likely to do some good for wider society instead. So, as explored above, morally perfect citizens are virtuously ignorant. The moral opportunity costs involved in competent but inconsequential deliberation make it morally vicious. Only a “deliberation fetishist” would prioritise competent deliberation regardless of the moral opportunity costs involved. Consequently, the moral opportunity costs make morally perfect citizens justifiably (or excusably) unwilling to deliberate competently. Similarly, a morally perfect public as a whole would not ineffectively waste its time, money and similarly scarce resources on deliberating competently, given that many alternative actions are much more likely to do much more good for wider society instead. Hence, the morally perfect public as a whole is virtuously ignorant. The moral opportunity costs make a morally perfect public as a whole justifiably (or excusably) reluctant to deliberate competently.

## X. CONCLUSION

In conclusion, normative political theory should concede that citizens do not become “economic eunuchs” completely deprived of self-interest (or concerns about efficacy) whenever they participate in national elections (and referendums) and public deliberations. So, a conception of legitimacy should prioritise the avoidance of harm over the promotion of justice for primarily epistemic reasons, given the risk of tragic democracies. In tragic democracies, a bad political environment brings the worst out of otherwise good individuals. In particular, self-interested citizens are likely to become willing to enrich themselves at the expense of wider society unfairly and public-spirited citizens will probably never become willing to oppose them effectively. Worse, otherwise public-spirited citizens are likely to become willing to unfairly enrich themselves at the expense of wider society alongside self-interested citizens. Consequently, reasonable citizens should lack confidence in whether bad political environments corrupt democratic

decisions too much for them to publicly reveal what promotes justice and the common good.

Epistemic democrats argue that liberal democratic states are legitimate political authorities because liberal democratic states tend to publicly reveal what promotes justice and the common good. In particular, democratic decisions can become fallible evidence for what promotes justice and the common good if public-spirited citizens vote competently in national elections and deliberate competently in public deliberations. However, reasonable citizens will probably never become reasonably confident that democratic decisions are fallible evidence for what promotes justice and the common good, given the risk of tragic democracies. First, reasonable citizens risk underestimating how likely rent-seeking citizens are to effectively change the political environment in which national elections and public deliberations take place to enrich themselves at the expense of wider society unfairly. Second, reasonable citizens risk overestimating how willing self-interested citizens are to vote competently in national elections and deliberate competently in public deliberations, given the cost of competence and the uncertainty of success. If anything, rent-seeking makes democratic decisions likely to contribute toward socially unjust regressive stagnation. They unfairly enrich a few of the most advantaged at the unfair expense of many of the least advantaged members of society. So, reasonable citizens will probably never become reasonably confident liberal democratic states let them know what promotes justice and the common good.

It is not just self-interested citizens who are unjustifiably (or inexcusably) unwilling to vote and deliberate competently. Both reasonable citizens and morally perfect citizens are also justifiably (or excusably) reluctant to vote and deliberate competently. First, epistemic democrats risk overestimating how willing reasonable citizens are to abstain from rent-seeking, given the uncertainty of reciprocity. Second, epistemic democrats risk overestimating how willing reasonable citizens are likely to become to oppose rent-seeking, given the unreasonability of reciprocity. Third, epistemic democrats even risk overestimating how willing morally perfect citizens are likely to

become to vote competently in national elections and to deliberate competently in public deliberations, given the inconsequentiality of competence.

Unfortunately, it is not just unlikely that democratic decisions will ever become fallible evidence for what promotes justice and the common good. It is also morally bad for citizens and the public as a whole to do what is needed to make democratic decisions become fallible evidence for what promotes justice and the common good. Both the virtuous citizen and the virtuous public should spend the time, money and similarly scarce resources they would need to spend to vote and deliberate competently on the many projects that are much more likely to do much more good for wider society instead.

**Chapter Two**  
**Democratic Decisions and Credible Evaluations:**  
**The Problem of Picking The Losers**

I. INTRODUCTION

In this chapter and the next, I argue against epistemic democracy. I apply the spirit of political theorist and epistemic democrat David Estlund's scepticism about epistocracy to epistemic democracy itself. Whether democratic decisions promote justice and the common good is no easier for reasonable citizens to become reasonably confident in than in which experts should rule. Epistemic democrats argue that liberal democratic states are legitimate political authorities partially because democratic decisions tend to publicly reveal what promotes justice and the common good. In this chapter, I will apply epistemic realism to the procedure-independent standard of correctness of epistemic democracy. There is persistent disagreement amongst reasonable citizens in polarised societies over which standards are reasonably acceptable. So, I argue that no standard of correctness is credible because reasonable citizens should remain reasonably cautious about which standards are legitimate to use to morally evaluate democratic decisions with. In particular, reasonable citizens will probably never become reasonably confident that over which particular demographics morally correct decisions can legitimately neglect or even make worse off. I call this the problem of picking the losers. Reasonable citizens should become reasonably cautious about which democratic decisions are morally correct. Consequently, legitimacy should only depend on whether democratic decisions preserve a mutually beneficial peace independently of whether they are morally correct or not.

I do not argue against the existence of a procedure-independent standard of correctness, against its knowability or even against its public justifiability or legitimacy. I argue against high levels of *epistemic confidence* in which procedure-independent standards of correctness reasonable citizens can legitimately evaluate the justice of democratic decisions with. I argue against the *credibility* of a procedure-independent standard of correctness. A procedure-independent standard of correctness says some democratic

decisions promote justice and the common good even though many democratic decisions must often neglect particular demographics and even make them worse off. So, I will argue that reasonable citizens should remain reasonably cautious about which demographics morally correct decisions can neglect and even make worse off. They should remain reasonably cautious about picking which demographics can legitimately lose out in morally correct decisions. This is the problem of picking the losers. I do not argue that reasonable citizens should remain reasonably cautious about justice in general. I argue that reasonable citizens should remain reasonably cautious about justice in the particular circumstances of liberal democratic state action. They should remain reasonably cautious about which national-level democratic decisions are morally correct.

## II. EPISTEMIC DEMOCRACY

### A. The Three Central Tenets

As the Introduction explored, epistemic democrats argue that liberal democratic states are legitimate political authorities because democratic decisions tend to publicly reveal what promotes justice and the common good. As Estlund says, “according to epistemic proceduralism, under the right conditions, democratic decisions have their legitimacy and authority partly because of a publicly recognizable tendency to make good decisions, at least more effectively than a random procedure.”<sup>329</sup> So, liberal democratic states are not legitimate political authorities because of the procedural fairness of democratic mechanisms.<sup>330</sup> Liberal democratic states are legitimate political authorities partially because of the epistemic virtues of democratic mechanisms.

Epistemic democrats defend three central assumptions.<sup>331</sup> The first assumption epistemic democrats make is that a procedure-independent standard of correctness exists. In practice, epistemic democrats often associate the procedure-independent standard of correctness with justice and

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<sup>329</sup> (Estlund 2008: 232-33)

<sup>330</sup>(Estlund 2008: 66)

<sup>331</sup> (Estlund 2008: 30)

the common good.<sup>332</sup> The correct decision is whichever decision would promote justice and the common good more effectively. The second assumption epistemic democrats make is a cognitive account of voting. A cognitive account of voting presupposes that citizens are public-spirited in that they vote to express their views about justice. The third assumption epistemic democrats make is that a particular mechanism makes democratic decisions fallible evidence for what promotes justice and the common good. Aggregative conceptions of democracy assume the aggregation of votes in national elections (and referendums) makes democratic decisions fallible evidence for what promotes justice and the common good.<sup>333</sup> Deliberative conceptions of democracy make the alternative assumption that the exchange of views in public deliberations makes democratic decisions fallible evidence for what promotes justice and the common good.<sup>334</sup>

## **B. Political Cognitivism**

Epistemic democrats are political cognitivists.<sup>335</sup> They accept some normative political judgements are made true by some procedure-independent standard of correctness. They accept what promotes justice and the common good is independent of what any national election (or referendum) decides.

Different epistemic democrats give political cognitivism different meanings.<sup>336</sup> So, it is helpful to provide definitions for various conceptions of moral truth and normative political truth.<sup>337</sup> Moral noncognitivists say no moral judgements are truth-apt. The moral judgement that it is morally wrong to kill innocent people for pleasure is neither true nor false. Moral cognitivists say some moral judgements are truth-apt. The moral judgement

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<sup>332</sup> (Estlund 2008: 169; Landemore 2012: 45; Goodin and Spiekermann 2018: 5, 208-11)

<sup>333</sup> (Berelson, Lazarsfeld, and McPhee 1954; Grofman and Feld 1988; Estlund et al. 1989; Converse 1990; Page and Shapiro 1992, 1993; Wittman 1995; List and Goodin 2001; Goodin 2003: 91-108; Surowiecki 2004; Page 2007; Hong and Page 2012; Dietrich and Spiekermann 2013; Goodin and Spiekermann 2018)

<sup>334</sup> (Landemore 2012: 102-03)

<sup>335</sup> (Estlund 2008: 24-33; Landemore 2012: 208-31; Goodin and Spiekermann 2018: 11, 38-44, 303-11)

<sup>336</sup> (Estlund 2008: 24-30; Landemore 2012: 208-31; Goodin and Spiekermann 2018: 38-41)

<sup>337</sup> It is helpful to distinguish between moral and normative political judgements. A moral judgement is a private judgement that need not become publicly justifiable. A normative political judgement is a public judgement that should become publicly justifiable.

that it is morally wrong to kill innocent people for pleasure is either true or false. Moral error theorists are a type of moral cognitivist that say some moral judgements are truth-apt, but none of them are true. The moral judgement that it is morally wrong to kill innocent people for pleasure is false. Moral success theorists are a different type of moral cognitivist that say some moral judgements are truth-apt and some are true. The moral judgement that it is morally wrong to kill innocent people for pleasure is true.

Similarly, it is helpful to provide analogous conceptions for normative political truth. In my terminology, political noncognitivists say no normative political judgements are truth-apt. The normative political judgement that the state should obey the law is neither true nor false. Political cognitivists say some normative political judgements are truth-apt. The normative political judgement that the state should obey the law is either true or false. Political error theorists are a type of political cognitivist that say some normative political judgements are truth-apt, but none of them are true. The normative political judgement that the state should obey the law is false. Political success theorists are a different type of political cognitivist that say some normative political judgements are truth-apt and some of them are true. The normative political judgement that the state should obey the law is true. So, in my terminology, epistemic democrats are political cognitivists, but they are more than just political cognitivists. Epistemic democrats are political success theorists.

The relationship between moral truth and normative political truth is complex. Estlund aims to avoid any excessively exotic and eternally controversial assumptions reasonable citizens can reasonably reject. So, he makes political truth compatible with *any* metaethical view about moral truth. In Estlund's words, "I say a statement that " $x$  is  $F$ " is true in at least the minimal sense if and only if  $x$  is indeed  $F$ . This formula allows us to say noncognitivists hold that "affirmative action is unjust" is true in at least the minimal sense just so long as they hold (as they perfectly well could) that

affirmative action is unjust.”<sup>338</sup> Consequently, epistemic democrats can still accept some normative political judgements are true *in a minimal sense* even if they accept no moral judgements are true. Moral noncognitivists (and moral error theorists) can still become political cognitivists (and, in my terminology, political success theorists).

Epistemic democrats argue, in practice, whenever anybody morally evaluates democratic decisions, they must implicitly assume some procedure-independent standard of correctness.<sup>339</sup> Estlund says, “one standard motive in political activity is to promote collective decisions that one holds to be normatively good, or right, or otherwise in the public interest.”<sup>340</sup> Similarly, political theorist and epistemic democrat Hélène Landemore provides one of the most extensive defences of political cognitivism.<sup>341</sup> In Landemore’s words, “the independent standard of correctness is something we postulate every time we debate and vote in the hope of finding a solution to a problem.”<sup>342</sup> Estlund argues that it is very difficult for liberal democrats to explain how anybody could morally evaluate democratic decisions unless they implicitly assume some procedure-independent standard of correctness. As Estlund says, “that view owes us some account of how to think normatively about politics without resorting to any normative standards, other than purely procedural ones, for evaluating political decisions.”<sup>343</sup> So, the procedure-independent standard of correctness is already an implicit element of public deliberations. Whenever anybody morally evaluates democratic decisions, they implicitly assume some procedure-independent standard of correctness does exist.

Landemore argues that the procedure-independent standard is independent of what any actual election decides promotes justice and the common good, but that the procedure-independent standard need not become independent of the socioeconomic context in which the actual election occurs.

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<sup>338</sup> (Estlund 2008: 25)

<sup>339</sup> (Estlund 2008; Landemore 2012; Goodin and Spiekermann 2018). Also see (Enoch 2011; Talisse 2013: 512).

<sup>340</sup> (Estlund 2008: 26)

<sup>341</sup> (Landemore 2012: 208-31)

<sup>342</sup> (Landemore 2012: 219)

<sup>343</sup> (Estlund 2008: 31)

Landemore says culturalism defends a “context-dependent” standard of correctness. In Landemore’s words, “the procedure-independent standard is not independent of anything else but rather determined by a given context, history and culture.”<sup>344</sup> A cultural standard of correctness is independent of what an actual election decides promotes justice and the common good. Still, it remains in some sense dependent on the socioeconomic context in which the actual election takes place.

Alternatively, Landemore argues that the procedure-independent standard can also become independent of the socioeconomic context in which the actual election occurs. Landemore says absolutism defends a “basic” standard of correctness. Landemore says, “basic normative principles themselves can be assessed from the point of view of an independent standard of moral correctness that is universally valid.”<sup>345</sup> An absolute standard of correctness is independent of what the actual election decides promotes justice and the common good and the socio-economic context in which the actual election occurs. Landemore argues that Platonism provides the paradigmatic absolutist view. Epistemic democrats can accept absolutism. However, epistemic democrats need not accept absolutism. Epistemic democrats need only accept culturalism.

### III. MOTIVATION PLURALISM

In practice, many moral evaluations of democratic decisions are controversial.<sup>346</sup> They are often zero-sum decisions.<sup>347</sup> Democratic decisions often produce winners and losers. They often produce benefits for particular demographics and costs for other demographics. So, democratic decisions cannot please all people all the time.<sup>348</sup> They tend to please the winning demographics and displease the losing demographics. As political theorist

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<sup>344</sup> (Landemore 2012: 217; Goodin and Spiekermann 2018: 40)

<sup>345</sup> (Landemore 2012: 218). Also see (Goodin and Spiekermann 2018: 38-40).

<sup>346</sup> Political theorists John Rawls and Alexis de Tocqueville say private societies contains citizens that primarily pursue private interests instead of justice (Rawls 1993: 202, 07; Tocqueville 2002).

<sup>347</sup> (Mises 1951: 21; Buchanan 1999: 55-56, 76-84)

<sup>348</sup> As USA President Abraham Lincoln is rumoured to have said, “you can please some of the people all of the time, you can please all of the people some of the time, but you can't please all of the people all of the time.”

Robert Dahl says, “wouldn’t we also expect great disagreement and severe political conflict among Greeks? Could not Athenians tend to seek what they believed was in the interests of Athenians, Corinthians in the interests of Corinthians, Spartans of Spartans and so on?”<sup>349</sup> A practically good decision for the winners is bad for the losers. Consequently, real citizens can strategically disagree over which decisions are morally correct.

The winners can moralise the benefits democratic decisions produce for them and the losers can moralise the costs democratic decisions produce for them. So, As the Introduction explored, it is helpful to distinguish between “interest-free” and “interest-laden” judgements. An “interest-free” judgement is a public-spirited political judgment about justice that is entirely unbiased by what citizens expect to advance their narrow individual and group interests. Political judgements are simply separable from political interests. In contrast, an “interest-laden” judgement is a public-spirited political judgment about justice that is implicitly biased by what citizens expect to advance their narrow individual and group interests. Political judgements can become deeply entangled with political interests. The winners gain good practical reasons to accept whichever standards of correctness say the democratic decisions that benefit them are morally correct. In contrast, the losers gain good practical reasons to reject whichever standards of correctness say the democratic decisions that cost them are morally correct. Epistemic democrats should expect that political judgments about which democratic decisions are morally correct are likely to often become “interest-laden” among self-interested citizens since democratic decisions often produce winners and losers.

As explored in the previous chapter, the public contains a plurality of more self-interested citizens and more public-spirited citizens. Independently of what public-spirited citizens expect to advance their narrow individual and group interests, public-spirited citizens can reasonably reject that many standards of correctness. They can provide good public-spirited reasons to accept the standard is unacceptably biased, given the particular

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<sup>349</sup> (Dahl 1989: 290)

demographics that *illegitimately* lose out in the democratic decisions the standard says are morally correct. So, epistemic democrats should expect that political judgements about which democratic decisions are morally correct will probably never become “interest-free” even among public-spirited citizens since democratic decisions often produce winners and losers illegitimately.

#### IV. POLITICAL LEGITIMACY

In this section, I explore the need for legitimacy. Epistemic democrats do not just need a procedure-independent standard of correctness. They need a legitimate standard of correctness. As the Introduction explored, the later Rawls, as a political liberal, provides a conception of reasonability that contains both epistemic and moral elements.<sup>350</sup> First, reasonable citizens are epistemically reasonable, following particular epistemic norms. They base their standards of correctness on reasoned arguments with informed premises and willingly change their standards in the light of better arguments and better information.<sup>351</sup> However, all reasonable citizens bear the “burdens of judgement.”<sup>352</sup> They must perform several epistemically difficult tasks to hold a conception of justice.<sup>353</sup> So, reasonable but fallible citizens often accept different standards of correctness because of the burdens of judgement. Second, reasonable citizens are morally reasonable, given that they follow particular moral norms. They respect the burdens of judgment and seek fair (or otherwise mutually acceptable) terms for social cooperation (in the expectation that fellow reasonable citizens will reciprocate). So, Rawls defends a liberal principle of legitimacy. In his words, “our exercise of political power is fully proper only when it is exercised in accordance with a constitution the essentials of which all citizens as free and equal may reasonably be expected to endorse in the light of principles and ideals acceptable to their common human reason.”<sup>354</sup> Independently of whichever standard of correctness is true, states are not

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<sup>350</sup> (Rawls 1993: 62)

<sup>351</sup> (Talisso 2009b: 79-120; Talisso 2009a)

<sup>352</sup> (Rawls 1993: 54-58)

<sup>353</sup> (Rawls 1993: 56)

<sup>354</sup> (Rawls 1993: 137)

legitimate political authorities unless the reasons for state coercion are acceptable to reasonable citizens.<sup>355</sup>

Rawls argues that the burdens of judgement provide a good moral reason for states to tolerate different conceptions of justice.<sup>356</sup> Independently of whichever conception of justice is true, it is morally disrespectful for states to coerce reasonable citizens to obey a conception of justice that is not acceptable to them. As Rawls says, “reasonable persons will think it unreasonable to use political power, should they possess it, to repress comprehensive views that are not unreasonable.”<sup>357</sup> So, a legitimate standard of correctness must become acceptable to reasonable citizens regardless of whether it is true.

Estlund advances the liberal principle of legitimacy. He defends an undogmatic but substantive type of political liberalism. In Estlund’s words, “no doctrine is available in justification unless it is acceptable to reasonable citizens, not even this doctrine itself (this makes it undogmatic), because such an acceptability criterion is true or correct independently of such acceptability (this makes it substantive).”<sup>358</sup> States morally owe reasonable citizens justifications for whichever doctrines they promote.<sup>359</sup> So, epistemic democrats should not evaluate democratic decisions with whichever standard of correctness they judge is true. As Estlund says, “it would be a type of intolerance to think that any doctrines could form a part of political justification even if some citizens conscientiously held reasonable moral, religious, or philosophical views that conflicted with them.”<sup>360</sup> They should

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<sup>355</sup> (Rawls 1993: 41). Also see (Estlund 1993: 74-75; 2008: 21-39; Peter 2008a; Quong 2011; Galston 2012: 142).

<sup>356</sup> Political theorist Joseph Raz argues that political theorist John Rawls abstains from deciding the truth-value of every view which is an incoherent view (Raz 1990). Alternatively, political theorist David Estlund argues that Rawls need only abstain from deciding the truth-value of every comprehensive doctrine which is not an incoherent view (Estlund 2008: 55-64).

<sup>357</sup> (Rawls 1993: 60)

<sup>358</sup> (Estlund 2008: 57). Also see (Estlund 1997: 175). political theorist David Estlund has an extensive conception of doctrines which includes factual statements, principles, practical proposals, moral or normative political judgments and so on (Estlund 2008: 44). Estlund argues that his undogmatic but substantive type of political liberalism is itself legitimate because no citizen is reasonable unless they accept his principle (Estlund 2008: 61). Estlund's qualified acceptability requirement is controversial (Enoch 2009; Copp 2011). Unfortunately, this exceeds the scope of this dissertation.

<sup>359</sup> (Estlund 1993: 85-92)

<sup>360</sup> (Estlund 2008: 43-44)

only evaluate democratic decisions with *legitimate* standards of correctness *that are acceptable to reasonable citizens*.

Epistemic democrats could just reject the liberal principle of legitimacy.<sup>361</sup> Epistemic democrats need only value if democratic mechanisms are reliable or not. However, epistemic performance is not the only political value worth promoting. Reasonable acceptability is also a weighty political value worth promoting. It is arbitrarily single-minded for epistemic democrats to accept that only epistemic performance is independently valuable. Suppose epistemic instrumentalists can value epistemic performance independently of reasonable acceptability. In that case, political liberals can value reasonable acceptability independently of epistemic performance. Alternatively, liberal pluralists can accept both epistemic performance and reasonable acceptability hold independent value and that they must often compete against and compromise with each other.<sup>362</sup>

## V. POLITICAL CREDIBILITY

In this section, I introduce the need for credibility. Epistemic democrats do not just need a legitimate standard of correctness. They need a credible standard of correctness. I defend an epistemic type of realism that concedes to the epistemic capabilities of reasonable citizens. In my terminology, political credibility demands political authorities fulfil what I call the “confidence tenet,” which requires that the public can become reasonably confident that political authorities are legitimate. Reasonable citizens need to see states as legitimate political authorities.<sup>363</sup> Otherwise, sooner or later, undetectable legitimacy is likely to motivate a majority or a critical mass of reasonable citizens to aim to replace political authorities they are not reasonably confident are legitimate with political authorities they are reasonably confident are legitimate. So, epistemic democrats need a standard of correctness that reasonable citizens can become reasonably confident is legitimate. They need a standard of correctness that reasonable

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<sup>361</sup> (Landemore 2012: 51-52)

<sup>362</sup> (Berlin 1969; Williams 1981; Hampshire 1999; Gray 2000; Crowder 2002; Galston 2002; Gaus 2003)

<sup>363</sup> I assume a majority of the public or a critical mass are reasonable.

citizens can become reasonably confident is acceptable to fellow reasonable citizens. They need a credible standard of correctness.

As the Introduction explored, independently of moral reasons, the burdens of judgement provide reasonable citizens with excellent epistemic reason to express the epistemic virtue of epistemic humility.<sup>364</sup> Epistemically reasonable (politically informed and epistemically rational) judgements about which standards of correctness are legitimate are often incommensurable.<sup>365</sup> They all aim to track the truth and they are all based on reasoned arguments with informed premises. Out of the many incommensurable views, only one view can count as true and all else must count as false. So, the incommensurability of epistemically reasonable views provides reasonable citizens with excellent epistemic reason to become epistemically humble. Epistemically reasonable views about which standards of correctness are legitimate are often fragile.<sup>366</sup> Reasonable citizens should not become unreasonably confident that they are among the few with true views.<sup>367</sup> If anything, they should expect they are more likely among the many with mistaken views about which standards of correctness are legitimate.<sup>368</sup>

Epistemic realism shows the fragility of normative political judgements about which standards of correctness are legitimate. So, reasonable citizens should avoid unjustifiably high levels of confidence in which standards of correctness are legitimate and unjustifiably low levels of confidence in

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<sup>364</sup> Similar views already exist. First, political theorist Judith Shklar defends epistemic humility (Shklar 1998: 7). Second, economists F.A. Hayek and Israel Kirzner and political scientist Vincent Ostrom defend epistemic humility (Ostrom 1999c: 392; Hayek 2014c: 372; 2018: 74; Kirzner 2018b: 428).

<sup>365</sup> (Gaus 2003: 31-42). Also see (D'Agostino 2003).

<sup>366</sup> Epistemic fallibility also provides excellent epistemic reason to tolerate diverse views (Mill 1921: 277; Hayek 2011: 81-83).

<sup>367</sup> (Feldman 2006; Christensen 2007; Elga 2007b, 2007a; Feldman 2007; Christensen 2009; Kornblith 2010)

<sup>368</sup> Similar views already exist. First, political theorists Gerald Gaus and Michael Huemer defend the possibility of inconclusive interpretations of just principles, given that publicly justified principles lack a publicly justified interpretation (Huemer 1996; Gaus 2003: 216-17; Huemer 2013: 48-50; Gaus 2016, 2018). Independently of the (lack of) publicly justified interpretations of publicly justified principles, I argue that reasonable citizens should lack confidence in which interpretations are correct. Second, political theorist Chandran Kukathas defends freedom of association to express moral respect for the liberty of conscience (Kukathas 2007: 74-119). Independently of moral respect for the liberty of conscience, I argue that reasonable citizens should lack confidence in which consciences are correct.

reasonable opposing judgements. They should not epistemically revere any particular judgement as the best reasoned and best informed and should epistemically respect reasonable opposing judgements. Consequently, reasonable citizens should avoid epistemic conceptions of legitimacy that make the legitimacy of political authority depend on the public revelation of justice. In high-stakes political contexts, reasonable citizens should aim to avoid likely errors.<sup>369</sup> Otherwise, they would risk avoidable harm. In particular, if reasonable citizens should lack confidence in whether liberal democratic states do publicly reveal what promotes justice and the common good, epistemic conceptions of legitimacy risk destabilising the legitimacy of liberal democratic states. The epistemic immodesty of epistemic conceptions of legitimacy risk instability.

In my terminology, confident liberal democrats become reasonably confident in which standards of correctness are legitimate. In contrast, cautious liberal democrats remain reasonably cautious about which standards of correctness are legitimate. So, cautious liberal democrats accept what I call “cautious political cognitivism.” They accept some standard of correctness to morally evaluate democratic decisions with. However, they avoid high levels of epistemic confidence in which standards of correctness are legitimate. They accept any confidence in which standards of correctness are legitimate must remain fragile. Consequently, reasonable citizens should lack confidence in whether democratic decisions do publicly reveal what promotes justice and the common good.<sup>370</sup>

## VI. VALUE PLURALISM

### A. Principled Disagreement

In this section, I apply the problem of value pluralism to the credibility of the standard of correctness. Unfortunately, no standard of correctness can become credible, given that reasonable citizens should remain reasonably cautious about which demographics can legitimately lose out in morally

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<sup>369</sup> In real politics, high stakes decisions are the norm instead of an exception (Hampshire 1978; Williams 1978).

<sup>370</sup> (Estlund 1993: 85-88). Also see (Gunn 2019; Kuljanin 2019; Somin 2022).

correct decisions. Epistemic democrats face the problem of value pluralism.<sup>371</sup> The liberal egalitarian citizen accepts a plurality of different values. In particular, the liberal egalitarian citizen accepts a plurality of liberal values and egalitarian values that must often compete against and compromise with each other. Similarly, a liberal egalitarian public contains a plurality of diverse citizens. In particular, a liberal egalitarian public includes a plurality of more liberal citizens and more egalitarian citizens that must often compete against and compromise with each other.<sup>372</sup> In economists James M. Buchanan and Gordon Tullock's words, "separate individuals are separate individuals and, as such, are likely to have different aims and purposes for the results of collective action."<sup>373</sup> Similarly, economist Russell Hardin says, "although we might successfully use the state to prod us into mutually beneficial collective action, we might not agree on what collective actions to prod ourselves into."<sup>374</sup> So, in real politics, enough reasonable citizens are likely to disagree over which values justice should prioritise to destabilise any consensus or convergence among them.<sup>375</sup>

It is helpful to distinguish between what I will call "policy disagreement" and "principled disagreement."<sup>376</sup> Even if reasonable citizens all agree on which values to promote, they can still disagree over which policies to implement. They can still disagree over which policies better promote shared values.<sup>377</sup> I call this "policy disagreement." They are primarily social scientific disagreements over how to promote shared values. Many political disagreements are primarily policy disagreements. Especially in polarised societies, many reasonable citizens are likely to disagree over which policies

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<sup>371</sup> (Cohen 1993; Rawls 1993; Gutmann and Thompson 1996; Waldron 1999; Knight and Johnson 2011). Also see (Gaus 1996; Bellamy 1999; Hampshire 1999; Gray 2000; Galston 2002; Kukathas 2007).

<sup>372</sup> In real politics, the public does not just contain liberal egalitarian citizens. It also contains illiberal and inegalitarian citizens (Moehler 2020: 9). Unfortunately, this exceeds the scope of this dissertation.

<sup>373</sup> (Buchanan and Tullock 1962: 3)

<sup>374</sup> (Hardin 1990: 188)

<sup>375</sup> Consensus is interpersonal agreement in light of the same reasons. Conversely, convergence is interpersonal agreement in light of different reasons (Gaus 2009).

<sup>376</sup> Protagoras makes a similar distinction between technical expertise and political wisdom (Protagoras 2003: 322b). Also see (Friedman 1953; Berlin 1969; Weber 1994; Plato 1997; Kitcher 2001; Christiano 2008; Ostrom 2008: 5, 71; Kitcher 2011; Berlin 2019; Reiss 2019b; Cerovac 2020: 201).

<sup>377</sup> (Friedman 1953)

better promote shared values because they rely on different social scientific judgements, methodologies, principles and theories. Alternatively, reasonable citizens can also disagree over which policies to implement because they disagree over which values to promote. I call this “principled disagreement.” Many political disagreements are often reducible to policy disagreements. However, many political disagreements are also often irreducibly principled disagreements. In political theorist Gerald Gaus’s words, “many of our moral judgments do not depend on what experts do best (but not well): calculating the consequences of our policies.”<sup>378</sup> They disagree over which policies to implement because they accept different moral and normative political judgements, values, principles and theories.

Political theorist Thomas Christiano argues that reasonable citizens are likely to disagree over which basic aims the state should promote. As Christiano says, “by “basic aims” I mean all the non-instrumental values and the trade-offs between those values. The non-instrumental values can include side constraints on state action as well as goals to be pursued.”<sup>379</sup> (A side constraint restricts the means the state can use to pursue its goals.) First, reasonable citizens disagree over which goals the state should pursue. I call this “goal disagreement.” They intrinsically value different goals. They wish the state to acquire different goods. Conversely, they want the state to avoid different bads. Second, reasonable citizens disagree over which side-constraints the state should enforce. I call this “side-constraint disagreement.” They need not intrinsically value any side constraints. Consequentialists intrinsically value particular goals independently of the means that promote them. They then instrumentally value particular means because of the goals they promote. They aim to promote whichever goals they intrinsically value by whatever means necessary.<sup>380</sup> Alternatively, reasonable citizens can intrinsically value different side constraints. Deontologists intrinsically value particular side-constraints independently of

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<sup>378</sup> (Gaus 2008a: 305)

<sup>379</sup> (Christiano 2012: 33). Also see (Cohen 1989a; Richardson 2002; Bohman and Richardson 2009; Moore 2017: 123).

<sup>380</sup> Moral and normative political judgements about the instrumental value of particular means depend partially on social scientific judgements about the likely consequences.

their likely consequences. They wish the state to protect particular goods independently of the likely consequences.

Reasonable citizens can wish the state to promote very different basic aims. In particular, socialists and libertarians wish the state to promote very different basic aims. The primary aim of socialism is to promote economic equality.<sup>381</sup> Socialists often do not aim to protect economic liberty except in a very thin sense. They often aim to protect the economic right to privately own personal property. However, they often seek to outlaw the economic right to privately own productive property.<sup>382</sup> In contrast, the primary aim of libertarianism is to protect economic liberty. They aim to protect the economic right to own productive property privately and the economic right to freedom of contract.<sup>383</sup> Libertarians often do not seek to promote economic equality except in a very thin sense.<sup>384</sup>

## **B. Priority Disagreement**

A liberal egalitarian public can disagree over which basic aims the state should promote because they disagree over which basic aims the state should prioritise. I call this “priority disagreement.” Liberal egalitarian citizens can all share the same basic aims, but they can prioritise them very differently.<sup>385</sup>

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<sup>381</sup> (Cohen 1978; Gould 1981; Roemer 1982; Elster 1985; Lukes 1985; Przeworski 1985; Elster 1986; Nove 1991; Roemer 1994; Cohen 2009)

<sup>382</sup> (Cohen 1989b; Roemer 1994; Cohen 2009; Schweikert 2014; Schemmel 2015)

<sup>383</sup> (von Mises 1949; Friedman 1973; Nozick 1974; Block 1976; Rothbard 1982; Lomasky 1987; Narveson 1988; Machan 1989; Hoppe 1993; Simmons 1993; Hoppe 2001; Rasmussen and Den Uyl 2005; Schmidtz 2006; Kukathas 2007; Block 2008, 2010a; Hoppe 2013; Block 2020; Hoppe 2021)

<sup>384</sup> (Nozick 1974: 175-79; Fressola 1981; Kirzner 1981; Rothbard 1982; Arthur 1987; Simmons 1992; Mack 1995; Narveson 1999; Attas 2003; Block 2004; Feser 2005; Casal 2007; Daskal 2010; Schmidtz 2010; Roark 2012; van Der Vossen 2013; Wendt 2018). Alternatively, “left” or “real” libertarians do aim to promote a thicker sense of economic equality (Steiner 1994; Van Parijs 1995; Otsuka 2003).

<sup>385</sup> Similar views already exist. First, political theorist Michael Huemer argues that agreement among reasonable citizens over general principles is not common (Huemer 2013: 42). Second, political theorist Gerald Gaus argues that agreement among reasonable citizens over how to interpret general principles is not common (Gaus 2003: 216-17). I argue that agreement among reasonable citizens over how to prioritise or rank general principles is not common.

As explored next, high liberals and classical liberals prioritise the same basic aims very differently.<sup>386</sup> They both aim to promote freedom and equality. However, high liberals prioritise economic equality over economic liberty.<sup>387</sup> They defend a thin conception of economic liberty that protects whichever economic liberties are often closely associated with state-regulated capitalism. They support a more considerable tax burden on entrepreneurs and the bourgeois to finance higher levels of public spending. In particular, they support higher levels of stimulus spending to provide ordinary citizens with more income. Similarly, they often support higher welfare spending to provide the worst-off with higher income levels. So, high liberals do not aim to outlaw the economic right to privately own productive property. However, they often aim to regulate the use of the privately-owned productive property heavily and heavily tax the profits.<sup>388</sup> Similarly, high liberals do not seek to outlaw the economic right to freedom of contract. However, they often aim to regulate employment contracts heavily and heavily tax the earnings.

In contrast, classical liberals prioritise economic liberty over economic equality.<sup>389</sup> They argue that economic liberty is also a weighty political value that economic equality must often compete against and compromise with. So, classical liberals argue that the basic aims of the state must respect economic liberty more strongly than the basic aims of high liberalism. They defend a thick conception of economic liberty that protects whichever economic liberties are often closely associated with free-market capitalism. In political theorist John Tomasi's words, "on thick conceptions of economic

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<sup>386</sup> Some political disagreements among high liberals and classical liberals do depend on policy disagreements. In particular, they disagree over the instrumental value of particular policies because they disagree over the likely consequences of particular policies. However, many political disagreements among high liberals and classical liberals often do not depend on policy disagreements. Even if they all agree on the likely consequences of particular policies, they often still disagree over their instrumental value because they disagree over which goals policies should prioritise. Alternatively, they can disagree over the intrinsic value of particular policies because they disagree over which side-constraints policies should prioritise.

<sup>387</sup> (Mill 1921; Keynes 1936; Rawls 1971; Kymlicka 1990; Sen 1992; Anderson 1993; Cohen 1995; Dworkin 2000; Nussbaum 2000; Murphy and Nagel 2002; Arneson 2004b; Gutmann and Thompson 2004)

<sup>388</sup> (Rawls 1971: 54)

<sup>389</sup> (Hume 1960; Friedman 1962; Buchanan 1975; Smith 1976a; Becker 1977; von Mises 1985; Barry 1986; Lomasky 1987; Buchanan 1993; Shapiro 1995; Gaus 1996; Nickel 2000; Tocqueville 2002; Gaus 2011b; Hayek 2011; Tomasi 2012; Brennan 2014c)

liberty, the wide-ranging economic liberties traditionally associated with capitalist economies are affirmed as basic rights.”<sup>390</sup> They prioritise the entrepreneurial liberties to own productive property privately and for entrepreneurs to privately own a high proportion of the profits they produce. Consequently, they only aim to regulate the privately-owned productive property's use lightly and only lightly tax the profits.<sup>391</sup> I call the thick economic rights to own productive property privately and to privately own a high proportion of the profits “entrepreneurial liberties.” Similarly, they prioritise the bourgeois liberties to freedom of contract and for the bourgeois to privately own a high proportion of the income they earn. I call the thick economic rights to freedom of contract and to privately own a high proportion of the earnings “bourgeois liberties.”

Classical liberals can instrumentally value entrepreneurial and bourgeois liberties because of the socioeconomic outcomes they judge they are likely to produce.<sup>392</sup> Economist Ludwig von Mises says, “in the capitalist society, there prevails a tendency toward a steady increase in the per capita quota of capital invested. The accumulation of capital soars above the increase in population figures. Consequently the marginal productivity of labor, real wage rates and the wage earners’ standard of living tend to rise continually.”<sup>393</sup> Similarly, in economist Joseph Schumpeter’s words, “the capitalist achievement does not typically consist in providing more silk stockings for queens but in bringing them within the reach of factory girls in return for steadily decreasing amounts of effort.”<sup>394</sup> Firstly, the prioritisation of entrepreneurial and bourgeois liberties promotes economic growth that makes ordinary citizens better off. As economists Milton Friedman and Rose Friedman say, “industrial progress, mechanical improvement, all of the great

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<sup>390</sup> (Tomasi 2012: xxvi). Political theorist John Rawls does not recognise thick economic liberties as basic rights (Rawls 1993: 298, 338).

<sup>391</sup> Liberal democratic states need not (explicitly) tax its citizens to finance public spending. First, it can borrow money to finance public spending. However, economist James Buchanan argues that borrowed money tends to just push higher tax rates onto future generation to finance public spending on the present generation (Buchanan 1964, 2001). Second, liberal democratic states can print money to finance public spending. However, economists James Buchanan and Richard Wagner argues that printed money tends to produce inflation that acts like a tax on savings and earnings (Buchanan and Wagner 1977). Unfortunately, this exceeds the scope of this dissertation.

<sup>392</sup> (Schmidtz 2006; Tomasi 2012; Huemer 2013; Brennan 2014c; Freiman 2017)

<sup>393</sup> (von Mises 1985: 601)

<sup>394</sup> (Schumpeter 1943: 67)

wonders of the modern era have meant relatively little to the wealthy. The rich in Ancient Greece would have benefited hardly at all from modern plumbing: running servants replaced running water. ... the great achievements of Western capitalism have redounded to primarily the benefit of the ordinary person.”<sup>395</sup> In economist Tyler Cowen’s words, “if a country grows at a rate of 5% per annum, it takes just over 80 years for it to go from a per capita income of \$500 to a per capita income of \$25,000. At a growth rate of 1%, that same improvement takes 393 years.”<sup>396</sup> Secondly, the prioritisation of entrepreneurial and bourgeois liberties also promotes economic growth that tends to make the worst-off better off. As political theorist Jason Brennan says, “there is on average a 1:1 correspondence between growth in real GDP and the growth of the income of the poor.”<sup>397</sup> Consequently, classical liberals can instrumentally value entrepreneurial and bourgeois liberties. Firstly, more private investment, innovation, and spending empower competitive markets to produce more diverse occupational choices, more income and wealth, and better and cheaper consumer goods and services for ordinary citizens and the worst-off over time.<sup>398</sup> Secondly, lower tax rates often promote higher economic growth over time and higher economic growth often provides higher tax revenues in return for the state to spend.<sup>399</sup>

In contrast, weakened entrepreneurial and bourgeois liberties tend to lower private investment, innovation and spending. So, first, competitive markets provide ordinary citizens and the worst-off with less diverse occupational choices, less income and wealth and fewer, worse and pricer consumer goods and services over time than they otherwise would have done. Second, lower economic growth often provides lower tax revenues for the state to spend than it otherwise would have done. In political theorist Christopher Freiman’s words, “the supply of labor and capital decreases under increasing

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<sup>395</sup> (Friedman and Friedman 1980: 147)

<sup>396</sup> (Cowen 2002: 45)

<sup>397</sup> (Brennan 2007: 295). Also see (Dollar and Kraay 2002).

<sup>398</sup> Political theorist Jason Brennan argues that thick economic liberties produce more economic and employment opportunities (Brennan 2007: 295-97). Also see (Schansberg 1996: 8; Schmidtz and Goodin 1998: 39-40; Garibaldi and Mauro 1999; Ilg and Haugen 2000).

<sup>399</sup> (Canto, Joines, and Laffer, 1983; Sowell 2014: 447-51)

rates of taxation. The less people work and the less they invest, the slower the economy will grow. The fewer hours people work, the fewer goods and services provided and the slower the rate of entrepreneurial, scientific and technological innovation.”<sup>400</sup> So, weakened entrepreneurial and bourgeois liberties tend to produce stagnant economic growth that makes ordinary citizens and the worst-off worse off over time.

Alternatively, classical liberals can also intrinsically value entrepreneurial and bourgeois liberties independently of the socioeconomic consequences. They are essential elements of entrepreneurial and bourgeois conceptions of the good life that many reasonable citizens wish to pursue. Tomasi says, “just as personal property can be bound up with one’s identity, for many people the ownership of productive property plays a profound role in the formation and maintenance of self-authored lives.”<sup>401</sup> Similarly, as political theorist William Edmundson’s words, “the ability to command and control productive resources is intimately connected with the conditions for exercising the second moral power, the capacity to form and pursue a (not unreasonable) conception of the good.”<sup>402</sup> So, entrepreneurial and bourgeois liberties are not just instrumentally valuable. They are also intrinsically valuable as essential elements of entrepreneurial and bourgeois conceptions of the good life that many reasonable citizens wish to pursue.

### **C. Polarised Disagreement**

In real politics, political disagreements can become polarised. In my terminology, unpolarised political disagreements (implicitly) agree on which standards of correctness are acceptable and only disagree over which standards of correctness are best. In unpolarised societies, both high liberals and classical liberals agree that they all defend acceptable standards of correctness and they only disagree over which standard is best. High liberals argue that high liberal standards are better than classical liberal standards because it better empowers the state to make the worst-off better off. In

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<sup>400</sup> (Freiman 2017: 66). Political theorist Jason Brennan argues that growth tends to harm the poor only if property rights and the rule of law are not enforced (Brennan 2007: 294). Also see (North 1990; De Soto 2000).

<sup>401</sup> (Tomasi 2012: 78)

<sup>402</sup> (Edmundson 2017: 26)

contrast, classical liberals argue that classical liberal standards are better than high liberal standards because it better empowers competitive markets and the state to make the worst-off better off over time. Alternatively, it better protects the economic liberties essential to entrepreneurial and bourgeois conceptions of the good life that many reasonable citizens wish to pursue. Conversely, in my terminology, polarised political disagreements do not agree on which standards of correctness are acceptable. In polarised societies, high liberals argue that classical liberal standards are unacceptable because it unacceptably weakens the capacity of the state to make the worst-off better off.<sup>403</sup> In contrast, classical liberals argue that high liberal standards are unacceptable because it unacceptably weakens the capability of competitive markets to make the worst-off better off over time.<sup>404</sup> Alternatively, it unacceptably weakens the protection of the economic liberties essential to entrepreneurial and bourgeois conceptions of the good life that many reasonable citizens wish to pursue.

Political liberals could argue that polarised citizens are not reasonable (in Rawls's sense). They do not respect the burdens of judgement. However, the problem is not that polarised citizens do not respect the burdens of judgement. The problem is that few, if any, standards of correctness are acceptable to reasonable but polarised citizens. The more polarised a group of reasonable citizens becomes, the less likely any standard of correctness is to remain acceptable to them. So, if reasonable citizens are polarised, few, if any, standards of correctness are likely to remain acceptable to them.

## VII. PICKING THE LOSERS

In polarised societies, reasonable citizens will probably never become reasonably confident that any standard of correctness is legitimate. The

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<sup>403</sup> Political theorist John Rawls argues that libertarianism permits unacceptable socioeconomic inequalities partially because it weakens the capacity of the state to provide ordinary citizens and the worst-off with primary social goods (Rawls 1993: 265). Also see (Freeman 2001: 147-51; Block 2010b; Boettke and Candela 2017).

<sup>404</sup> Economist F.A. Hayek argues that socialism eliminates the information about resource scarcity market prices signal to producers in order for them to know how to produce efficiently (Hayek 1945). Similarly, economist Ludwig von Mises argues that socialism eliminates the market prices that producers need to calculate how to produce efficiently (von Mises 2014).

political reality is that whichever democratic decisions a standard says are morally correct must often neglect particular demographics or make particular demographics worse off than they currently are. As political theorist Enzo Rossi says, “justice, as a concept (or goal, or ideal), is neutral with respect to conceptions of the good. The problem, however, is that each conception of justice (such as Rawls’ own “justice as fairness” or Nozick’s libertarianism, etc.) will inevitably give priority to a set of goods and interests over others.”<sup>405</sup> So, no standard of correctness is likely ever to become credible. Reasonable citizens will probably never become reasonably confident that any standard of correctness is legitimate because they likely disagree over which demographics can legitimately lose out in morally correct decisions. I call this the problem of picking the losers.<sup>406</sup>

A small group of citizens with similar values is likely to agree on which standards of correctness are acceptable to use to morally evaluate democratic decisions with. The less diverse the values among them remain, the thicker and more substantive credible standards of correctness can become. In contrast, a big group of citizens with different values is likely to disagree over which standards of correctness are acceptable to use to morally evaluate democratic decisions with. So, the more diverse the values among them become, the thinner and less substantive credible standards of correctness can become. Reasonable citizens should remain reasonably cautious about whether thicker and more substantive standards of correctness remain acceptable if they share fewer and fewer values in common.

Worse, the more polarised the values among reasonable citizens become, the less credible any standard of correctness can become. In particular, in polarised societies, high liberals argue that classical liberal standards are unacceptably biased. Classical liberal standards often say democratic decisions that neglect ordinary citizens and the worst-off and directly benefit

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<sup>405</sup> (Rossi 2019: 99)

<sup>406</sup> Economist F.A. Hayek argues that no complete ethical code to evaluate market distributions with exists (Hayek 1976: 107-11; 2007: 101; 2014a: 308). In contrast, I argue that no procedure-independent standard of correctness to evaluate democratic decisions with is credible.

entrepreneurs and the bourgeoisie are morally correct. Conversely, classical liberals argue that high liberal standards are unacceptably biased. High liberal standards often say democratic decisions that neglect entrepreneurs and the bourgeoisie and directly benefit ordinary citizens and the worst-off are morally correct. Whatever is needed to make standards of correctness reasonably acceptable, biased standards of correctness are not reasonably acceptable.

It is helpful to distinguish between the welfarist concern about whether particular demographics win or lose in the sense that they become better or worse off and the highly moralised concern about whether particular democratic decisions promote justice. Some demographics often do lose out in fair and just decisions. However, the losses of some demographic often are fallible but good evidence that the decision did not promote justice or the common good. Suppose democratic decisions persistently made the poorest, women, cultural minorities or a different demographic much worse off. In that case, it becomes increasingly difficult to remain reasonably confident that democratic decisions promote justice and the common good. The losses are not just seen as evidence of fair and just losses. The losses become seen as evidence of unfair and unjust losses because they persistently make particular demographics much worse off. So, reasonable citizens can reasonably agree that some demographics can legitimately lose out in morally correct decisions. However, reasonable citizens can reasonably disagree over which demographics can legitimately lose out in morally correct decisions.

As explored next, the problem of picking the losers provides excellent epistemic reason to concede to the epistemic limits of reasonable citizens and accept a cautious type of liberalism that prioritises the avoidance of harm over the promotion of justice.<sup>407</sup> In particular, what I call a “peaceful instrumentalist” conception of legitimacy makes legitimacy depend on the preservation of a mutually beneficial peace. Reasonable citizens can

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<sup>407</sup> Political theorist J.S. Mill, political theorist Judith Shklar, economist F.A. Hayek and political theorist Geoffrey Brennan and economist James Buchanan aim to avoid harm when man is at his worst (Mill 1975: 505; Shklar 1998: 9-10; Brennan and Buchanan 2000: 80-81; Hayek 2018: 57).

publicly observe that liberal democratic states tend to make the vote remain more politically attractive than the pitchfork. So, liberal democratic states can become credible political authorities with peaceful instrumentalism. Consequently, reasonable citizens can still seek to make democratic decisions to promote justice and the common good. Still, they should not make legitimacy depend on it, given the picking the losers problem.

## VIII. THE STRONGEST STANDARDS OF CORRECTNESS

In sections VIII-X, I introduce an extensive analysis of whether many of the most popular standards of correctness are credible. In particular, I apply what I call the problem of picking the losers to many popular standards of correctness. I show reasonable citizens should remain reasonably cautious about whether it is even legitimate to use popular standards of correctness to morally evaluate democratic decisions with, especially given the demographics that lose out in the democratic decisions they say are morally correct. Landemore gathers together some of the most popular standards of correctness in one of the most extensive defences of political cognitivism.<sup>408</sup> She says weak standards demand harm avoidance and that strong standards demand more than just the avoidance of harm.<sup>409</sup> I will explore the strongest standards and progressively weaker standards to show the problem of picking the losers is difficult to avoid. Reasonable citizens will probably never become reasonably confident that any of them are acceptable, given the demographics that lose out in democratic decisions the standards of correctness say are morally correct.

### A. A “Better For All” Standard

It is helpful to start with one of the strongest standards of correctness possible. A “better for all” standard would say morally correct decisions make everybody better off than they currently are. So, morally correct decisions avoid producing winners and losers because they produce benefits for every demographic. It appears a “better for all” standard is normatively

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<sup>408</sup> (Landemore 2012: 208-31)

<sup>409</sup> (Landemore 2012: 209)

attractive. First, everybody has a good practical reason to accept a “better for all” standard since they benefit. In Joshua Cohen’s words, “a deliberative account of the principle of the common good begins by observing that citizens have good reason to reject a system of public policy that fails to advance their interests at all.”<sup>410</sup> Similarly, political theorist Samuel Freeman says, “in voting it is the role, perhaps the duty, of democratic citizens to express their impartial judgments of what conduces to the good of all citizens.”<sup>411</sup> Second, everybody has good moral reason to accept a “better for all” standard since nobody is unacceptably excluded. In Dahl’s words, “if the common good does not mean everyone, who is to be left out and on what grounds can you justify them being left out?”<sup>412</sup> It appears a “better for all” standard is not an unacceptably biased standard because it demands morally correct decisions make everybody better off than they currently are.

However, a “better for all” standard faces three problems. First, a “better for all” standard is unrealistically demanding. As Dahl says, “if a writer takes seriously the notion that the common good is the common good of *all*, it is exceedingly difficult to specify much that arguably would meet his highly exacting test.”<sup>413</sup> In real politics, democratic decisions rarely make everybody better off than they currently are. Second, a “better for all” standard is unattractively demanding. Democratic decisions producing benefits for some but not all demographics could still count as morally correct. In particular, it appears democratic decisions that provide benefits for the worst-off but not the best off could still count as morally correct.

Third, a “better for all” standard can become unacceptably biased. With a “better for all” standard, morally correct decisions can still produce winners and losers because it produces huge benefits for particular demographics and tiny benefits for other demographics. So, in polarised societies, enough reasonable citizens are likely to disagree over which demographics can

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<sup>410</sup> (Cohen 1997: 420-21)

<sup>411</sup> (Freeman 2000: 375)

<sup>412</sup> (Dahl 1989: 284)

<sup>413</sup> (Dahl 1989: 283). Similarly, Aristotle suggests no form of government can have in view the common good of all (Aristotle 1995: 84-132).

acceptably gain the more considerable benefits to destabilise any consensus or convergence among them. A “better for all” standard that primarily benefits the best-off can differ from a “better for all” standard that primarily benefits the worst-off.

### **B. A “Worse For None” Standard**

It is helpful to now weaken the “better for all” standard. A “worse for none” standard would say morally correct decisions make nobody worse off than they currently are. So, morally correct decisions avoid producing winners and losers in the sense that they produce benefits for particular demographics and costs for other demographics. It appears a “worse for none” standard is normatively attractive. Landemore provides Pareto optimality as the first strong standard of correctness. In Landemore’s words, “on a strong interpretation of the standard, a possible interpretation could be defined as, say, Pareto optimality: a political decision would be correct whenever it improved at least one person’s welfare without harming anybody else’s.”<sup>414</sup> Joshua Cohen also defends Pareto optimality as one element of the standard of correctness. Cohen says, “this minimal constraint—of advancing the interests of each—comes out of the generic conception of a deliberative process and suffices to establish a Pareto-efficiency requirement, as one element of a conception of democracy.”<sup>415</sup> Consequently, a “worse for none” standard is not an unacceptably biased standard, given that it demands morally correct decisions make nobody worse off than they currently are.

However, a “worse for none” standard faces three similar problems to the “better for all” standard. First, a “worse for none” standard is unrealistically demanding. In Landemore’s words, “the criterion of Pareto optimality, however, suffers from the difficulty that in practice, almost no political decision has the property of enhancing everyone’s welfare at no cost to anybody else.”<sup>416</sup> In real politics, any democratic decision is very unlikely never to make anybody worse off than they currently are. Second, a “worse

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<sup>414</sup> (Landemore 2012: 218)

<sup>415</sup> (Cohen 1997: 421). Also see (Ostrom and Ostrom 1999: 97-98).

<sup>416</sup> (Landemore 2012: 218)

for none” standard is unattractively demanding. Democratic decisions producing huge benefits for particular demographics and tiny costs for other demographics can still become morally correct decisions. In particular, it appears democratic decision that produces huge benefits for the worst-off and tiny costs for the best off could still count as the morally correct decision.

Third, a “worse for none” standard can become unacceptably biased. With a “worse for none” standard, morally correct decisions can still produce winners and losers because it produces some benefits for particular demographics and no benefits for other demographics. So, in polarised societies, enough reasonable citizens are likely to disagree over which demographics should gain benefits to destabilise any consensus or convergence among them. A “worse for none” standard that benefits the best-off can look very different from a “worse for none” standard that benefits the worst-off. In particular, the opportunity costs of a “worse for none” standard for the worst-off demographics can become very high. It can force the worst-off demographics to forgo huge benefits to avoid tiny costs for the best off demographics. As economist Amartya Sen says, “even a single person opposing a change can block it altogether no matter what everybody else wants. Marie Antoinette’s opposition to the First Republic would have saved the monarchy in France.”<sup>417</sup> Consequently, a “worse for none” standard neglects the welfare of the worst-off demographics to protect the welfare of the best off demographics. A “worse for none” standard does not produce losers because it permits too much. It produces losers because it does not permit enough. A “worse for none” standard constrains the level of welfare the worst-off demographics will acquire to maintain the level of welfare the best off demographics have already acquired.

## IX. THE REALISTIC STANDARDS OF CORRECTNESS

It is helpful to now weaken the “worse for none” standard. A “worse for some” standard would say morally correct decisions often make some demographics worse off than they currently are. So, morally correct

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<sup>417</sup> (Sen 1970: 72)

decisions can produce winners and losers because they produce benefits for particular demographics and costs for other demographics. One theoretical virtue of “worse for some” standards is that they are realistic. In real politics, democratic decisions tend to make particular demographics worse off.

### **A. A “Compensate For Losers” Standard**

Landemore says Pareto optimality could remain the ideal standard. In Landemore’s words, “the criterion of Pareto optimality sets the highest possible bar for the possibility to call a decision correct. Nevertheless, one can see it as a regulative, ideal upper bound for the domain of correct political decisions.”<sup>418</sup> Similarly, economists Nicholas Kaldor and John Hicks rely on the spirit of Pareto optimality to defend the concept of Kaldor-Hicks efficiency.<sup>419</sup> Kaldor-Hicks efficiency says an outcome is efficient if and only if benefits for the winners are big enough to compensate for the costs of the losers. Kaldor-Hicks efficiency does demand the winners are capable of compensating the losers. However, Kaldor-Hicks efficiency does not demand the winners actually do compensate the losers. So, I assume a more generous interpretation of Kaldor-Hicks efficiency should say an outcome is efficient if and only if benefits for the winners are big enough to compensate for the costs of the losers and that the winners actually do compensate the losers. It appears a generous Kaldor-Hicks efficiency standard is not an unacceptably biased standard because it lets the losers become worse off than they currently are but only if they are compensated for their losses. However, a generous Kaldor-Hicks efficiency standard can become unacceptably biased.

First, in polarised societies, enough reasonable citizens are likely to disagree over which demographics should acquire costs (even if they acquire compensation) to destabilise any consensus or convergence among them. A generous Kaldor-Hicks efficiency standard aiming to promote economic equality and compensate the losers can look very different from a generous

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<sup>418</sup> (Landemore 2012: 218-19)

<sup>419</sup> (Hicks 1939; Kaldor 1939)

Kaldor-Hicks efficiency standard aiming to protect economic liberty and compensate the losers. High liberals prioritise economic equality over economic liberty. So, they tend to support higher tax rates to finance higher levels of public spending. In particular, they tend to support higher stimulus spending to give ordinary citizens more income. It appears high liberals could argue that the benefits of more stimulus spending are big enough to compensate for the costs of a bigger tax burden on entrepreneurs. Perhaps entrepreneurs must pay higher tax rates but will gain more affluent customers in return. Similarly, high liberals tend to support higher welfare spending to provide the worst-off with more income. It appears high liberals could argue that the benefits of more welfare spending are big enough to compensate for the costs of a bigger tax burden on the bourgeois. Maybe the bourgeois must pay higher tax rates, but they will gain a more generous social safety net in return.

In contrast, classical liberals prioritise economic liberty over economic equality. So, they tend to support cutting public spending to cut tax rates. In particular, they tend to support cutting stimulus spending to reduce entrepreneurs' tax burden. It appears classical liberals could argue that the benefits of cutting the tax burden on entrepreneurs are big enough to compensate for the costs of cutting stimulus spending. Perhaps cutting stimulus spending will cut ordinary citizens' income, but cutting the tax burden on entrepreneurs will likely promote private investment and innovation that will give ordinary citizens more, better and cheaper consumer goods and services over time in return. Similarly, they tend to support cutting welfare spending to cut the tax burden on the bourgeois. It appears classical liberals could argue that the benefits of cutting the tax burden on the bourgeois are big enough to compensate for the costs of cutting welfare spending. Maybe cutting welfare spending will cut the income of the worst-off, but cutting the tax burden on the bourgeois will likely promote private spending that will provide the worst-off with more and better economic and employment opportunities over time in return.

Second, in polarised societies, enough reasonable citizens are likely to disagree over what *type* of compensation the losers should get to destabilise any consensus or convergence among them. Kaldor-Hicks efficiency evaluates whether the financial benefits are big enough to compensate for the financial costs. However, not all costs are financial. So, financial compensation is often just the wrong type of compensation for nonfinancial costs. Even if a policy financially compensated the losers fully, the losers could still lose nonfinancial benefits, including leisure time, social status, cultural identity and whatever else the losers could value in nonfinancial terms.<sup>420</sup> So, a generous Kaldor-Hicks efficiency standard can become unacceptably biased, given the losers could prefer to avoid the non-financial costs of a policy than to acquire the financial compensation the policy provides.

Third, in polarised societies, enough reasonable citizens are likely to disagree over what *level* of financial compensation the losers should get to destabilise any consensus or convergence among them. In particular, many reasonable citizens are likely to disagree over who should get to decide what level of financial compensation the losers should get. On the one hand, the losers themselves could decide what level of financial compensation they should acquire. However, the losers are likely to select a level of financial compensation that is too high. The losers should expect the policy to make them better off than they currently are. The losers should not expect the policy to make them worse off than they currently are. Otherwise, the losers should prefer avoiding the financial and non-financial costs of the policy to acquiring the financial compensation that the policy provides. So, the losers would make Kaldor-Hicks efficiency collapse into Pareto optimality. The losers would select a level of financial compensation that makes them no worse off.

On the other hand, the losers themselves need not get to decide what level of financial compensation they should acquire. The policy-makers could decide. However, the policy-makers are likely to select a level of financial

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<sup>420</sup> A similar problem is discussed in (Reiss 2019b: 5).

compensation that is too low. The policy-makers should not make Kaldor-Hicks efficiency collapse into Pareto optimality for the reasons explored above. So, the policy-makers should select a level of financial compensation that makes the losers worse off than they currently are. Consequently, the losers would prefer avoiding the financial and non-financial costs of the policy to acquiring the low level of financial compensation the policy-makers select.

In polarised societies, reasonable citizens will probably never become reasonably confident that if any generous Kaldor-Hicks efficiency standard is acceptable. High liberals can reasonably argue that a generous Kaldor-Hicks efficiency standard that protects economic liberty and compensates the losers is unacceptably biased. High liberals can reasonably reject that cutting stimulus and welfare spending to cut the tax burden on entrepreneurs and the bourgeois as unacceptably biased towards entrepreneurs and the bourgeois and biased against ordinary citizens and the worst-off. More private investment, innovation and spending will likely provide ordinary citizens and the worst-off with more, better and cheaper consumer goods and services and more and better economic and employment opportunities over time. Nevertheless, it is not the correct type or level of compensation for the loss of income that less stimulus and welfare spending will likely cause. The higher level of income that more stimulus and welfare spending provides ordinary citizens and the worst-off is a social basis for self-respect. It empowers reasonable citizens to consider themselves equal members of society and capable of living a good life.<sup>421</sup>

In contrast, in polarised societies, classical liberals can reasonably argue that a generous Kaldor-Hicks efficiency standard that promotes economic equality and compensates the losers is unacceptably biased. Classical liberals can reasonably reject that raising the tax burden on entrepreneurs and the bourgeois to finance more stimulus and welfare spending as unacceptably biased towards the current average citizen and the current worst-off and against the future average citizen and the future worst-off. The

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<sup>421</sup> (Rawls 1993: 82)

more income than more stimulus and welfare spending will provide the current average citizen and the current worst-off is not the correct type or level of compensation for the future average citizen and the future worst-off's loss of more, better and cheaper consumer goods and services and more and better economic and employment opportunities that a bigger tax burden on entrepreneurs and the bourgeois will likely cause. The more, better and cheaper consumer goods and services and the more and better economic and employment opportunities that more private investment, innovation and spending would have provided over time would have empowered the future average citizen and the future worst-off to consider themselves an equal member of society capable of living a good life.

Alternatively, in polarised societies, classical liberals can reasonably argue that raising the tax burden on entrepreneurs and the bourgeois to finance more stimulus and welfare spending is unacceptably biased against entrepreneurs and the bourgeois. Classical liberals can argue that the more affluent customers and the more generous social safety net that more stimulus and welfare spending will provide entrepreneurs and the bourgeois are not the correct types or level of compensation for their loss of entrepreneurial and bourgeois liberty. The entrepreneurial liberty for entrepreneurs to privately own a high proportion of their profits and the bourgeois liberty for the bourgeois to privately own a high proportion of their earnings are essential elements of entrepreneurial and bourgeois conceptions of the good life that many reasonable citizens wish to pursue.

### **B. A “Better For Society” Standard**

It is helpful to now change the “worse for some” standard. A “better for society” standard would say morally correct decisions often make some demographics worse off than they currently are if the benefits exceed the costs. In particular, utilitarian efficiency says democratic decisions are morally correct if and only if they assist social institutions in maximising total utility.<sup>422</sup> So, benefits for the winners need not compensate for the costs of the losers. Total benefits for society need only exceed total costs.

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<sup>422</sup> (Woodard 2019: 142-46). Also see (Harsanyi 1982).

Landemore says, “a perhaps less exacting standard could be the standard of efficiency as defined by classical utilitarianism, in which a decision leading to some gain for society as a whole can be good even if it harms some people in the process.”<sup>423</sup> It appears utilitarian efficiency standards are not unacceptably biased because they make the losers worse off but only if total benefits for society exceed total costs. However, utilitarian efficiency standards can become unacceptably biased.

In polarised societies, enough reasonable citizens are likely to disagree over which “time horizon” they should prioritise to destabilise any consensus or convergence among them. In other words, they can reasonably disagree over whether they should prioritise short-term or long-term utility. Utilitarian efficiency standards that prioritise short-term utility can look very different from a utilitarian standard that prioritises long-term utility. High liberals tend to prioritise short-term utility over long-term utility. As economist John Maynard Keynes says, “in the long run we are all dead. Economists set themselves too easy, too useless a task if, in tempestuous seasons, they can only tell us that when the storm is long past the ocean is flat again.”<sup>424</sup> So, high liberals tend to support higher tax rates to finance higher state-directed public spending.<sup>425</sup> In particular, they tend to support higher state-directed stimulus spending to give ordinary citizens more income. It appears high liberals could argue that the short-term benefits of more state-directed stimulus spending exceed the short-term costs of a bigger tax burden on entrepreneurs. Reasonable citizens will gain a higher level of income quicker. Similarly, high liberals tend to support higher state-directed welfare spending to provide the worst-off with more income. It appears high liberals could argue that the short-term benefits of more state-directed welfare spending exceed the short-term costs of a bigger tax burden on the bourgeois. The worst-off will gain a higher level of income quicker.

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<sup>423</sup> (Landemore 2012: 219). Also see (Goodin and Spiekermann 2018: 39).

<sup>424</sup> (Keynes 1923: 80)

<sup>425</sup> High liberals could become tempted to argue that progressive taxation maximises total utility because of the diminishing marginal utility of money. However, this is a mistake. As economist Arthur Pigou explains, “in order to prove that the principle of equal sacrifice necessarily involves progression we should need to know that the last £10 of a £1000 income carries less satisfaction than the last £1 of a £100 income; and this the law of diminishing utility does not assert” (Pigou 1951: 85-86).

In contrast, classical liberals prioritise long-term utility over short-term utility. In economist F.A. Hayek's words, "the common good in this sense is not a particular state of things but consists in an abstract order which in a free society must leave undetermined the degree to which the several particular needs will be met."<sup>426</sup> So, they tend to support cutting state-directed public spending to cut tax rates. In particular, they support cutting stimulus spending to reduce entrepreneurs' tax burden. It appears classical liberals could argue that the long-term benefits of cutting the tax burden on entrepreneurs exceed the short-term costs of cutting state-directed stimulus spending. Perhaps cutting state-directed stimulus spending will cut ordinary citizens' income in the short term, but cutting the tax burden on entrepreneurs will likely promote market-directed private investment and innovation that will provide ordinary citizens with better and cheaper consumer goods and services in the long term. Similarly, they tend to support cutting state-directed welfare spending to cut the tax burden on the bourgeois. It appears classical liberals could argue that the long-term benefits of cutting the tax burden on the bourgeois exceed the short-term costs of cutting state-directed welfare spending. Maybe cutting state-directed welfare spending will cut the income of the worst-off in the short term, but cutting the tax burden on the bourgeois will likely promote market-directed private expenditure that will provide the worst-off with more and better economic and employment opportunities in the long term.

In polarised societies, reasonable citizens will probably never become reasonably confident that if any utilitarian efficiency standard is acceptable. High liberals can reasonably argue that utilitarian efficiency standards prioritising long-term utility are unacceptably biased. High liberals can reasonably argue that to cut stimulus and welfare spending to cut the tax burden on entrepreneurs is unacceptably biased towards entrepreneurs and the bourgeois and against ordinary citizens and the worst-off. The short-term costs of less income for ordinary citizens and the worst-off that less stimulus and welfare spending will likely cause should take moral priority over the long-term benefits of more private investment, innovation and spending.

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<sup>426</sup> (Hayek 1973: 114). Also see (Hayek 2011: 83).

Before ordinary citizens and the worst-off can gain any long-term benefits from more private investment, innovation and spending, ordinary citizens and the worst-off are left with less income than they otherwise would have done, which would have better empowered them to consider themselves an equal member of society capable of living a good life.

In contrast, in polarised societies, classical liberals can reasonably argue that utilitarian efficiency standards prioritising short-term utility are unacceptably biased. Classical liberals can reasonably argue that raising the tax burden on entrepreneurs to finance more stimulus spending is unacceptably biased towards the current average citizen and the current worst-off and against the future average citizen and the future worst-off. The long-term costs of the loss of more, better and cheaper consumer goods and services and of more and better economic and employment opportunities for the future average citizen and the future worst-off that a bigger tax burden on entrepreneurs and the bourgeois will likely cause should take moral priority over the short-term benefits that more stimulus and welfare spending will likely cause. After the current average citizen and the current worst-off have gained the higher income, the future average citizen and the future worst-off are forever left with fewer, worse and pricer consumer goods and services and fewer and worse economic and employment opportunities than they otherwise would have done, which would have better empowered them to consider themselves an equal member of society capable of living a good life.

Alternatively, in polarised societies, classical liberals can reasonably argue that raising the tax burden on entrepreneurs and the bourgeois to finance more stimulus and welfare spending is unacceptably biased against entrepreneurs and the bourgeois. Even if more stimulus and welfare spending maximises short-term utility, protecting entrepreneurial and bourgeois liberty should take priority. The short-term utility is not the only political value worth promoting. Entrepreneurial and bourgeois liberties are also weighty political values worth promoting independently of short-term utility and that short-term utility must often compete against and

compromise with. Entrepreneurial and bourgeois liberties are essential elements of entrepreneurial and bourgeois conceptions of the good life that many reasonable citizens wish to pursue.

### **C. A “Fair To All” Standard**

It is helpful to now change the “worse for some” standard. A “fair to all” standard would say morally correct decisions can make some demographics worse off than they currently are if the costs and benefits are distributed fairly among everybody. In particular, Rawlsian fairness says democratic decisions are morally correct if and only if it assists social institutions in providing fair terms for social cooperation among free equals. Landemore says, “this standard need not be a norm with a definite content but can refer to a norm-generating ideal procedure like Habermas’s ideal speech situation or Rawls’s original position.”<sup>427</sup> Early Rawls provides both a conception of justice as fairness and a conception of the common interest.

As the Introduction explored, early Rawls’s conception of justice as fairness contains two central principles. The first principle is the liberty principle. It demands states to provide a fully adequate scheme of equal basic liberties to all citizens. The second principle is the equality principle. It demands states to satisfy two individually necessary and jointly sufficient principles to justify socioeconomic inequalities. The fair equality of opportunity principle requires states to provide fair equality of opportunity to all citizens. The difference principle demands states to provide an equal distribution of primary social goods unless an unequal distribution would primarily benefit the worst-off.

Early Rawls does not only defend a conception of justice as fairness. He also defends a conception of the common interest. In Rawls’s words, “according to this principle social institutions are ranked by how effectively they guarantee the conditions necessary for all equally to further their aims, or by how efficiently they advance shared ends that will similarly benefit

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<sup>427</sup> (Landemore 2012: 210)

everyone.”<sup>428</sup> He argues that all citizens share an interest in the preservation of the equal citizenship social institutions provides them. As Rawls says, “the basic structure should be appraised from the position of equal citizenship. This position is defined by the rights and liberties required by the principle of equal liberty and the principle of fair equality of opportunity.”<sup>429</sup> The Rawlsian conception of the common interest as equal citizenship excludes distributive considerations. In Rawls’s words, “there are matters which concern the interests of everyone and in regard to which distributive effects are immaterial or irrelevant. In these cases the principle of the common interest can be applied.”<sup>430</sup> His conception of the common interest as equal citizenship only includes the liberty principle and the fair equality of opportunity principle.

Epistemic democrats can advance early Rawls’s conception of the common interest as equal citizenship to include distributive considerations. In particular, Joshua Cohen includes Rawls’s difference principle in his deliberative conception of the common good. Cohen says, “I do not wish to suggest here that Rawls’s difference principle is the uniquely acceptable conception of the common good. But there is an especially strong case for it, both because it accepts the presumption of equality that emerges from the special constraints on reasons within the deliberative democratic view and because it insists, roughly speaking, that no one be left less well off than anybody needs to be.”<sup>431</sup> Deliberative conceptions of the common good use the difference principle to say that the costs and benefits of democratic decisions should be distributed fairly, given a baseline of equal citizenship. It appears a Rawlsian fairness standard is not an unacceptably biased

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<sup>428</sup> (Rawls 1971: 83)

<sup>429</sup> (Rawls 1971: 82)

<sup>430</sup> (Rawls 1971: 83)

<sup>431</sup> (Cohen 1997: 421-22). Political theorist Joshua Cohen says political theorist John Rawls considered both principles as part of the common good. In Cohen’s words, “I had a growing sense of Rousseau’s impact on Rawls, who once said in passing that his two principles of justice could be understood as an effort to spell out the content of the general will” (Cohen 2010: 2). Rawls does suggest the common interest could include difference principle. Rawls says, “it is a political convention of a democratic society to appeal to the common interest. No political party publicly admits to pressing for legislation to the disadvantage of any recognized social group... it is natural, given the ethos of a democratic society, to single out that of the least advantaged and to further their long-term prospects in the best manner consistent with the equal liberties and fair opportunity... The difference principle can therefore be interpreted as a reasonable extension of the political convention of a democracy” (Rawls 1971: 280-81). Also see (Cohen 2010: 40, 42).

standard because it makes the losers worse off than they currently are but only if the costs and benefits are distributed among everybody fairly. However, a Rawlsian fairness standard can become unacceptably biased.

In polarised societies, enough reasonable citizens are likely to disagree over which liberties should become basic to destabilise any consensus or convergence among them.<sup>432</sup> A Rawlsian fairness standard that only lets thin economic liberties become basic can look very different from a Rawlsian standard that lets thick economic liberties become basic. High liberals only let thin economic liberties become basic liberties. So, they tend to support higher tax rates to finance higher levels of public spending. In particular, they tend to support higher stimulus spending to give ordinary citizens more income. High liberals can argue that excluding entrepreneurial and bourgeois liberties from the scheme of basic liberties empowers the state to satisfy the second principle of justice. The state is authorised to heavily regulate the use of productive property and employment contracts to provide fair equality of opportunity. Similarly, the state is empowered to heavily tax profits and earnings to finance the state's provision of primary social goods.

In contrast, classical liberals make thick economic liberties basic liberties. So, they tend to support cutting public spending to cut tax rates. In particular, they support cutting stimulus spending to reduce entrepreneurs' tax burden. Similarly, they tend to support cutting welfare spending to cut the tax burden on the bourgeois. First, classical liberals can argue that the inclusion of entrepreneurial and bourgeois liberties in the scheme of basic liberties empowers the state to satisfy the first principle of justice. The state must provide a fully adequate scheme of basic liberties that protects the essential elements to pursue entrepreneurial and bourgeois conceptions of the good life that many reasonable citizens wish to pursue. Second, classical liberals can argue that the inclusion of entrepreneurial and bourgeois liberties in the scheme of basic liberties empowers competitive markets and the state to satisfy the second principle of justice. First, competitive markets are entrusted to provide primary social goods more effectively than the state

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<sup>432</sup> (Patten 2014)

over time with more private investment, innovation and spending. Second, lower tax rates often promote higher economic growth over time. Higher economic growth often provides higher tax revenues in return for the state to provide primary social goods.<sup>433</sup>

In polarised societies, reasonable citizens will probably never become reasonably confident that if any Rawlsian fairness standard is acceptable. High liberals can reasonably argue that a Rawlsian fairness standard that lets thick economic liberties become basic liberties is unacceptably biased. High liberals can reasonably argue against cutting stimulus and welfare spending to cut the tax burden on entrepreneurs and the bourgeois is unacceptably biased towards entrepreneurs and the bourgeois and unacceptably biased against ordinary citizens and the worst-off. Including entrepreneurial and bourgeois liberties in the scheme of basic liberties unacceptably weakens the capacity of the state to satisfy the second principle of justice. The state is constrained from heavily regulating the use of productive property and employment contracts to provide fair equality of opportunity and from heavily taxing profits and earnings to finance the state's provision of primary social goods to make socioeconomic inequalities advantage the worst-off most.

In contrast, in polarised societies, classical liberals can reasonably argue that a Rawlsian fairness standard that only lets thin economic liberties become basic liberties is unacceptably biased. Classical liberals can reasonably argue that raising the tax burden on entrepreneurs and the bourgeois to finance more stimulus and welfare spending is unacceptably biased towards the current average citizen and the current worst-off and against the future average citizen the future worst-off. The exclusion of entrepreneurial and bourgeois liberties from the scheme of basic liberties unacceptably weakens the capability of competitive markets and the state to satisfy the second principle of justice over time. First, competitive markets are no longer as capable of providing the future average citizen and worst-off with primary social goods more effectively than the state over time, given the reduction in

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<sup>433</sup> (Canto, Joines, and Laffer, 1983; Sowell 2014: 447-51)

private investment, innovation and spending. Second, the state is not as capable of providing the future average citizen and worst-off with primary social goods more effectively over time, given that higher tax rates tend to lower tax revenue over time.

Alternatively, in polarised societies, classical liberals can reasonably argue against raising the tax burden on entrepreneurs and the bourgeois to finance more stimulus and welfare spending is unacceptably biased against entrepreneurs and the bourgeois. The exclusion of entrepreneurial and bourgeois liberties from the scheme of basic liberties unacceptably weakens the capacity of the state to satisfy the first principle of justice. Even if the state could provide fairer equality of opportunity and more primary social goods if it only included thin economic liberties in the scheme of basic liberties, the state would not provide a *fully adequate* scheme of basic liberties. It would unacceptably exclude essential elements of entrepreneurial and bourgeois conceptions of the good life that many reasonable citizens wish to pursue. The first principle of justice takes priority over the second principle of justice. So, a fully adequate scheme of basic liberties should include thick economic liberties even if it does constrain the capacity of the state to provide fair equality of opportunity and primary social goods.

## X. THE WEAKEST STANDARDS OF CORRECTNESS

It is helpful to now weaken the “worse for some” standard. An “avoid the worst” standard would say morally correct decisions avoid the worst outcomes. First, Estlund calls the worst outcomes all reasonable citizens wish to avoid “primary bads.” Estlund says war, famine, economic collapse, political collapse, epidemic and genocide are paradigmatic primary bads.<sup>434</sup> Second, political theorist Judith Shklar also argues that liberal democratic states should primarily aim to avoid the “summum malum” or the most feared cruelties which all of us know and would avoid if only we could.<sup>435</sup> Third, perhaps an “avoid the worst” standard just says morally correct

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<sup>434</sup> (Estlund 2008: 163)

<sup>435</sup> (Shklar 1998: 10-12)

decisions avoid aggression against persons and property. It appears an “avoid the worst” standard is not an unacceptably biased standard because all demographics avoid the worst outcomes. However, an “avoid the worst” standard can become unacceptably biased.

An “avoid the worst” standard faces a similar problem to a “worse for none” standard. With an “avoid the worst” standard, morally correct decisions can still produce winners and losers because they preserve a status quo that benefits particular demographics and harms others. Suppose the status quo often benefits a few of the best off and harms many of the worst-off. Avoiding the worst outcomes alongside a radical change to the status quo would benefit many of the worst-off. In contrast, avoiding the worst consequences alongside no radical change to the status quo would benefit a few of the best off. So, in polarised societies, enough reasonable citizens are likely to disagree over whether an “avoid the worst” standard does enough to destabilise any consensus or convergence among them. In particular, the opportunity costs of an “avoid the worst” standard for the worst-off demographics can become very high. It can force the worst-off demographics to forgo radical change to the status quo and preserve a beneficial status quo for the best off demographics. Consequently, an “avoid the worst” standard neglects the welfare of the worst-off demographics and protects the welfare of the best off demographics. An “avoid the worst” standard produces losers because it demands too little. An “avoid the worst” standard constrains the level of welfare many of the worst-off demographics will ever acquire and maintains the level of welfare a few of the best off demographics have already acquired.

## XI. FORMAL EPISTEMIC ACCOUNTS

In this section, I argue formal epistemic accounts do not avoid the need for a credible standard of correctness. Estlund distinguishes between substantive and formal epistemic accounts.<sup>436</sup> Substantive epistemic accounts provide a substantive standard of correctness. They could assume any popular substantive standards of correctness we have explored above. So, they can

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<sup>436</sup> (Estlund 2008: 169)

morally evaluate democratic decisions in light of a substantive standard of correctness. In contrast, formal epistemic accounts do not provide a substantive standard of correctness. Consequently, they morally evaluate democratic decisions in light of the epistemic virtues of the democratic mechanisms that produced them. They abstain from deciding which substantive standard of correctness they should use to morally evaluate democratic decisions with. Whichever substantive standard of correctness is true, when democratic mechanisms are epistemically virtuous, democratic decisions tend to publicly reveal which decision is morally correct.

It appears formal epistemic accounts easily avoid the problem of picking the losers. When democratic mechanisms are epistemically virtuous, democratic decisions tend to publicly reveal which demographics can legitimately lose out. However, the caution over which demographics can legitimately lose out should spill over into caution over which mechanisms are epistemically virtuous. In polarised societies, some reasonable citizens could reasonably accept the epistemic virtue of the democratic mechanisms providing fallible but good evidence that the democratic decision was morally correct despite whichever demographics lose out. Conversely, some reasonable citizens could reasonably accept who loses out in the democratic decision provides fallible but good evidence that the democratic mechanism was not epistemically virtuous after all, especially if the losses appear very bad. Alternatively, it provides fallible but good evidence that epistemically virtuous democratic mechanisms remain fallible.

Unfortunately, formal epistemic accounts do not avoid the problem of picking the losers. The epistemic virtues of the democratic mechanisms need not provide sufficiently strong evidence to accept that the chosen democratic decision was morally correct independently of whichever demographics lose out, regardless of how unfair it appears. The demographics that lose out in the democratic decision could provide stronger evidence that the chosen democratic decision was morally bad. So, formal epistemic accounts need not show which standard of correctness is true. However, they should still show which demographics can legitimately lose out in morally correct

decisions. Otherwise, the epistemic virtues of the democratic mechanisms need not provide stronger evidence that the democratic decision was morally correct. The demographics that lose out could provide more substantial evidence that the democratic decision was morally bad, especially if it appears very bad. Consequently, unless formal epistemic accounts show which demographics can legitimately lose out in morally correct decisions, the epistemic virtues of the democratic mechanisms need not provide sufficiently strong evidence that the democratic decision was morally correct.

## XII. CONCLUSION

Many of the most popular procedure-independent standards of correctness are not credible. The problem of picking the losers shows reasonable citizens should remain reasonably cautious about which demographics can legitimately lose out in morally correct democratic decisions. So, they should remain reasonably cautious about which standards of correctness are acceptable to use to morally evaluate democratic decisions with.

Perhaps no demographic can lose in morally correct decisions. A “better for all” standard demands morally correct decisions to make all demographics better off than they currently are. However, first, a “better for all” standard is unrealistically demanding. In real politics, democratic decisions do not make everybody better off than they currently are. Second, a “better for all” standard is unattractively demanding regardless of whether it is unrealistically demanding. Democratic decisions producing benefits for the worst-off but no benefits for the best off could still be the morally correct decision. Third, a “better for all” standard can become unacceptably biased. With a “better for all” standard, morally correct decisions can still produce winners and losers because they unacceptably produce huge benefits for particular demographics and tiny benefits for other demographics.

Alternatively, a “worse for none” standard demands morally correct decisions that make no demographics worse off than they currently are. However, first, a “worse for none” standard is unrealistically demanding. In

real politics, democratic decisions do make some worse off. Second, a “worse for none” standard is unattractively demanding regardless of whether it is unrealistically demanding. Democratic decisions that produce huge benefits for the worst-off and tiny costs for the best off can still become the morally correct decision. Third, a “worse for none” standard can become unacceptably biased. With a “worse for none” standard, morally correct decisions can still produce winners and losers because they unacceptably benefit particular demographics and have no benefits for other demographics.

Maybe some demographics can lose in morally correct decisions. First, a “compensate the losers” standard demands morally correct decisions to compensate the losers. In particular, a generous Kaldor-Hicks efficiency standard demands morally correct decisions actually financially compensate the losers for whatever costs they acquire. However, a “compensate the losers” standard can become unacceptably biased. With a “compensate the losers” standard, morally correct decisions can unacceptably provide the losers with the wrong type or the wrong level of compensation.

Second, a “better for society” standard demands total benefits of morally correct decisions exceed total costs. In particular, utilitarian efficiency standards demand morally correct decisions to maximise total utility. However, utilitarian efficiency standards can become unacceptably biased. With utilitarian efficiency standards, morally correct decisions can unacceptably produce costs for particular demographics if it prioritises short-term utility and unacceptably produces costs for other demographics if it prioritises long-term utility.

Third, a “fair to all” standard demands morally correct decisions to fairly distribute the costs and benefits among everybody. In particular, a Rawlsian fairness standard demands morally correct decisions provide fair terms for social cooperation among free equals. However, a Rawlsian fairness standard can become unacceptably biased. With a Rawlsian fairness standard, morally correct decisions can unacceptably produce costs for particular demographics if it only lets thin economic liberties become basic

liberties and unacceptably produce costs for other demographics if it lets thick economic liberties become basic liberties.

Perhaps morally correct decisions need only avoid the worst outcomes. An “avoid the worst” standard demands morally correct decisions to prevent the worst effects. In particular, a primary bads standard demands morally correct decisions to avoid war, famine, economic collapse, political collapse, epidemic, genocide, and whatever else reasonable citizens wish to avoid. However, an “avoid the worst” standard can become unacceptably biased. With an “avoid the worst” standard, morally correct decisions can unacceptably protect particular demographics the status quo benefits and unacceptably neglect other demographics the status quo harms.

Maybe whether democratic decisions are morally correct is not known in advance. So, formal epistemic accounts abstain from deciding whether democratic decisions are morally correct. Formal epistemic accounts say which epistemically virtuous democratic mechanisms tend to publicly reveal which decision is morally correct. However, democratic decisions can still produce benefits for particular demographics and costs for other demographics even if epistemically virtuous democratic mechanisms made the decisions. Consequently, whichever democratic decisions formal epistemic accounts say are morally correct because of the epistemically virtuous democratic mechanisms that produced them, those decisions can still unacceptably neglect the losers and even make them worse off.

The problem of picking the losers provides liberal democrats with excellent epistemic reason to abstain from deciding which, if any, democratic decisions are morally correct since democratic decisions often produce losers. So, liberal democrats need only evaluate whether democratic decisions preserve a mutually beneficial peace independently of whether they are morally correct. Reasonable citizens can publicly observe that liberal democratic states tend to make the vote remain more politically attractive than the pitchfork. Consequently, liberal democratic states should not become legitimate political authorities as the knowers of justice and the

common good. Liberal democratic states need only become legitimate political authorities as preservers of a mutually beneficial peace.

**Chapter Three**  
**Democratic Deliberations and Trojan Horses:**  
**The Fundamental Problem of Evaluation**

I. INTRODUCTION

In this chapter, I continue to argue against epistemic democracy. I apply the spirit of political theorist and epistemic democrat David Estlund's scepticism about epistocracy to epistemic democracy itself. Whether democratic mechanisms are reliable is no easier for reasonable citizens to become reasonably confident in than in which experts should rule. Epistemic democrats argue that liberal democratic states are legitimate political authorities partially because democratic decisions tend to publicly reveal what promotes justice and the common good. In this chapter, I will apply epistemic realism to the democratic mechanisms of epistemic democracy. In polarised societies, there is persistent disagreement amongst reasonable citizens over which mechanisms are reliable. So, I argue that democratic decisions are not credible evidence of what promotes justice and the common good because reasonable citizens should remain reasonably cautious about which mechanisms are reliable. In particular, reasonable citizens will probably never become reasonably confident in whether too many self-interested citizens deceive too many public-spirited citizens into mistaking the morally worse decision that unfairly advantages special interests for morally correct decisions. I call this the problem of Trojan horses. Reasonable citizens should become reasonably cautious about whether democratic mechanisms are reliable. Consequently, legitimacy should only depend on whether democratic mechanisms preserve a mutually beneficial peace independently of whether they are reliable or not.

I use the fundamental problem of measurement from the philosophy of science to introduce an innovative fundamental problem of evaluation for epistemic democracy. In the philosophy of science, the fundamental problem of measurement is that scientists often do not know the reliability of a measurement-procedure unless they can know the value of the measured variable in advance. So, scientists often do not know the reliability of a measurement-procedure for unobservable variables because they do not

know the value of unobservable variables in advance. Similarly, in political philosophy, a similar fundamental problem of evaluation would say reasonable citizens should lack confidence in the epistemic reliability of a democratic mechanism unless they can become reasonably confident in whether democratic decisions promote justice and the common good in advance. Consequently, reasonable citizens should lack confidence in the reliability of a democratic mechanism because they should lack confidence in whether democratic decisions promote justice and the common good in advance.

The fundamental problem of measurement shows that knowing the epistemic reliability of a measurement-procedure for an unobservable variable is no easier for scientists than knowing the value of the unobservable variable itself. Similarly, the fundamental problem of evaluation shows becoming reasonably confident in the epistemic reliability of a democratic mechanism is no easier for reasonable citizens than becoming reasonably confident in whether democratic decisions promote justice and the common good. So, reasonable citizens should become reasonably cautious about whether democratic mechanisms are reliable. Consequently, legitimacy should only depend on whether democratic mechanisms preserve a mutually beneficial peace independently of whether they are reliable.<sup>437</sup> As explored below, the fundamental problem of measurement has three solutions.<sup>438</sup> Similarly, I explore three analogous solutions to the fundamental problem of evaluation. Unfortunately, I argue that none of them solve the Trojan horse problem.

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<sup>437</sup> (von Mises 1927: 42; Popper 1945: 4; Hayek 1973: 5; Buchanan 1975: 23-27; Hayek 1997b: 237; Bellamy 1999; Przeworski 1999: 15-16). One possible explanation for why democracy tends to discover moral compromises that avoid political violence is that elected politicians tend to seek the vote of the median voter (Black 1948). Second, elected politicians tend to “logroll” or trade votes to more effectively express the intensity of political preferences (Tullock 2004a: 51-53). So, they tend to discover moral compromises few, if any, judge are the best decisions but few, if any, judge are the worst decisions either. They tend to discover second-best decisions that are acceptable as moral compromises.

<sup>438</sup> (Elgin 1996; Reiss 2008)

## II. EPISTEMIC DEMOCRACY

### A. The Central Assumptions

As the Introduction explored, epistemic democrats argue that liberal democratic states are legitimate political authorities because democratic decisions tend to publicly reveal what promotes justice and the common good. In Estlund's words, "according to epistemic proceduralism, the law is legitimate and binding on me even though it is unjust and this is owed partly to the fact that the procedure has epistemic value that is publicly recognizable."<sup>439</sup> Epistemic democrats defend three central assumptions. The first assumption they make is that a procedure-independent standard of correctness exists.<sup>440</sup> The correct decision is whichever decision would promote justice and the common good more effectively. The second assumption they make is a cognitive account of voting. A cognitive account of voting assumes citizens are public-spirited in that they vote to express their views about justice and the common good.<sup>441</sup> The third assumption is that a particular mechanism makes democratic decisions fallible evidence for what promotes justice and the common good. Aggregative conceptions of democracy assume the aggregation of votes in national elections (and referendums) makes democratic decisions fallible evidence for what promotes justice and the common good. Alternatively, deliberative conceptions of democracy assume that the exchange of views in public deliberations makes democratic decisions fallible evidence for what promotes justice and the common good.

### B. Substantive and Formal Epistemic Accounts

Estlund distinguishes between two different methods to morally evaluate democratic decisions.<sup>442</sup> Substantive epistemic accounts provide substantive procedure-independent standards of correctness to morally evaluate democratic decisions directly. Perhaps substantive epistemic accounts

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<sup>439</sup> (Estlund 2008: 8)

<sup>440</sup> (Estlund 2008: 169; Landemore 2012: 45; Goodin and Spiekermann 2018: 5, 208-11)

<sup>441</sup> (Goodin and Spiekermann 2018: 19, 49)

<sup>442</sup> (Estlund 2008: 169)

provide political theorist John Rawls's conception of justice as fairness as the substantive procedure-independent standard of correctness. So, substantive epistemic accounts make the epistemic reliability of democratic mechanisms knowable because they make the moral quality of democratic decisions knowable in advance. However, as explored in chapter two, substantive epistemic accounts face the value pluralism problem.<sup>443</sup> Especially in polarised societies, enough reasonable citizens are likely to disagree over which substantive standard of correctness they should use to morally evaluate democratic decisions with to destabilise any consensus or convergence among them.<sup>444</sup> Consequently, epistemic democrats should become reasonably cautious about which substantive standard of correctness they should directly morally evaluate democratic decisions.

In contrast, formal epistemic accounts do not provide a substantive procedure-independent standard of correctness. Formal epistemic accounts provide what I call an outcome-independent standard of reliability to directly evaluate the epistemic quality of democratic mechanisms. As explored below, formal epistemic accounts could use the Condorcet jury theorem to directly evaluate the epistemic quality of national elections (and referendums). So, formal epistemic accounts make the moral quality of democratic decisions knowable because they make the epistemic reliability of democratic mechanisms knowable in advance. Formal epistemic accounts apparently avoid the problem of value pluralism. Especially in polarised societies, enough reasonable citizens are likely to disagree over which substantive standard of correctness they should use to morally evaluate democratic decisions with to destabilise any consensus or convergence among them. However, formal epistemic accounts abstain from deciding which substantive standard they should use to morally evaluate democratic decisions to begin with.

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<sup>443</sup> (Cohen 1993; Rawls 1993; Gutmann and Thompson 1996; Waldron 1999; Knight and Johnson 2011). Also see (Gaus 1996; Bellamy 1999; Hampshire 1999; Gray 2000; Galston 2002; Kukathas 2007).

<sup>444</sup> Consensus is interpersonal agreement in light of the same reasons. Conversely, convergence is interpersonal agreement in light of different reasons (Gaus 2009).

Estlund argues that evaluating democratic mechanisms in formal epistemic accounts is analogous to evaluating scientific measurement-procedures. As Estlund says, “when some scientific procedure is held to have epistemic value, the argument must normally proceed in what I have called the formal epistemic manner. Arguments must be offered to show, whatever the truth is, this process has certain tendencies to ascertain it.”<sup>445</sup> Scientists can become reasonably confident that a scientific procedure is reliable independently of its outputs. Scientists can become reasonably confident that it is reliable because of its internal qualities. Similarly, epistemic democrats can become reasonably confident that a democratic mechanism is reliable independently of its outputs. They can become reasonably confident that it is reliable because of its internal qualities.

However, in practice, scientists often lack confidence that a scientific procedure is reliable because of its inputs, given the inputs push and pull in different directions. Similarly, epistemic democrats will probably never become reasonably confident that a democratic mechanism is reliable because of its inputs, given the inputs push and pull in different directions. In particular, as explored in chapters one and two, epistemic democrats face what I call the “problem of motivation pluralism.” First, citizens contain a plurality of different motivations. Citizens have a plurality of self-interested and public-spirited motivations that must often compete against and compromise with each other. Second, the public contains a plurality of diverse citizens. The public includes a plurality of more self-interested citizens and more public-spirited citizens who often compete against and compromise with each other. Worse, as explored in chapter one, public-spirited citizens can become demotivated to become competent and they can also become motivated to become self-interested. So, reasonable citizens will probably never become reasonably confident that the public-spirited preferences of reasonable citizens are more potent than their self-interested preferences nor that public-spirited citizens are often more motivated to become competent than self-interested citizens. Consequently, reasonable

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<sup>445</sup> (Estlund 2008: 170)

citizens should lack confidence that liberal democratic states do make morally correct decisions.

### III. TROJAN HORSES

In this section, I introduce the problem of Trojan horse conceptions of justice. Politics can become deceptive. Reasonable citizens tend to promote one reasonable conception of justice out of many. However, reasonable citizens can occasionally promote an unreasonable conception of justice by mistake. In particular, self-interested citizens sometimes deceive reasonable citizens into mistaking an unreasonable conception for a reasonable one.

Self-interested citizens can promote unreasonable conceptions of justice that aim to unfairly advantage them while disadvantaging wider society. I call this “sectarianism.” They can promote uncontroversially unreasonable conceptions of justice that aim to advantage them unfairly. I call this “naked sectarianism.” A nakedly sectarian conception of justice is hard to justify publicly. So, public deliberations probably filter nakedly sectarian conceptions of justice out of the democratic process.<sup>446</sup> However, self-interested citizens can promote unreasonable conceptions of justice that aim to advantage them unfairly but are made to appear reasonable. I call this “disguised sectarianism.” Disguised sectarian conceptions of justice are not as hard to publicly justify. Consequently, public deliberations need not always filter disguised sectarian conceptions of justice out of the democratic process.

Trojan horse conceptions of justice are a paradigmatic case of disguised sectarianism.<sup>447</sup> In ancient Greek mythology, the Greek king Odysseus commands his army to capture the city of Troy. However, the Greek army could not break through the city’s walls. So, Odysseus designs a more indirect strategy to capture the city. Odysseus orders his soldiers to build a giant wooden horse and Odysseus hides inside it alongside his best soldiers.

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<sup>446</sup> (Gutmann and Thompson 2004: 10-11). Also see (Landemore 2012: 154–56, 85–86; Goodin and Spiekermann 2018: 19, 49-50, 140, 299-302).

<sup>447</sup> Political scientist Adam Przeworski argues that ideological domination can cause citizens to enter public deliberations with true beliefs and to leave with false beliefs (Przeworski 1998: 145).

The wooden horse is made to appear like a sign of peace. Consequently, the Trojans bring it inside the city's wall. However, it is actually an instrument of war. Once the wooden horse is inside the city's walls, Odysseus and his men are capable of destroying the deceived city under cover of night.

Similarly, some conceptions of justice can become analogous to the Trojan horse. A special interest group aims to capture strategically significant social institutions. However, special interest groups are incapable of gaining entry. So, special interest groups design a more indirect strategy to capture strategically significant social institutions. Special interest groups strategically design a Trojan horse conception of justice that aims to unfairly advantage them while it unfairly disadvantages wider society. The Trojan horse conception is made to appear like a reasonable conception. Consequently, enough deceived citizens mistakenly argue for it in public deliberations and mistakenly vote for it in national elections (and referendums). However, it is actually an instrument designed to provide unfair advantages for special interest groups. Once the Trojan horse conception enters strategically significant social institutions, special interest groups can advantage themselves unfairly while it unfairly disadvantages wider society under cover of justice.

Special interest groups need not create Trojan horse conceptions of justice from beginning to end. They need only marginally change popular conceptions of justice to advantage them unfairly. So, Trojan horses need only gradually emerge out of a process of trial and error. One reasonable conception of justice could demand the state prioritise cheap energy, especially for the worst-off. However, a reasonable conception of justice should not prioritise cheap energy over all else. Nevertheless, a fossil fuel group could strategically exaggerate the social value of cheap energy and change a popular conception of justice that properly prioritises cheap energy into a Trojan horse that overvalues cheap energy to unfairly advantage the fossil fuel group. The fossil fuel group makes the diminishing marginal returns of ever-cheaper energy with ever more deregulation, tax cuts and fossil fuel subsidies appear to benefit wider society primarily as the fossil

fuel group gains ever more economic power that strengthens fossil fuel companies economically.

A reasonable alternative conception of justice could demand the state prioritise clean air, especially for the worst-off. However, a reasonable conception of justice should not prioritise clean air over all else. Nevertheless, an environmentalist group could strategically exaggerate the social value of clean air and change a popular conception of justice that properly prioritises clean air into a Trojan horse that overvalues clean air to advantage the environmentalist group unfairly. The environmentalist group makes the diminishing marginal returns of ever cleaner air with ever more environmental regulation, Pigouvian taxes and green subsidies appear to primarily benefit wider society as the environmentalist group gains ever more political power that strengthens environmental organisations politically.

Perhaps reasonable citizens do not often mistake a Trojan horse conception of justice for a reasonable conception. Maybe many of them are just too manipulated to deceive reasonable citizens. However, perhaps reasonable citizens occasionally mistake a Trojan horse conception of justice for a reasonable conception.<sup>448</sup> Maybe a few of them are manipulated just enough to deceive reasonable citizens. So, reasonable citizens occasionally mistake the morally worse outcome that unfairly advantages a special interest group for the morally better result.

Political scientist Adam Przeworski argues that socioeconomically strong demographics can disproportionately influence democratic decisions. First, background socioeconomic conditions do not predetermine democratic decisions.<sup>449</sup> National elections and public deliberations determine democratic decisions. Second, no individuals or groups are powerful enough to determine democratic decisions unilaterally. Nevertheless, socioeconomic

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<sup>448</sup> Economist Gordon Tullock argues that special interest groups tend to aim to convince their members to vote in their interests (Tullock 2004b: 17-18). In contrast, economist F.A. Hayek argues that special interest groups tend to aim to deceive nonmembers to vote in their interest (Hayek 1973: 294).

<sup>449</sup> (Przeworski 1991: 10-14)

background conditions privilege specific individuals or groups enough to disproportionately influence national elections and public deliberations. In particular, political scientists Adam Przeworski and Michael Wallerstein extensively analyse how concentrations of capital influence democratic decisions.<sup>450</sup> Often, implicit threats of retaliation influence democratic decisions. If morally correct decisions concentrated big practical costs (financial or otherwise) onto economically powerful businesses, the wider public would risk retaliation in return. The wider public could risk wage stagnation, increased unemployment, capital flight, etc. So, reasonable citizens could knowingly vote for a morally worse decision to avoid the even worse outcome of unreasonable but predictable retaliation by economically powerful interests. However, Trojan horses do not make reasonable citizens knowingly vote for a morally worse decision as a moral compromise. Trojan horses make reasonable citizens unknowingly mistake the morally worse or incorrect decision for the morally better or correct decision.

#### IV. THE FUNDAMENTAL PROBLEM OF EVALUATION

##### **A. The Fundamental Problem of Measurement**

In this section, I introduce an innovative analogy between evaluating the reliability of measurement-procedures in the philosophy of science and evaluating the reliability of democratic mechanisms in political theory. Formal epistemic accounts do not just bring the benefits of evaluating scientific procedures into evaluating political mechanisms. They also bring the problems of evaluating scientific procedures into evaluating political mechanisms.<sup>451</sup>

The measurement of temperature is a paradigmatic case of the fundamental problem of measurement. Philosopher of science Hasok Chang analyses

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<sup>450</sup> (Przeworski and Wallerstein 1988)

<sup>451</sup> Political theorist Gerald Gaus questions whether reasonable citizens should accept the epistemic reliability of democratic mechanisms (Gaus 2011a). Gaus provides a negative argument for the view that Estlund has not yet met his burden of proof. In contrast, I provide a positive argument for the view that Estlund will probably never meet his burden of proof.

temperature measurement.<sup>452</sup> It appears easy for chemists to know the temperature of some water. Chemists need only put the thermometer into the water and then measure the temperature. However, the history of chemistry shows it is very hard for chemists to know the temperature of some water. To know the true temperature of the water, chemists must know the thermometer is reliable in advance. However, to know the thermometer is really reliable, chemists must know the temperature of the water in advance. So, chemists will probably never know the true temperature of the water. Chemists can know the true temperature of the water only if they already know the thermometer is reliable. However, chemists can know the thermometer is really reliable only if they already know the water's temperature. Chemists are trapped in a vicious circle.

Scientists often face the fundamental problem of measurement, especially if they wish to know the value of an unobservable variable. Philosopher of science Julian Reiss provides one of the most extensive analyses of the fundamental problem of measurement in its most general terms.<sup>453</sup> It is beneficial to quote Reiss in full,

“In order to know the value of a variable, we need to know that the measurement procedure associated with it is veridical (that is, that the procedure gives the correct result). But in order to be able to check whether the procedure is veridical, we need to know the value of the variable. Since we have no independent access to either the value of the variable or the accuracy of the procedure, we can never know whether the measurement procedure is veridical or what the value of the variable is.”<sup>454</sup>

Scientists face the fundamental problem of measurement whenever they have no independent access to either the value of the measured variable or the measurement-procedure's reliability.

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<sup>452</sup> (Chang 2004)

<sup>453</sup> (Reiss 2008). Also see (Elgin 1996).

<sup>454</sup> (Reiss 2008: 64)

## **B. The Fundamental Problem of Evaluation**

To become reasonably confident in which democratic decision is truly morally correct, reasonable citizens must become reasonably confident that national elections (and referendums) are reliable in advance. However, to become reasonably confident in which national elections are really reliable, reasonable citizens must become reasonably confident in which democratic decision is morally correct in advance. So, reasonable citizens should lack confidence in which democratic decision is truly morally correct. Reasonable citizens can become reasonably confident in which democratic decision is truly morally correct only if they are already reasonably confident in which national elections are reliable. However, reasonable citizens can become reasonably confident that national elections are really reliable only if they are already reasonably confident in which democratic decisions are correct. Reasonable citizens are trapped in a vicious circle.

It is very difficult to evaluate the epistemic reliability of democratic mechanisms, especially given the risk of Trojan horse conceptions of justice. In epistemically virtuous elections, competent citizens vote independently for whichever decision they judge promotes justice more effectively. However, in Trojan horse elections, Trojan horse conceptions of justice deceive (otherwise) competent citizens to vote for whichever decision unfairly advantages the special interest group even if it unfairly disadvantages wider society. Similarly, in epistemically virtuous deliberations, incompetent citizens popularise whichever problem-solving heuristics more effectively promote justice. However, in Trojan horse deliberations, Trojan horse conceptions of justice deceptively popularise whichever problem-solving heuristics unfairly advantage special interest groups. So, unless epistemic democrats can become reasonably confident in which conceptions of justice they should use to morally evaluate democratic decisions with in advance, they should lack confidence in the epistemic reliability of democratic mechanisms.

### C. Towards An Epistemic Realism

I defend an epistemic type of realism that concedes to the epistemic capabilities of reasonable citizens. In my terminology, political credibility demands political authorities fulfil what I call the “confidence tenet,” which requires that the public can become reasonably confident that political authorities are legitimate. Reasonable citizens need to see states as legitimate political authorities.<sup>455</sup> Otherwise, sooner or later, undetectable legitimacy is likely to motivate a majority or a critical mass of reasonable citizens to aim to replace political authorities they are not reasonably confident are legitimate with political authorities they are reasonably confident are legitimate. So, formal epistemic accounts need democratic mechanisms reasonable citizens can become reasonably confident are reliable. Formal epistemic accounts need *credible* democratic mechanisms.

As explored next, the problem fundamental problem of evaluation provides excellent epistemic reason to concede to the epistemic limits of reasonable citizens and accept a cautious type of liberalism that prioritises the avoidance of harm over the promotion of justice. In particular, what I call a “peaceful instrumentalist” conception of legitimacy makes legitimacy depend on the preservation of a mutually beneficial peace. Reasonable citizens can publicly observe that liberal democratic states tend to make the vote remain more politically attractive than the pitchfork. So, liberal democratic states can become credible political authorities with peaceful instrumentalism. Consequently, reasonable citizens can still seek to make democratic decisions to promote justice and the common good. Still, they should not make legitimacy depend on it, given the fundamental problem of evaluation.

Reiss provides three solutions to the fundamental problem of measurement. First, Reiss’s “arbitrary” solution is that scientists can know the value of the measured variable because scientists can know the veracity of the measurement-procedure in advance after all. Similarly, epistemic democrats can defend formal epistemic accounts that say reasonable citizens can

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<sup>455</sup> I assume a majority of the public or a critical mass are reasonable.

become reasonably confident in which democratic decision is truly morally correct because they can become reasonably confident in which national elections (and referendums) are reliable in advance after all. Second, Reiss's "absolute" solution is that scientists can know the veracity of the measurement-procedure because scientists can know the value of the measured variable in advance after all. Similarly, epistemic democrats defend substantive epistemic accounts that say reasonable citizens can become reasonably confident in whether national elections are really reliable because they can become reasonably confident in which democratic decisions are correct in advance. Third, Reiss's "equilibrium" solution is that scientists can seek an equilibrium between knowledge about the value of the measured variable and the veracity of the measurement-procedure. Similarly, epistemic democrats can defend what I call an institutional epistemic account that says reasonable citizens can become reasonably confident in an equilibrium between institutionalised knowledge about the moral qualities of democratic decisions and institutionalised knowledge about the epistemic qualities of national elections. It is helpful to explore them one by one.

## V. A PROCEDURE-FIRST SOLUTION

### A. Measurement: An Arbitrary Solution

In this section, I analyse analogous "procedure-first" solutions. An "arbitrary" solution to the fundamental problem of measurement is that scientists can know the true value of the measured variable because scientists can know the veracity of the measurement-procedure in advance after all.<sup>456</sup> For example, chemists can know the temperature of the water because chemists can know the reliability of the thermometer in advance after all.<sup>457</sup>

Reiss argues that scientists can know the veracity of the measurement-procedure in advance if they can just decide by fiat that it defines the value

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<sup>456</sup> (Reiss 2008: 65-66). Also see (Elgin 1996: 60-100).

<sup>457</sup> (Chang 2004: 197-219)

of the measured variable. So, the measurement-procedure becomes, by definition, infallible. The variable's value is, by definition, whatever the measurement-procedure says. In particular, Reiss says scientists can conjoin operationalism with conventionalism. First, the operationalist argues that whichever measurement-procedure is most closely associated with a variable defines the associated variable's value. The physicist Percy Bridgman was the founder of operationalism. Bridgman says, “we mean by any concept nothing more than a set of operations; the concept is synonymous with the corresponding set of operations.”<sup>458</sup> However, operationalism does not provide a theory of measurement. It needs something else to say which measurement-procedures are most closely associated with which variables. It needs conventionalism. Reiss says, “to turn operationalism into a theory of measurement, one has to pair it with a version of conventionalism.”<sup>459</sup> The conventionalist argues that social conventions associate particular measurement-procedures with particular variables. Consequently, an operationalist theory of measurement says whichever measurement-procedures social conventions most closely associate with a variable actually define the associated variable's value. Bridgman primarily discusses the measurement of length. The social convention was to measure the length with rigid metal rods. Hence, by definition, the length of something is whatever the rigid metal rods say the length is.

An operationalist theory of measurement is not a very theoretically attractive solution to the fundamental problem of measurement. An operationalist theory of measurement is an unattractively “arbitrary” solution. If rigid metal rods define the length of something, the rigid metal rods become, by definition, infallible. So, an operationalist theory of measurement prohibits the possibility of any future discovery of a more accurate measurement-procedure. In philosopher of science Donald Gillies’s words, “it would be like first *defining* a metre as the distance between these two marks on this rod and then saying more accurate measurement had revealed the distance

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<sup>458</sup> (Bridgman 1927: 5)

<sup>459</sup> (Reiss 2008: 70)

was not a metre.”<sup>460</sup> First, even if a more accurate measurement-procedure is not discovered in the future, a theory of measurement should not prohibit the possibility of discovery by definition. A theory of measurement should let the empirical work of the scientists decide if a different measurement-procedure is more accurate.<sup>461</sup> Second, the empirical work of the scientists often does discover more accurate measurement-procedures over time. In particular, the empirical work of the scientists discovered that rigid metal rods often provide an inaccurate measure of length since they expand in the heat. Consequently, a theodolite often provides a more accurate measure of length, given that it does not grow in the heat.

Liberal democrats can provide an analogous solution to the fundamental problem of evaluation. Liberal democrats can become reasonably confident in which democratic decisions are truly morally correct because liberal democrats can become reasonably confident in which national elections (and referendums) are reliable in advance after all. In particular, purely procedural democrats decide by fiat that democratic decisions define what promotes justice and the common good. So, national elections become infallible by definition. Whatever the national election decides is, by definition, the morally correct decision. Political theorists Jules Coleman and John Ferejohn and Joshua Cohen point out that economist William Riker argues against a purely procedural populist conception of democracy.<sup>462</sup> However, they argue that few, if any, liberal democrats actually defend it. In particular, epistemic democrats are not purely procedural democrats. They accept it is unattractively arbitrary to decide by fiat that democratic decisions, by definition, promote justice. So, they accept democratic decisions can only become fallible evidence for what promotes justice and the common good. They accept some procedure-independent standard of correctness must define what promotes justice and the common good instead.

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<sup>460</sup> (Gillies 1972: 7)

<sup>461</sup> (Reiss 2008: 70)

<sup>462</sup> (Cohen 1986: 28-29; Coleman and Ferejohn 1986: 8). It is controversial whether economist William Riker does only argue against a purely procedural populism (Riker 1982: 291).

## **B. Evaluation: Formal Epistemic Accounts**

Formal epistemic accounts do not say democratic decisions define what promotes justice and the common good. However, formal epistemic accounts do say reasonable citizens can become reasonably confident in which democratic decisions are truly morally correct because they can become reasonably confident in whether democratic mechanisms are reliable in advance.<sup>463</sup> Reasonable citizens can become reasonably confident in whether democratic mechanisms are reliable independently of their outputs. They can become reasonably confident in whether democratic mechanisms are reliable because of their internal qualities. Formal epistemic accounts provide what I call an outcome-independent standard of reliability to evaluate the epistemic qualities of democratic mechanisms with.

Aggregative conceptions of democracy put the aggregation of votes in national elections (and referendums) at the centre of democratic politics. Democracy is defined by “one person, one vote.” Political theorists Robert Goodin and Kai Spiekermann defend the assumptions of the Condorcet jury theorem.<sup>464</sup> It makes two central assumptions. First, it assumes all citizens are competent. A competent citizen performs better than random. A fair coin flip performs no better than random. In a binary choice between the right answer and a wrong answer, a fair coin flip will choose the wrong answer as often as the right answer. In contrast, a competent citizen will choose the right answer more often than the wrong answer.<sup>465</sup> Second, the Condorcet jury theorem assumes all citizens are independent. Independent citizens vote to express their views about justice independently of the views of their

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<sup>463</sup> (Estlund 2008: 169)

<sup>464</sup> (Goodin and Spiekermann 2018). Also see (Grofman and Feld 1988; Estlund et al. 1989; List and Goodin 2001; Goodin 2003: 91-108; Dietrich and Spiekermann 2013).

<sup>465</sup> (Goodin and Spiekermann 2018: 17-18, 23-30). Political theorist David Estlund rejects the average citizen performs better than random (Estlund 2008: 16, 235-36). Political theorists Robert Goodin and Kai Spiekermann argue that the mean competence of the average citizen need only become better than random (Goodin and Spiekermann 2018: 23-25) and that they need only average better than random across specific topics (Goodin and Spiekermann 2018: 25-26). First, they argue that to increase the competence of any proper subsection of the public is to increase the mean competence of the average citizen. They need not make every citizen competent. Second, to make the most incompetent politically abstain is to increase the mean competence of the average citizen. Third, formal civil education and informal political participation at a young age could make modest increases in the mean competence of the average citizen over time (Goodin and Spiekermann 2018: 92-95).

neighbours. So, nobody copies their competent but incorrect neighbours (even if somebody does make the same mistake as their neighbours independently).<sup>466</sup> When competent citizens vote independently, the probability that the majority has chosen the right answer increases as the size of the group increases.<sup>467</sup> Consequently, the aggregation of competent and independent votes makes democratic decisions fallible evidence for what promotes justice and the common good.

Political scientist Philip Converse defends the assumptions of the “miracle of aggregation” theorem.<sup>468</sup> It makes two central assumptions. First, it assumes not all but only some citizens are competent. They perform better than random. So, when competent citizens vote, it is most likely that more choose the right answer than the wrong one. On average, the competent votes choose the right answer. Second, “the miracle of aggregation” theorem assumes citizens who are not competent perform no worse than random. In a binary choice between the right answer and a wrong answer, a citizen who is not competent will choose the right answer as often as the wrong answer. On average, the incompetent but correct votes cancel out the incompetent and incorrect votes. Consequently, when many incompetent citizens and a few competent citizens vote together, the few competent votes mean that it is most likely that more choose the right answer than the wrong answer. The

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<sup>466</sup> (Goodin and Spiekermann 2018: 18). Public deliberation could violate independence if citizens just copy the views of their neighbours. In particular, political theorist John Rawls rejects citizens are independent. As Rawls says, “it is clear that the votes of different persons are not independent. Since their views will be influenced by the course of the discussion, the simpler sorts of probabilistic reasoning do not apply” (Rawls 1971: 358). Similarly, political theorist Joshua Cohen argues that citizens are not independent. As Cohen’s words, “theorem requires that individual judgments be independent. But if people are talking to each other the judgments do not meet that condition” (Cohen 2010: 79). The problem is that, before citizens vote in national elections (and referendums), public deliberations induce dependence. However, public deliberation need not violate independence if citizens change their view in the light of the better arguments and better information of their neighbours. Epistemic democrats can argue that public deliberations promote competence before now competent citizens vote independently in national elections (Goodin and Spiekermann 2018: 68-82). Also see (Estlund et al. 1989; List and Goodin 2001; Dietrich and Spiekermann 2013).

<sup>467</sup> (Goodin and Spiekermann 2018: 21-22, 228-29). Also see (Lippert-Rasmussen 2012: 246).

<sup>468</sup> (Converse 1990). Also see (Galton 1907; Berelson, Lazarsfeld, and McPhee 1954; Page and Shapiro 1992, 1993; Wittman 1995; Surowiecki 2004; Page 2007; Hong and Page 2012). Political theorist Hélène Landemore distinguishes between elitist, democratic and distributed models of the “miracle of aggregation” (Landemore 2012: 156-60). Unfortunately, this exceeds the scope of this dissertation.

aggregation of competent and incompetent votes makes democratic decisions fallible evidence for what promotes justice and the common good.

Deliberative democrats put the exchange of views in public deliberations at the centre of democratic politics. Democracy is defined as “government by discussion.”<sup>469</sup> Political theorist Hélène Landemore defends the assumptions of the “numbers trump ability” theorem. The “numbers trump ability” theorem makes four central assumptions. First, the question is too hard for any individual to answer correctly easily. Second, some citizens are competent. They are not competent in the sense that they perform better than random. They are competent in the sense that they know some problem-solving heuristics that will correctly solve some problems. To distinguish between the two conceptions of competence, I call the better than random performance “moderate competence” and the knowledge of some effective problem-solving heuristics “minimal competence.”

Third, all citizens recognise the best solutions whenever they contact them. As Landemore says, “the participants think very differently, even though the best solution must be obvious to all of them when they are made to think of it.”<sup>470</sup> Fourth, some problem-solving heuristics that correctly solve a plurality of problems are scattered throughout the membership of the more cognitively diverse group. So, when many minimally competent but cognitively diverse citizens deliberate together, they tend to popularise effective problem-solving heuristics. In Landemore’s words, “it is often better to have a group of cognitively diverse people than a group of very smart people who think alike.”<sup>471</sup> The popularisation of problem-solving heuristics during public deliberations makes democratic decisions fallible evidence of what promotes justice and the common good. The different theories give different epistemic democrats good theoretical reasons to

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<sup>469</sup> (Cohen 1989a; Mill 1991; Knight and Johnson 1994; Gutmann and Thompson 1996; Elster 1998b; Dryzek 2000; Freeman 2000; Dryzek and List 2003; Ackerman and Fishkin 2005; Sunstein 2006; Goodin 2008; Fishkin 2009; Mansbridge et al. 2010). Also see (Buchanan 1954: 120; Knight 1960: 163; Ostrom 1997: 272-79; 2008: 67; Bagehot 2009: 17; Emmett 2020).

<sup>470</sup> (Landemore 2012: 102)

<sup>471</sup> (Landemore 2012: 103)

expect democracy to publicly reveal what promotes justice and the common good.

### **C. Trojan Horse Elections**

In real politics, democratic mechanisms need the presence of “support factors” (background conditions that helps a mechanism to work as intended) and the absence of “interferers” (background conditions that impede a mechanism’s operation) to function properly.<sup>472</sup> In particular, Trojan horse conceptions of justice can corrupt otherwise reliable national elections (and referendums). So, formal epistemic accounts do not solve the fundamental problem of evaluation. Formal epistemic accounts only push the fundamental problem of evaluation back a step.

Formal epistemic accounts primarily provide reasonable citizens with conditional knowledge. They know that if enough citizens satisfy enough conditions, democratic mechanisms become reliable. Estlund says, “we expect communication (under the right conditions) to tend to make the individuals and the group better than random (the individuals less so than the group).”<sup>473</sup> In Landemore’s words, “there are good theoretical reasons to believe that when it comes to epistemic reliability, under some reasonable assumptions, the rule of the many is likely to outperform any version of the rule of the few.”<sup>474</sup> Or, as Goodin and Spiekermann say, “our analysis in this book has been a conditional one. Assuming certain conditions (about competence, independence and sincerity) are satisfied, the pooling of votes by majority rule has epistemically beneficial properties.”<sup>475</sup> Formal epistemic accounts do not provide reasonable citizens with the antecedent knowledge that enough citizens satisfy enough of the antecedent conditions. So, formal epistemic accounts only provide conditional knowledge about the hypothetical reliability of democratic mechanisms under very idealised

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<sup>472</sup> The philosophers of science Nancy Cartwright and Jeremy Hardie provide an extensive account of “support factors” (Cartwright and Hardie 2012: 61-75).

<sup>473</sup> (Estlund 2008: 234)

<sup>474</sup> (Landemore 2012: 232)

<sup>475</sup> (Goodin and Spiekermann 2018: 321). Also see (Ladha 1992).

conditions.<sup>476</sup> Worse, they will probably never provide reasonable citizens with empirical knowledge about the actual reliability of democratic mechanisms, given the problem of Trojan horses.

Formal epistemic accounts aim to show democratic mechanisms are reliable independently of their outputs. It aims to show they are reliable because of their internal qualities. However, a democratic mechanism can also become unreliable because of its inputs, given the inputs push and pull in different directions. In Joshua Cohen's words, "in assessing the decision procedures, we need to know what the inputs to the procedures are likely to be and this depends partly on the sorts of motivations that the procedures themselves encourage."<sup>477</sup> Unless reasonable citizens can become reasonably confident in which democratic decisions are correct in advance, they should lack confidence in whether the bad inputs corrupt otherwise reliable democratic mechanisms.<sup>478</sup> So, reasonable citizens should lack confidence in whether democratic mechanisms are reliable independently of their outputs. They can become reasonably confident that the internal qualities of democratic mechanisms resist bad inputs only if they can become reasonably confident in which democratic decisions are correct in advance.

The Condorcet jury theorem assumes an internal quality of national elections is to aggregate the independent votes of competent citizens. However, as explored in chapter one, bad political environments can corrupt the competence of citizens. First, self-interested citizens remain "rationally ignorant."<sup>479</sup> They should expect that one more informed vote is very unlikely ever to make them any better off. Second, public-spirited citizens

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<sup>476</sup> Political theorist Jason Brennan argues that the available empirical evidence provides good reason to expect the antecedent assumptions of epistemic democrats are often false (Brennan 2014b). In contrast, independently of whether the antecedent assumptions of epistemic democrats are true or not, I argue that reasonable citizens will probably never become reasonably confident that the antecedent assumptions of epistemic democrats are true.

<sup>477</sup> (Cohen 1986: 36-37)

<sup>478</sup> (Peter 2008a; Cerovac 2020: 37)

<sup>479</sup> Political theorist Alexander Guerrero argues that real citizens tend to suffer from conduct ignorance (ignorance about what one's representative is doing), problem ignorance (ignorance about a particular political problem), broad evaluative ignorance (ignorance about whether what one's representative is doing is a good thing in general) and narrow evaluative ignorance (ignorance about whether what one's representative is doing will be good for oneself) (Guerrero 2014: 140).

should remain “virtuously ignorant.” They should expect that one more informed vote is very unlikely ever to make wider society any better off. So, reasonable citizens have good practical and moral reasons not to vote competently since they should expect that one more informed vote will probably never become consequential.

Estlund already accepts that reasonable citizens will probably never know the competence of citizens unless they can know which democratic decisions are correct in advance. Estlund says, “the problem raised by the .5 threshold, though, is not that this is higher than the actual average competence. It is rather that *we don't know whether it is or not...* The problem is that even if this is so, it seems impossible to establish publicly without independent access to the truth [emphasis in original].”<sup>480</sup> Similarly, reasonable citizens should lack confidence in the reliability of democratic mechanisms unless they can become reasonably confident in which democratic decisions are correct in advance. In particular, they should lack confidence in the reliability of national elections. Not every citizen is incompetent, but not every citizen is competent either. So, unless reasonable citizens can become reasonably confident in which democratic decisions are correct in advance, they should lack confidence in whether enough citizens become or remain competent enough in national elections for democratic decisions to become fallible evidence of what promotes justice and the common good. They should lack confidence in whether the bad motivations national elections tend to induce in citizens corrupt their competence too much for national elections to remain reliable.

Worse, national elections need not only become ineffective. They can even become counterproductive. They need not only fail to select the morally correct decision. They can actively select the morally worse decision. Not every citizen is dependent, but not every citizen is independent either. In particular, Trojan horse conceptions of justice can corrupt the independence of citizens. Special interest groups have good practical reasons to deceive (otherwise) competent citizens to mistake the morally worse decision that

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<sup>480</sup> (Estlund 1993: 93)

advantages them unfairly for morally correct decisions. It makes special interest groups more likely to acquire unfair advantages. So, reasonable citizens should lack confidence in the reliability of national elections unless they can become reasonably confident in which conceptions of justice are Trojan horses in advance after all. They should lack confidence in whether enough citizens remain independent enough in national elections for democratic decisions to become fallible evidence of what promotes justice and the common good. They should lack confidence in whether Trojan horse conceptions of justice corrupt the independence of citizens enough for national elections to become counterproductive.

Alternatively, “the miracle of aggregation” theorem assumes an internal quality of national elections is to aggregate competent and incompetent votes. However, bad political environments can corrupt incompetent citizens. Reasonable citizens should lack confidence in whether incompetent citizens still perform no worse than a fair coin flip unless they can become reasonably confident in which democratic decisions are morally correct in advance after all. The miracle assumes incompetent citizens make random mistakes for enough good votes to cancel out bad ones. However, the public contains systemic biases that produce more bad votes than good votes.<sup>481</sup> Unless reasonable citizens can become reasonably confident in which democratic decisions are morally correct in advance after all, they should lack confidence in whether enough incompetent citizens remain no worse than a fair coin flip. They should lack confidence in whether systemic biases corrupt incompetent citizens too much for national elections to remain reliable.

#### **D. Trojan Horse Deliberations**

Public deliberations could become a solution for aggregative conceptions of democracy. In political theorists John Dryzek and Christian List’s words, “the role of deliberation is to bring about situations in which the antecedents of these “if-then” results are satisfied.”<sup>482</sup> Perhaps public deliberations could

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<sup>481</sup> (Mutz 2006; Caplan 2007: 23-49; 2009; Brennan 2012: 169-76; Somini 2013: 78-80; Achen and Bartels 2016: 36-41)

<sup>482</sup> (Dryzek and List 2003: 28). Also see (Ostrom 2010: 660).

induce competence in otherwise incompetent citizens before voting independently in national elections (and referendums). In public deliberations, different voices can contribute to discovering which conceptions of justice are Trojan horses. However, public deliberations need not induce competence. Public deliberations could induce incompetence in (otherwise) competent citizens and worsen the incompetence of already incompetent citizens. Trojan horses could spill over into public deliberations and just push the problem back a step to produce the problem of Trojan horse deliberations.<sup>483</sup>

The “numbers trump ability” theorem assumes an internal quality of public deliberations is to popularise the most effective problem-solving heuristics and marginalise the least effective. However, as explored above, bad motivations can also corrupt the popularisation of good problem-solving heuristics. Reasonable citizens have good practical and moral reasons to not deliberate competently since they should expect that one more informed voice will probably never become consequential. So, reasonable citizens should lack confidence in the reliability of public deliberations unless they can become reasonably confident in which democratic decisions are correct in advance. In particular, they should lack confidence in whether enough citizens popularise effective problem-solving heuristics enough for democratic decisions to become fallible evidence of what promotes justice and the common good. They should lack confidence in whether bad motivations corrupt the popularisation of effective problem-solving heuristics too much for public deliberations to remain reliable.<sup>484</sup>

Worse, public deliberations can even become counterproductive. They actively select the morally worse decision. In particular, Trojan horse conceptions of justice can corrupt the marginalisation of bad problem-solving heuristics. Special interest groups have good practical reasons to

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<sup>483</sup> Similar regress problems already exist (Sugden 1986: 3; Bates 1988: 394; Elster 1989: 40-41; Ostrom 1990: 42-45; 2010: 648-49).

<sup>484</sup> Epistemic democrats can accept value pluralism does harm the efficacy of democratic mechanisms. In political theorist Hélène Landemore’s words, “cognitive diversity is not diversity of values or goals, which would actually harm the collective effort to solve a problem” (Landemore 2012: 102). Independently of the actual efficacy of democratic mechanisms, I argue that value pluralism harms the evaluation of their efficacy.

deceive (otherwise) competent citizens to mistake deceptive heuristics for effective heuristics. It makes special interest groups more likely to acquire unfair advantages. So, special interest groups become strategic problem-solvers. They strategically employ deceptive heuristics that overvalue the small social benefits of morally worse decisions that unfairly advantage special interest groups and overlook the more significant social harms.<sup>485</sup> Alternatively, special interest groups can become strategic problem-compounders. They strategically employ deceptive heuristics that overvalue the minor social harms of morally correct decisions that disadvantage special interest groups and overlook the more significant social benefits. So, deceptive heuristics can “immunise” Trojan horses if now ineffective deliberations cease to marginalise them. Worse, deceptive heuristics can make Trojan horses “infectious” if counterproductive deliberations start to popularise them.

Reasonable citizens should lack confidence in the reliability of public deliberations unless they can become reasonably confident in which conceptions of justice are Trojan horses in advance. They should lack confidence in whether Trojan horses corrupt the popularisation of heuristics so much that national elections become ineffective and even counterproductive.

### **E. Socioeconomic Inequalities**

Socioeconomic inequalities can also corrupt otherwise reliable democratic mechanisms. On the one hand, the worst-off could become too impoverished to participate in public deliberations. Independently of the social injustice, the deliberative abstinence of the worst-off could harm the cognitive diversity of public deliberations. It could epistemically harm the better off, given the worst-off would not share their better problem-solving heuristics with the better off. It could also epistemically harm the worst-off, given the better off would not share their better problem-solving heuristics with the worst-off. On the other hand, the best off could become wealthy enough to

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<sup>485</sup> Political theorist Alexander Guerrero argues that it is hard for citizens to evaluate the efficacy of their heuristics, given that rational ignorance and rational irrationality (Guerrero 2014: 156-57).

dominate public deliberations. Independently of the social injustice, the deliberative dominance of the best off could harm the cognitive diversity of public deliberations. The dominant heuristics of the best off could marginalise and crowd out the better problem-solving heuristics of the worse off.

Epistemic democrats often accept socio-economic inequalities can corrupt otherwise reliable democratic mechanisms. As Estlund says, “inequality of opportunities for political input may be called for on epistemic grounds so long as it provides more input opportunity for everyone and it is not too unequal.”<sup>486</sup> In particular, Estlund defends progressive voucher systems.<sup>487</sup> In progressive voucher systems, the state supplies all citizens with a singular voucher for free that has a fixed cash value (say, £100). A citizen cannot spend anything but the voucher on political projects (political parties, political candidates, political campaigns, etc.) and cannot spend the voucher on anything but political projects. Alternatively, all citizens can buy a cheap first voucher. They can then buy more vouchers that become progressively pricer to buy, but the cash value remains fixed. The surplus produced with the progressively pricer later vouchers then subsidises the price of the cheaper earlier vouchers to make them more affordable, especially for the worst-off.

Progressive voucher systems would empower the worst-off to spend more on political projects. The surplus does subsidise the price of the earlier vouchers. Similarly, the progressively pricer later vouchers would constrain the capability of the best off to spend on political projects. However, bad motivations can also corrupt progressive voucher systems. As explored above, reasonable citizens have good practical and moral reasons not to spend competently since they should expect that one more well-spent voucher will probably never become consequential. So, reasonable citizens

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<sup>486</sup> (Estlund 2008: 196). Also see (Klockslem 2019; Bhatia 2020; Blunt 2020; Lenczewska 2021).

<sup>487</sup> (Estlund 2000; 2008: 196-98) Also see (Bohman 1996; Knight and Johnson 1997; Ackerman and Ayres 2002; Campante 2011; Cerovac 2020: 220-27). Whichever combination of egalitarian measures is best, reasonable citizens still will probably never become reasonably confident that they are effective, given that Trojan horse conceptions of justice can make them ineffective and even counterproductive.

should lack confidence in the efficacy of progressive voucher systems unless they can become reasonably confident in which democratic decisions are correct in advance. In particular, they should lack confidence in whether enough citizens spend enough vouchers competently. They should lack confidence in whether the bad motivations public deliberations tend to induce in citizens corrupt the spending of vouchers too much for progressive voucher systems to remain effective.

Worse, progressive voucher systems can even become counterproductive. It can actively empower the best off even more. Ordinary citizens are the most likely to remain price-sensitive. They should become increasingly less likely to buy an extra voucher as the next voucher becomes progressively pricer. So, the progressive voucher system is most likely to deter ordinary citizens from spending as much as they would have otherwise on political projects. In contrast, the best off are the most likely to become price-insensitive. They need not become increasingly less likely to buy an extra voucher as the next voucher becomes progressively pricer. Consequently, the progressive voucher system is least likely to deter the best off from buying as many vouchers as they need for whichever political projects they support. Hence, the progressive voucher system is most likely to deter the moderate spending of ordinary citizens instead of the excessive spending of the best off. Even if the progressive voucher system would empower the worst-off, it is likely to unintentionally disempower ordinary citizens and worsen the dominance of the best off. Unless reasonable citizens can become reasonably confident in which democratic decisions are correct in advance, they should lack confidence in whether an otherwise reliable progressive voucher system becomes ineffective or even counterproductive.

#### **F. The Small Margin For Error**

The margin of error between a reliable democracy and an unreliable democracy is tiny. First, the Condorcet jury theorem is one of the most demanding epistemic theories of democracy. It assumes all citizens are moderately competent in the sense that they outperform a fair coin flip. Perhaps Condorcetian democrats can argue that it is not very demanding.

Many citizens easily outperform a fair coin flip.<sup>488</sup> However, Condorcetian democrats should avoid excessively strong views. They need only argue that enough citizens perform marginally better than a fair coin flip to change democratic decisions into fallible evidence of what promotes justice and the common good. So, the margin of error between a reliable Condorcetian democracy and an unreliable Condorcetian democracy is tiny. Trojan horse conceptions of justice need only deceive a few more (otherwise) competent citizens to mistake a few more the morally worse or incorrect decision for the morally better or correct decision to tip the balance and make otherwise reliable national elections (and referendums) unreliable.

Second, “the miracle of aggregation” theorem assumes only some citizens are moderately competent in the sense that they outperform a fair coin flip. However, it assumes all incompetent citizens perform no worse than a fair coin flip. So, the margin of error between a reliable “miracle of aggregation” democracy and an unreliable “miracle of aggregation” democracy is similarly tiny. Trojan horse conceptions of justice need only deceive a few more incompetent citizens to mistake a few more morally worse or incorrect decisions for the morally better or correct decision to tip the balance and make otherwise reliable national elections unreliable.

Third, “the numbers trump ability” theorem should only assume enough citizens are minimally competent in the sense that they know some effective problem-solving heuristics. So, the margin of error between a reliable “numbers trump ability” democracy and an unreliable “numbers trump ability” democracy is also tiny. Trojan horse conceptions of justice need only deceive a few minimally competent citizens into mistaking a few more ineffective or counterproductive problem-solving heuristics for effective problem-solving heuristics to tip the balance and make otherwise reliable public deliberations unreliable.

Unfortunately, reasonable citizens should lack confidence in whether the marginal effects of Trojan horses are enough to make otherwise reliable democratic mechanisms ineffective and even counterproductive. Epistemic

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<sup>488</sup> (Goodin and Spiekermann 2018: 9, 49, 52-53)

democrats could argue that democratic mechanisms need only become reliable independently of whether reasonable citizens can become reasonably confident. In Coleman and Ferejohn's words, "it simply must be reliable, independent of our knowledge of its reliability."<sup>489</sup> However, reasonable citizens must become reasonably confident that democratic mechanisms are reliable. Joshua Cohen says, "the epistemic populist cannot be satisfied with assessing procedures in terms of their reliability, apart from any public confidence in the reliability of the procedures. For the populist needs to be concerned as well about the confidence of those who choose according to the procedures that their procedures produce decisions that conform to the general will."<sup>490</sup> Unless reasonable citizens can become reasonably confident in the reliability of democratic mechanisms, reasonable citizens should lack confidence in whether liberal democratic states tend to publicly reveal what promotes justice and the common good. So, liberal democratic states will probably never become credible political authorities with formal epistemic accounts.

## VI. AN OUTCOME-FIRST SOLUTION

### A. Measurement: An Absolute Solution

In this section, I analyse analogous "outcome-first" solutions. An "absolute" solution to the fundamental problem of measurement is that scientists can know the veracity of the measurement-procedure because scientists can know the value of the measured variable in advance after all.<sup>491</sup> For example, chemists can know the reliability of the thermometer because chemists can know the temperature of the water in advance after all.<sup>492</sup>

Perhaps scientists can know the variable's value at fixed points in advance. Once scientists can know the variable's value at fixed points in advance, an evaluation of the track record of the measurement-procedure is the easiest way to know its reliability. The first step is to write down every truth claim

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<sup>489</sup> (Coleman and Ferejohn 1986: 18)

<sup>490</sup> (Cohen 1986: 35)

<sup>491</sup> (Reiss 2008: 67). Also see (Elgin 1996: 21-59).

<sup>492</sup> (Chang 2004: 159-96)

the measurement-procedure has produced at the fixed points. The second step is to check how many of them were true. If the true-to-false ratio satisfies whatever ratio reliability requires, scientists can know the measurement-procedure is reliable.

Chemists can know the temperature of the water is 100°C at boiling point and 0°C at freezing point. Once chemists can know the temperature of the water at boiling point and freezing point, an evaluation of the track record of the thermometer is the easiest way to know its reliability. The first step is to write down every temperature reading the thermometer has produced at the boiling and freezing points. The second step is to check how many of them were true. If the true-to-false ratio satisfies whatever ratio reliability requires, scientists can know the thermometer is reliable.

However, Chang argues that chemists often do not know the value of the measured variable at fixed points in advance.<sup>493</sup> The assumed fixed points often are not actually fixed points. Chemists often do not know the temperature of the water at boiling point in advance. First, chemists assume the boiling point of water is fixed at 100°C. However, the boiling point of water is not always fixed at 100°C. An impurity in the water could make the boiling point of the water higher than 100°C. So, if the thermometer says the boiling point of the water is higher than 100°C, the thermometer is not necessarily inaccurate. The water could contain impurities.

Second, an impurity in the thermometer could make the thermometer say the boiling point of pure water is lower than 100°C. So, if the thermometer says the water's boiling point is 100°C, the thermometer is not necessarily accurate. Both the water and the thermometer could contain impurities. Consequently, chemists often do not know the temperature of the water. The higher boiling point of impure water could accidentally hide the inaccuracy of an unreliable thermometer.

Third, an unreliable thermometer could still correctly say pure water's boiling point is 100°C. So, even if the thermometer correctly says the boiling

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<sup>493</sup> (Chang 2004: 8-56)

point of pure water is 100°C, the thermometer is not necessarily reliable. Perhaps the fluid in the thermometer expands too slowly, quickly or sporadically for the thermometer to become a generally reliable instrument. However, it still correctly measures the boiling point of pure water. Consequently, accurate temperature readings at the boiling point need not provide strong evidence of a generally reliable thermometer. Chemists can know the accuracy of a thermometer at 0°C and 100°C because these points have been fixed. However, accurate measurement *at fixed points* need not provide strong evidence of *general reliability*.

## **B. Evaluation: Substantive Epistemic Accounts**

Similarly, epistemic democrats can provide an analogous solution to the fundamental problem of evaluation. Substantive epistemic accounts say epistemic democrats can become reasonably confident in whether democratic mechanisms are reliable because they can become reasonably confident in which democratic decisions are correct in advance.<sup>494</sup> They can become reasonably confident in whether democratic mechanisms are reliable because of their outputs after all. They can provide a substantive procedure-independent standard of correctness they should morally evaluate democratic decisions in advance.

Epistemic democrats need not know *everything* about the procedure-independent standard of correctness. They need only know *something* about it. Once they can become reasonably confident in something about the procedure-independent standard of correctness, an evaluation of the track record of national elections is the easiest way to know the reliability of democracy. The first step is to write down every democratic decision national elections have produced. The second step is to check how many of

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<sup>494</sup> (Estlund 2008: 169). Political theorist Thomas Mulligan does argue that competence measures need not assume objective standards of correctness (Mulligan 2018). Nevertheless, he makes multiple controversial assumptions including that voter unanimity is good evidence of correctness. Otherwise, he argues that there is no hope of epistemic quality in our politics. However, whether reasonable citizens can become reasonably confident in the epistemic quality in our politics is exactly what this chapter explores. Perhaps voter unanimity is better evidence of a biased procedure, given that voter fallibility is likely to produce some mistakes. Unfortunately, this exceeds the scope of this dissertation.

them were morally correct. If the correct-to-incorrect ratio satisfies whatever ratio reliability requires, they can become reasonably confident that national elections are reliable.

Epistemic democrats can aim to reduce the epistemic burden of knowing about the procedure-independent correctness standard as much as possible. First, they need not know which recent decisions were morally correct. They can only predict the long-term consequences of current decisions. So, it is often very hard to evaluate which recent decisions were morally correct, given the long-term effects are often unknown. Consequently, they need to assess only which past decisions were morally correct.

Second, perhaps epistemic democrats need not know which particular decisions are morally correct. They need only know which general patterns are morally correct. Reasonable citizens can become reasonably confident that a six-sided die is fair if it rolls the different numbers equally over multiple rolls. Conversely, they can become reasonably confident that a six-sided die is unfair if it always rolls the same number, even if nobody can become reasonably confident in which particular roll would have been different if the die had been fair. Similarly, epistemic democrats can become reasonably confident that a democratic mechanism is reliable if it produces a general pattern over multiple elections. Conversely, they can become reasonably confident that a democratic mechanism is unreliable because of the general pattern, even if nobody can become reasonably confident in which particular decision would have been different if the mechanism had been reliable.<sup>495</sup>

Third, maybe epistemic democrats need not know which past decisions are morally correct. In polarised societies, enough reasonable citizens are likely to disagree over which outcomes are morally correct to destabilise any consensus or convergence among them. So, they need only know which past

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<sup>495</sup> Perhaps reasonable citizens can become reasonably confident that democratic mechanisms are unreliable if democratic decisions predictably benefit similar special interests, even if nobody can become reasonably confident in which particular decision would have been different if the mechanisms had been reliable. Unfortunately, this exceeds the scope of this dissertation.

decisions are morally bad. Whichever outcomes are morally correct, some outcomes are uncontroversially morally bad.

In particular, Estlund does not just defend a fully or purely formal epistemic account. Estlund defends what I call a partially or impurely formal epistemic account. He argues that something about the procedure-independent standard of correctness is knowable in advance after all. In Estlund's words, "there is, I argue, independent access to some of the content of justice and the common good, namely, the primary bads."<sup>496</sup> Estlund calls the worst outcomes that all reasonable citizens wish to avoid "primary bads." Estlund's list includes war, famine, economic collapse, political collapse, epidemic and genocide as paradigmatic primary bads. Estlund argues that avoiding primary bads is good evidence of general reliability. As Estlund says, "good performance with respect to primary bads is taken as support for thinking the same procedure would perform well on other matters."<sup>497</sup> If epistemic democrats know democratic decisions reliably avoid primary bads, reasonable citizens can become reasonably confident that democratic decisions are generally morally correct.

However, avoiding primary bads is not good evidence for general reliability. A generally unreliable democratic mechanism could still reliably avoid primary bads. If anything is likely to motivate the public to vote and deliberate competently, avoiding primary bads is likely to motivate the public.<sup>498</sup> The public should expect the socioeconomic benefits of avoiding war, famine, economic collapse, political collapse, epidemic or genocide to exceed the practical costs (financial or otherwise) involved in voting and deliberating competently. So, the public is most likely to vote and deliberate competently enough to avoid primary bads reliably. Similarly, if anything is likely to deter self-interested citizens from deceiving the public, avoiding primary bads is likely to deter self-interested citizens. Self-interested citizens should expect the socioeconomic costs of war, famine, economic

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<sup>496</sup> (Estlund 2008: 170). Political theorist Judith Shklar also argues that liberal democratic states should primarily aim to avoid the "summum malum" or the most feared cruelties which all of us know and would avoid if only we could (Shklar 1998: 10-12).

<sup>497</sup> (Estlund 2008: 170-71)

<sup>498</sup> Political theorist David Estlund concedes that too many self-interested votes would risk primary bads (Estlund 2008: 168-69). Also see (Achen and Bartels 2016: 116-46).

collapse, political collapse, epidemic or genocide to exceed the unfair special benefits of deceiving the public.

In contrast, avoiding lesser secondary or tertiary bads is less likely to motivate the public to vote and deliberate competently. The public could often expect the practical costs involved in voting and deliberating competently to exceed the socioeconomic benefits of avoiding lesser secondary or tertiary bads. So, the public is less likely to vote and deliberate competently enough to avoid lesser secondary or tertiary bads. Similarly, avoiding lesser secondary or tertiary bads is less likely to deter self-interested citizens from deceiving the public. Self-interested citizens could often expect the practical benefits of deceiving the public to exceed the socioeconomic costs of lesser secondary or tertiary bads. Consequently, epistemic democrats should expect democratic mechanisms are most likely to reliably avoid primary bads regardless of whether they are generally reliable.

### **C. The List**

Reasonable citizens can disagree over which types of outcomes are primary bads. They can disagree over which list of primary bads is correct. Reasonable citizens can argue that Estlund's list of primary bads includes too many types of outcomes. Perhaps Estlund's list is too long. They could say only civil war is a primary bad. Epidemics are bad but not as bad as a civil war. So, Estlund could easily mistake a reliable democracy for an unreliable democracy because he mistakes lesser secondary or tertiary bads for primary bads.

Alternatively, reasonable citizens can argue that Estlund's list of primary bads excludes too many types of outcomes. Maybe Estlund's list is too short. In particular, political theorist Martha Nussbaum provides an objective list of capabilities that justice demands the state to provide to all citizens. As Nussbaum says, the first capacity is a life that requires "being able to live to the end of a human life of normal length; not dying

prematurely, or before one's life is so reduced as to be not worth living."<sup>499</sup> A few moderately contagious citizens are not a primary bad, but many very contagious citizens are a primary bad. It is an epidemic. Similarly, a few homicides, suicides or accidental deaths are not a primary bad. Still, very high rates of homicide, suicide and accidental death are all primary bads. They all negate the capacity for life comparable to epidemics. They all prematurely end lives worth living. So, Estlund could easily mistake unreliable democracies for reliable democracies because he mistakes primary bads for lesser secondary or tertiary bads.

#### **D. The Application**

Even if reasonable citizens agree on which types of outcomes are primary bads, reasonable citizens can still disagree over which particular outcomes are primary bads. Even if reasonable citizens agree that the list is correct, they can still disagree over which application of the list is correct.

Perhaps reasonable citizens agree that war, economic collapse and epidemics are primary bads. However, reasonable citizens can still disagree over which particular wars, particular economic collapses and particular epidemics are primary bads. Reasonable citizens could mistakenly accept no war, economic collapse or epidemic that liberal democratic states are politically responsible for is bad enough to qualify as a primary bad. They are all lesser secondary or tertiary bads. They mistakenly accept all wars were in self-defence or had humanitarian intentions (or humanitarian consequences).<sup>500</sup> They mistakenly accept all financial crises were lesser secondary or tertiary bads because of democratic intervention with financial regulations, quantitative easing and bank bailouts. They mistakenly accept the epidemics were lesser secondary or tertiary bads because of democratic intervention with government guidance, public health restrictions and national lockdowns. So, reasonable citizens could mistake unreliable democracies for reliable democracies because they mistake particular primary bads for lesser secondary or tertiary bads.

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<sup>499</sup> (Nussbaum 2000: 78)

<sup>500</sup> Political theorist David Estlund provides self-defence and humanitarian intervention as justifications for war (Estlund 2008: 163).

Alternatively, reasonable citizens could mistakenly accept particular wars, economic collapses and epidemics that liberal democratic states are politically responsible for are bad enough to qualify as primary bads. They mistakenly accept some wars were not in self-defence and lacked humanitarian intentions (or humanitarian consequences). They mistakenly accept some financial crises were primary bads despite (or even because of) democratic intervention with financial regulations, quantitative easing and bank bailouts. They mistakenly accept some epidemics are primary bads despite (or even because of) democratic intervention with government guidance, public health restrictions and national lockdowns. So, reasonable citizens could mistake a reliable democracy for an unreliable democracy because they mistake particular secondary bads for primary bads.

### **E. Who Decides**

Reasonable citizens can disagree over who should decide which list and which application is correct. So, substantive epistemic accounts (or partially or impurely formal epistemic accounts) do not solve the fundamental problem of evaluation. It only pushes the problem back a step. Before reasonable citizens can accept any evaluation of which democratic decisions are correct, they must first evaluate the evaluator.

Disagreement eventually forces the track-record of success argument into a logically circular argument.<sup>501</sup> Before epistemic democrats can evaluate how many past decisions were morally correct, they must first acquire some substantive knowledge about justice independently of democracy itself. So, epistemic democrats should rely on the second type of evaluative procedure to evaluate how many past decisions were morally correct. They could rely on a substantive theory of justice or of primary bads, polls of public opinion, expert opinion surveys, or something else.<sup>502</sup> However, epistemic democrats would only push the problem back a step. They should now evaluate if the second evaluative procedure is reliable. Otherwise, reasonable citizens will probably never become reasonably confident that the second evaluative

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<sup>501</sup> Epistemologist William Alston provides one of the most extensive accounts of epistemic circularity (Alston 1986).

<sup>502</sup> (Merkel 2014)

procedure reliably distinguishes between morally correct and incorrect decisions. Consequently, they should rely on a third type of evaluative procedure to evaluate how many of the answers the second evaluative procedure has provided were correct. They face an infinite regress.

To avoid the infinite regress, epistemic democrats must stop somewhere. In particular, they should stop with their judgement. Sooner or later, they must rely on their judgement to evaluate how many of the answers any particular evaluative procedure has provided were correct. However, epistemic democrats only push the problem back one more step. They must now evaluate if their judgement is itself reliable. Otherwise, reasonable citizens will probably never become reasonably confident that their judgment reliably distinguishes between morally correct and incorrect decisions. So, sooner or later, they must rely on their judgment to evaluate the answers any particular evaluative procedure provides. They must even rely on their judgment to evaluate the answers that their judgment provides. Consequently, judgement is an “epistemically basic” source of belief because any evaluator must rely on the source of belief itself to evaluate its reliability.<sup>503</sup> They avoid an infinite regress but face a vicious circle.

It is helpful to distinguish between logical and epistemic circles. Epistemic democrats could provide their successful voting record as good evidence that their judgement is reliable. The first step is to write down all of their votes. The second step is to evaluate how many past votes were morally correct. The conclusion that their judgement is reliable is not an explicit premise of their successful voting-record argument. So, the successful voting-record argument is not logically circular. However, the conclusion that their judgement is reliable is an implicit presumption of the successful voting-record argument. Epistemic democrats must implicitly presume their judgment is reliable before directly evaluating how many of their past votes were morally correct. Alternatively, they must implicitly presume their judgement is reliable before indirectly evaluating how many of their past votes were correct with an alternative evaluative procedure they implicitly

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<sup>503</sup> (Alston 1986: 8)

judge is reliable. Consequently, the successful voting-record argument is “epistemically circular” because they must implicitly presume the conclusion is true before they can accept the premises are true.<sup>504</sup>

Exploring how the successful track-record argument can become a logically circular argument is helpful. In public deliberations, reasonable citizens can disagree over the epistemic reliability of democratic mechanisms. So, reasonable citizens must become reasonably confident that however epistemic democrats morally evaluate the track-record is reliable. Otherwise, reasonable citizens will probably never become reasonably confident that the chosen evaluative procedure reliably distinguishes between morally good and bad track records. Consequently, epistemic democrats must explicitly evaluate the reliability of whichever evaluative procedures they use.

On a more cautious level, reasonable citizens can disagree over the reliability of the chosen evaluative procedure. So, reasonable citizens must become reasonably confident that however epistemic democrats evaluate the evaluative procedures is reliable. Otherwise, reasonable citizens will probably never become reasonably confident that the second evaluative procedure reliably distinguishes between reliable and unreliable evaluations. Consequently, epistemic democrats must explicitly evaluate the reliability of the second evaluative procedure with their judgment sooner or later.

On an even more cautious level, reasonable citizens can disagree over the reliability of the judgement of epistemic democrats. So, reasonable citizens must become reasonably confident that the judgement of epistemic democrats is itself reliable. Otherwise, reasonable citizens will probably never become reasonably confident that the judgement of epistemic democrats reliably distinguishes between morally good and morally bad track records or even between reliable and unreliable evaluations. Consequently, sooner or later, epistemic democrats must explicitly evaluate the reliability of their judgement with their judgement. At this level of evaluation, the successful track-record argument becomes a logically

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<sup>504</sup> (Alston 1986: 8-10)

circular argument. The conclusion that the judgement of epistemic democrats is itself reliable is forced to become an explicit premise in the argument itself.

Epistemic democrats could argue that reasonable citizens need not evaluate the evaluator. Reasonable citizens need not become reasonably confident that the judgement of epistemic democrats is itself reliable. Reasonable citizens need only become reasonably confident that democratic mechanisms are reliable. However, in practice, reasonable citizens are likely to rely on the judgements of epistemic democrats to become reasonably confident that democratic mechanisms are reliable. They are likely to lack the time and talents needed to evaluate the epistemic reliability of democratic mechanisms directly. Perhaps reasonable citizens need not evaluate the evaluator in low-stakes contexts. Maybe reasonable citizens need not assess the evaluator to become reasonably confident that democratic mechanisms reliably avoid lesser secondary or tertiary bads. However, reasonable citizens should evaluate the evaluator in high-stakes political contexts.<sup>505</sup> In particular, reasonable citizens should become reasonably confident that the judgement of epistemic democrats is reliable to become reasonably confident that democratic mechanisms reliably avoid primary bads. Otherwise, reasonable citizens will probably never become reasonably confident that epistemic democrats reliably distinguish between reliable democratic mechanisms that reliably avoid primary bads and unreliable democratic mechanisms that do not reliably avoid primary bads.

Unless reasonable citizens can become reasonably confident that the judgements of epistemic democrats are reliable, liberal democratic states will probably never become credible political authorities with substantive epistemic accounts (or partially or impurely formal epistemic accounts). Reasonable citizens will probably never become reasonably confident liberal democratic states reliably avoid primary bads.

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<sup>505</sup> In real politics, high stakes decisions are the norm instead of an exception (Hampshire 1978; Williams 1978).

## VII. AN EQUILIBRIUM SOLUTION

### A. Measurement: An Equilibrium Solution

In this section, I analyse analogous “equilibrium” solutions. Reiss overall prefers an “equilibrium” solution to the fundamental problem of measurement.<sup>506</sup> An “equilibrium” solution does not aim to eliminate the fundamental problem of measurement. An “equilibrium” solution aims to reduce the fundamental problem of measurement into an idle, even if ever-present, problem. An “equilibrium” solution accepts that scientists often do not know the measured variable's objective value or the measurement-procedure's objective veracity. So, Chang defends a scientific process he calls “epistemic iteration.”<sup>507</sup> Chang says, “based on initially affirmed system [of knowledge] we launch inquiries that result in the refinement and even correction of the original system. It is this self-correcting progress that justifies (retrospectively) successful courses of development in science.”<sup>508</sup> The first step is for scientists to rely on their imperfect knowledge about the veracity of the measurement-procedure to refine their imperfect knowledge about the value of the measured variable. The second step is for scientists to rely on their imperfect knowledge about the value of the measured variable to refine their imperfect knowledge about the veracity of the measurement-procedure. The third step is for scientists to repeat the process. They tend towards an equilibrium between highly refined knowledge about the value of the measured variable and highly refined knowledge about the veracity of the measurement-procedure.

In the case of the thermometer, chemists must first rely on their imperfect knowledge about the reliability of the thermometer to refine their imperfect knowledge about the temperature of the water. They must then rely on their imperfect knowledge about the temperature of the water to refine their imperfect knowledge about the veracity of the thermometer. Chemists must then repeat the process as they tend towards an equilibrium between highly

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<sup>506</sup> (Reiss 2008: 74). Also see (Elgin 1996: 101-45).

<sup>507</sup> (Chang 2004: 220-34)

<sup>508</sup> (Chang 2004: 6)

refined knowledge about the temperature of the water and highly refined knowledge about the veracity of the thermometer.

## **B. Evaluation: Institutional Epistemic Accounts**

Similarly, epistemic democrats can provide an analogous solution to the fundamental problem of evaluation. Epistemic democrats need not aim to eliminate the fundamental problem of evaluation. Epistemic democrats need only aim to reduce the fundamental problem of evaluation into an ever-present but idle problem. Reasonable citizens need not know which democratic decisions are objectively morally correct. In Estlund and Landemore's words, "by "correct or right decision" here, or the "truth" can be meant an array of things, from objective truth of the matter (about facts or morality) to a more intersubjective, culturally-dependent and temporary construct (about more socially constructed facts or moral questions)."<sup>509</sup> Perhaps reasonable citizens need only rely on institutionalised knowledge about whether democratic mechanisms are reliable to know which democratic decisions are correct. Similarly, reasonable citizens need only rely on institutionalised knowledge about which democratic decisions are correct to know whether democratic mechanisms are reliable. I call this an "institutional epistemic account."

Reasonable citizens can rely on social institutions to know which democratic decisions are correct. As Coleman and Ferejohn say, "these results demonstrate the importance of gaining a fuller understanding of the likely performance of democratic institutions."<sup>510</sup> Similarly, in Joshua Cohen's words, "judgmental competence cannot be taken for granted since levels of political cognition plausibly depend on democratic institutional conditions."<sup>511</sup> Again, as Estlund says, "the right combination of circumstances, democratic institutional arrangements and personal character apparently can minimize the ill effects."<sup>512</sup> Reasonable citizens can rely on the research of experts (opinion leaders and intellectuals, among them

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<sup>509</sup> (Estlund and Landemore 2018: 13)

<sup>510</sup> (Coleman and Ferejohn 1986: 25)

<sup>511</sup> (Cohen 1986: 35)

<sup>512</sup> (Estlund 1993: 72)

journalists, teachers, ministers, lecturers, publicists, radio commentators, writers of fiction, cartoonists, artists, scientists and doctors) in democratic institutions to refine their evaluations of which democratic decisions are correct.<sup>513</sup> Similarly, reasonable citizens can rely on the research of experts (opinion leaders and intellectuals) in democratic institutions to refine their evaluations of whether democratic mechanisms are reliable. Reasonable citizens can repeat the process. They tend towards an equilibrium between institutionally informed judgements about which democratic decisions are correct and institutionally informed judgements about whether democratic mechanisms are reliable.<sup>514</sup>

Epistemic democrats can argue that social institutions induce competence in otherwise incompetent citizens. In Estlund's words, "epistemic proceduralism, to have even the modest epistemic value that it requires, would need certain things from institutions and participants."<sup>515</sup> In particular, political theorist Thomas Christiano argues that the problem of public ignorance underestimates the contributions of social institutions to the quality of democratic deliberations. Christiano says, "there are only two kinds of agents in this system: citizens and politicians. There are no interest group associations, no political parties, no newspapers, no media, no universities, no think tanks, no weblogs and so on. In short, there are none of the many democratic institutions and groupings that are distinctive of democratic societies."<sup>516</sup> Christiano argues that good social institutions enable good public deliberations. In Christiano's words, "rational discussion about the basic overall aims of the society among members of the whole population should, in principle, be possible if other democratic institutions are organized so as to cultivate the moral insight of citizens."<sup>517</sup> Once democratic institutions are (re)introduced into public deliberations, it is not unreasonably difficult for citizens to produce informed views (again).<sup>518</sup> Similarly, Estlund argues that good democratic institutions improve the

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<sup>513</sup> (Goodin and Spiekermann 2018: 73-74, 164-77; Holst and Molander 2019)

<sup>514</sup> (Bohman 2007; Thompson 2008; Moore 2017: 52)

<sup>515</sup> (Estlund 2008: 268)

<sup>516</sup> (Christiano 2012: 33)

<sup>517</sup> (Christiano 1996: 194)

<sup>518</sup> (Dryzek 1990; McCubbins and Lupia 1998: 205-28; Lupia and McCubbins 2000; Collins and Evans 2017: 166-68; Goodin and Spiekermann 2018: 288-93; Moscrop 2019)

moral quality of democratic decisions. As Estlund says, “the epistemic value of properly arranged democratic institutions will tend to produce substantively just outcomes (whatever those could be).”<sup>519</sup> Once democratic institutions are (re)introduced into public deliberations, democratic decisions can become fallible evidence of what promotes justice and the common good.

### **C. Trojan Horse Institutions**

Epistemic democrats can argue that Trojan horse conceptions of justice are unlikely to deceive too many citizens in public deliberations. Experts (opinion leaders and intellectuals, among them journalists, teachers, ministers, lecturers, publicists, radio commentators, writers of fiction, cartoonists, artists, scientists and doctors) in democratic institutions tend to filter Trojan horses out of public deliberations. In public deliberations, experts (opinion leaders and intellectuals) in democratic institutions can contribute to discovering Trojan horses. However, Trojan horses could spill over into democratic institutions and just push the problem back a step to produce the problem of Trojan horse institutions.<sup>520</sup>

As explored in chapter one, bad political environments can corrupt experts (opinion leaders and intellectuals) in democratic institutions.<sup>521</sup> Experts have good practical and moral reasons not to research competently since they should expect their research will probably never become consequential.<sup>522</sup> So, reasonable citizens should lack confidence in the reliability of democratic institutions unless they can become reasonably confident in which democratic decisions are correct in advance. In particular, they should lack confidence in whether enough democratic institutions provide enough

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<sup>519</sup> (Estlund 2008: 84)

<sup>520</sup> Economists Gordon Tullock, Anthony Downs and William Niskanen argue that individual bureaucrats react to institutional incentives (Downs 1967; Niskanen 1971; Tullock 1986).

<sup>521</sup> Economist F.A. Hayek argues that intellectuals trade in idealistic visions but lack expertise to trade in realistic visions (Hayek 1997a: 225, 31-32).

<sup>522</sup> Economists Ludwig von Mises, F.A. Hayek and Israel Kirzner argue for the ignorance of epistemically limited social scientific experts in general and of economic experts in particular (von Mises 2009: 89-116; Hayek 2014b: 90; 2014d: 265-6; 2014c: 362, 66; 2014e: 93-95; 2014a: 306; Kirzner 2018a: 387; 2018b: 427, 32-34). I argue that the inconsequentiality of individual experts worsens expert ignorance.

reliable research for democratic decisions to become fallible evidence of what promotes justice and the common good. They should lack confidence in whether the bad motivations that spill over into democratic institutions corrupt the provision of research too much for democratic institutions to remain reliable.

Worse, democratic institutions can even become counterproductive. They can actively select the morally worse decision. In particular, Trojan horse conceptions of justice can corrupt the marginalisation of unreliable research. Special interest groups have good practical reasons to capture democratic institutions to deceive (otherwise) competent citizens to mistake unreliable research for reliable research. It makes special interest groups more likely to acquire unfair advantages. First, democratic institutions can distract reasonable citizens and become vocal about insignificant events and remain silent over significant events to make reasonable citizens more likely to prioritise insignificant aims over substantial ones. Second, democratic institutions can distort information and provide partial truths to make reasonable citizens more likely to misidentify what promotes justice and the common good. So, the individual still bears the practical costs (financial or otherwise) involved in voting and deliberating competently. Experts in democratic institutions do provide research. However, reasonable citizens must spend their time, money and similarly scarce resources to discover which experts and democratic institutions are reliable. Otherwise, reasonable citizens risk mistaking unreliable research for reliable research. Consequently, the practical costs involved in voting and deliberating competently remain prohibitively big.

Reasonable citizens should lack confidence in the reliability of democratic institutions or their experts unless they can become reasonably confident in which conceptions of justice are Trojan horses in advance after all. They should lack confidence in whether enough democratic institutions and their experts remain effective enough in public deliberations for democratic decisions to become fallible evidence of what promotes justice and the common good. They should remain reasonably cautious about whether

Trojan horses corrupt the provision of research so much that public deliberations become ineffective and even counterproductive.

## VIII. CONCLUSION

The Trojan horse problem shows reasonable citizens should lack confidence in whether democratic mechanisms are reliable. Trojan horse conceptions of justice can make otherwise reliable democratic mechanisms ineffective and even counterproductive. So, reasonable citizens should lack confidence that democratic decisions are correct.

Epistemic democrats could defend three solutions. First, formal epistemic accounts provide an outcome-independent standard of reliability to evaluate the epistemic quality of democratic mechanisms. The Condorcet jury theorem and the “miracle of aggregation” theorem provide an outcome-independent standard of reliability to evaluate the epistemic reliability of national elections (and referendums). The “numbers trump ability” theorem provides an outcome-independent standard of reliability to evaluate the epistemic reliability of public deliberations. However, unless reasonable citizens can become reasonably confident that democratic decisions are correct in advance, they should lack confidence in whether bad inputs in general and Trojan horse conceptions of justice in particular corrupt otherwise reliable mechanisms. So, it is very hard for democratic mechanisms to become credible with formal epistemic accounts.

Second, substantive epistemic accounts (or partially or impure formal epistemic accounts) provide a procedure-independent standard of correctness to evaluate the moral quality of democratic decisions. Estlund provides a list of “primary bads” democratic decisions must avoid. They must avoid war, famine, economic collapse, political collapse, epidemic and genocide. However, unless reasonable citizens can become reasonably confident that the judgements of epistemic democrats are reliable in advance, they should lack confidence in who should decide whose list of primary bads and whose application to use. So, it is very hard for democratic

decisions to become credible with substantive epistemic accounts (or partially or impure formal epistemic accounts).

Third, an institutional epistemic account tends towards an equilibrium between institutionalised knowledge about the moral quality of democratic decisions and institutionalised knowledge about the epistemic quality of democratic mechanisms. However, unless reasonable citizens can become reasonably confident that the judgements of experts in democratic institutions are reliable in advance, reasonable citizens should lack confidence in the epistemic quality of the equilibrium between institutionalised knowledge about the moral quality of democratic decisions and about the epistemic quality of democratic mechanisms. So, it is very hard for institutionalised knowledge to become credible with an institutional epistemic account.

Epistemic democrats already accept reasonable citizens should lack confidence in which democratic decisions are correct in advance. So, epistemic democrats argue that reasonable citizens should rely on reliable democratic mechanisms to become reasonably confident in which democratic decisions are correct. However, the fundamental problem of evaluation shows reasonable citizens should lack confidence in whether democratic mechanisms are reliable in advance either. Consequently, reasonable citizens should lack confidence that liberal democratic states are legitimate political authorities with epistemic conceptions of legitimacy. Liberal democratic states are not credible political authorities with epistemic conceptions of legitimacy. Epistemic democrats make the legitimacy of liberal democratic states undetectable to reasonable citizens.

**Chapter Four**  
**The Rule of Experts and Moral Priorities:**  
**The Problem of Morally Incompetent Experts**

I. INTRODUCTION

Epistemic democrats could turn to epistocracy. Epistocrats defend the “rule of the knowers.” They let a few knowledgeable experts rule instead of many ignorant citizens. Epistocrats argue that epistocratic states are legitimate political authorities because knowledgeable experts know how to rule more effectively than an ignorant public. Perhaps reasonable citizens will probably never become reasonably confident that democracy makes better decisions than a fair coin flip. Still, reasonable citizens may become reasonably confident that epistocracy would make better decisions than democracy. However well democracy performs, reasonable citizens can become reasonably confident that epistocracy would perform better.

In this chapter, I argue against epistocracy. I push the spirit of political theorist and epistemic democrat David Estlund’s scepticism about epistocracy further. Epistocrats argue that epistocratic states are legitimate political authorities because epistocracy would publicly reveal what promotes justice and the common good more effectively than democracy. In this chapter, I will apply epistemic realism to the knowers in epistocracy. In polarised societies, there is persistent disagreement amongst reasonable citizens over which political competence tests are reliable. So, I argue that the knowers are not credible authorities because reasonable citizens should remain reasonably cautious about which political competence tests are reliable. In particular, I use the problem of fact/value entanglement from the philosophy of science to introduce an innovative problem of morally incompetent experts for epistocracy. I argue against epistocracy because reasonable citizens will probably never become reasonably confident that epistocracy would outperform democracy, given the risk of morally incompetent experts.

## II. THE PULL OF EPISTOCRACY

### A. Public Ignorance

In this section, I explore the central elements of epistocracy. A spectre is haunting democracy — the spectre of epistocracy.<sup>523</sup> Plato argues against democracy because it conflicts with political wisdom. The elected politician tends to lack the wisdom they need to rule competently and the wise philosopher tends to lack the popularity they would need to win elections.<sup>524</sup> On the political left, a popular defence of extensive state intervention is that expert central planners know better than citizens. In the British Labour MP Douglas Jay's words, "the gentleman in Whitehall really does know better what is good for people than the people know themselves."<sup>525</sup> Similarly, a popular attack on democracy from the political right is that citizens know too little to rule well. Economist Joseph Schumpeter says, "the typical citizen drops down to a lower level of mental performance as soon as he enters the political field. He argues that and analyzes in a way which he would readily recognize as infantile within the sphere of his real interests."<sup>526</sup> Again, there is a growing consensus in political science that citizens do not know much about generally uncontroversial social scientific facts.<sup>527</sup> In political scientist Larry Bartel's words, "the political ignorance of the American voter is one the best-documented features of contemporary politics."<sup>528</sup> An instinctive reaction to the political reality of public ignorance is to reject democracy's commitment to majority rule and accept epistocracy or the "rule of the knowers." From informed citizens to talented scientists, the knowers should know enough to rule more effectively than an ignorant public.

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<sup>523</sup> (Plato 2000; Lopez-Guerra 2014; Brennan 2016). Also see (Jeffrey 2017; Moyo 2018; Malcolm 2021b; Brennan 2022).

<sup>524</sup> (Plato 2000: 191-93)

<sup>525</sup> (Jay 1937: 317)

<sup>526</sup> (Schumpeter 1943: 262)

<sup>527</sup> (Berelson, Lazarsfeld, and McPhee 1954: 308; Campbell et al. 1960: 170; Converse 2006)

<sup>528</sup> (Bartel 1996: 194). Also see (Converse 1990; Carpini, X., and Keeter 1996; Althaus 2003; Converse 2006; Hardin 2006; Somin 2006; Freiman 2020).

Political theorist Jason Brennan defends a Vulcan conception of an ideal democratic citizen. The Vulcans are public-spirited and politically competent, given that they vote to express views about justice based on reasoned arguments with informed premises.<sup>529</sup> Brennan argues that very few actual citizens are Vulcans.

As the Introduction explored, economist Antony Downs extensively discussed the paradox of voting. Downs argues that rational citizens do not vote because they should expect that their vote is not pivotal.<sup>530</sup> It is very unlikely to change who wins any national election. So, the expected practical costs of information acquisition tend to exceed the expected practical benefits of becoming informed. Citizens must spend their time, money and similarly scarce resources to do their political research. One citizen's considerable cost is another citizen's small cost. Perhaps some citizens are more capable of getting political information. Maybe their work already requires them to acquire political information. Alternatively, one citizen's cost is another citizen's benefit. Perhaps some citizens are more willing to get political information. Maybe they enjoy doing political research for leisure. Nevertheless, citizens tend to remain politically ignorant because they do not expect one more informed vote to benefit themselves or the wider society. Consequently, the politically ignorant citizen is not politically informed enough to vote competently. Downs calls this the “problem of rational ignorance.”<sup>531</sup> Jason Brennan calls a specific type of rationally ignorant citizen “hobbit.”<sup>532</sup> Hobbits tend to know something about the good of their local community, but they remain ignorant about the national interest and international priorities. Brennan argues that just under half of the US electorate are analogous to hobbits.<sup>533</sup>

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<sup>529</sup> (Brennan 2016: 4)

<sup>530</sup> (Downs 1957: 36-50). Also see (Meehl 1977; Mueller 2003: 303-32; Kagan 2011).

<sup>531</sup> (Downs 1957: 259). Similarly, political theorist Alexander Guerrero argues that reasonable citizens tend to suffer from conduct ignorance (ignorance about what one's representative is doing), problem ignorance (ignorance about a particular political problem), broad evaluative ignorance (ignorance about whether what one's representative is doing is a good thing in general) and narrow evaluative ignorance (ignorance about whether what one's representative is doing will be good for oneself) (Guerrero 2014: 140).

<sup>532</sup> (Brennan 2016: 4). Also see (Achen and Bartels 2016: 1-20).

<sup>533</sup> (Brennan 2016: 24, 51)

Economist Bryan Caplan advances the problem of public ignorance with political bias. Citizens expect they are very unlikely to make a pivotal difference. So, the expected practical costs of avoiding political bias are prohibitively big. Whenever citizens do their political research, they must spend their time, money and similarly scarce resources to check and correct their political biases. Consequently, citizens tend to remain politically biased because they do not expect one more politically unbiased vote to benefit themselves or the wider society. Conversely, the expected practical benefits of political biases can become irresistibly big. Whenever citizens do their political research or discuss politics at political or social events, they can enjoy confirming their political biases instead of correcting them. Hence, citizens tend to remain politically biased. Suppose they do not expect one more politically biased vote to harm themselves or the wider society. In that case, they often lack a sufficiently strong incentive to check their biases and correct them. Therefore, politically biased citizens are too biased to vote competently. Caplan calls this the “problem of rational irrationality.”<sup>534</sup> In particular, Jason Brennan calls a specific type of rationally irrational citizen “hooligan.”<sup>535</sup> The loyal support for a specific political team tends to politically bias the political priorities of the individual hooligan. Brennan argues that just under half of the US electorate are comparable to hooligans.<sup>536</sup>

## **B. The Three Central Tenets**

Estlund argues that epistocracy assumes three tenets.<sup>537</sup> The truth tenet says some normative political judgements are true. In particular, a procedure-independent standard of correctness makes some normative political judgements about justice true.<sup>538</sup> This view is called “political cognitivism.”<sup>539</sup> The knowledge tenet says some citizens — the knowers — hold true normative political judgements more often than anybody else. So,

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<sup>534</sup> (Caplan 2007: 114-41)

<sup>535</sup> (Brennan 2016: 5). Also see (Mendelberg 2002; Westen 2008; Haidt 2012; Chong 2013; Huddy, Sears, and Levy 2013; Achen and Bartels 2016: 213-96; Talisse 2022).

<sup>536</sup> (Brennan 2016: 24, 51)

<sup>537</sup> (Estlund 2008: 30). Also see (Estlund 1993: 72).

<sup>538</sup> (Estlund 2008: 169; Landemore 2012: 45; Goodin and Spiekermann 2018: 5, 208-11)

<sup>539</sup> (Estlund 2008: 24-33; Landemore 2012: 208-31; Goodin and Spiekermann 2018: 11, 38-44, 303-11)

epistocrats accept the political reality of public ignorance. They accept the public is politically ignorant and that some experts are politically knowledgeable. The authority tenet says the knowers are morally or politically entitled to more political power than the ignorant. In particular, they defend epistemic instrumentalism. They aim to employ whichever procedures most effectively publicly reveal what promotes justice and the common good. Jason Brennan swaps the authority tenet for the antiauthority tenet.<sup>540</sup> The antiauthority tenet says the ignorant are morally or politically entitled to less political power than everybody else.<sup>541</sup>

The antiauthority tenet is a meaningful alternative to the authority tenet. The authority tenet gives political power out and the antiauthority tenet takes political power away. The authority tenet distributes entitlements to political power and the antiauthority tenet defeats entitlements to political power. So, the antiauthority tenet says nothing about how to distribute political power. It does not say political knowledge is enough to entitle the knowers to more political power. The antiauthority tenet only says political ignorance is enough to entitle the ignorant to less political power. So, knowledge becomes a necessary instead of a sufficient condition for power. Either way, epistocrats accept the rule of experts. Epistocratic states are legitimate political authorities because epistocratic states would publicly reveal what promotes justice and the common good more effectively than liberal democratic states independently of whether epistocratic mechanisms are fair or otherwise reasonably acceptable procedures. Experts know best.

Plato defends the rule of philosopher kings. In “philosopher kings” models of epistocracy, unelected philosophers make political decisions.<sup>542</sup> Jason Brennan provides multiple modern models of epistocracy. In “extra votes” models of epistocracy, informed citizens should acquire more votes than ignorant citizens. Perhaps citizens cannot acquire any votes unless they can pass a political competence test, or maybe citizens acquire more votes the

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<sup>540</sup> (Brennan 2016: 17). Also see (Brennan 2011).

<sup>541</sup> (Estlund 2008: 30-35)

<sup>542</sup> (Plato 2000: 473d-84c)

better they perform on the test.<sup>543</sup> In “expert veto” models of epistocracy, epistocratic councils should gain the power to veto any democratic decision. Perhaps individual experts cannot join epistocratic councils unless they can pass a political competence test.<sup>544</sup> Epistocratic states could support a combination of different mechanisms. It could take the vote away from the ignorant, give more votes to the informed and give the veto to experts.

### III. THE PUSH AGAINST EPISTOCRACY

#### A. The Democrats Strike Back

In this section, I explore the democratic replies to epistocracy. To defend democracy, liberal democrats should argue against one of the three tenets. In my terminology, confident liberal democrats become reasonably confident that one of the three tenets is false. In contrast, cautious liberal democrats remain reasonably cautious that one of the three tenets is true. To defend democracy, liberal democrats need not become reasonably confident that any three tenets are false. They need only remain reasonably cautious that one of the three tenets (the truth tenet, the knowledge tenet or the authority tenet) is true. They need only show epistocracy has not yet met or will probably never meet its burden of proof for one of the tenets.

Epistocrats argue that experts should rule because experts know best. Conversely, liberal democrats can argue that experts do not know best. First, liberal democrats can argue against the truth tenet. No normative political judgements are true.<sup>545</sup> Estlund calls the “no truth” reply “political nihilism.”<sup>546</sup> As the Introduction explored, Estlund rejects nihilist strategies for two reasons. First, Estlund argues that normative political truth does exist. Whenever anybody morally evaluates political decisions, she must implicitly assume some procedure-independent standard of correctness

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<sup>543</sup> (Brennan 2016: 211-15). Also see (Caplan 2007; Cook 2013; Lopez-Guerra 2014; Moyo 2018; Malcolm 2021b).

<sup>544</sup> (Brennan 2016: 215-20)

<sup>545</sup> (Arendt 1967; Barber 1984; Dahl 1989: 66; Miller 1992: 56; Copp 1993; Cohen 1997; Young 2000; Peter 2008a). Independently of whether any procedure-independent standard of correctness exists, political theorists Claus Offe and Ulrich Preuss argue that citizens should consider their fellow citizens, the future and the facts in public deliberations (Offe and Preuss 1991: 156-57).

<sup>546</sup> (Estlund 2008: 25-28, 34-35)

exists.<sup>547</sup> Second, even if normative political truth does not exist, Estlund argues that liberal democrats should not rely on “exotic” and “eternally controversial” views to avoid epistocracy.<sup>548</sup> So, they should not rely on political nihilism to avoid epistocracy. They should rely on less exotic and less controversial views instead.

Second, liberal democrats can argue against the knowledge tenet. Nobody knows which normative political judgements are true. Estlund calls the “no knowledge” reply “political scepticism.”<sup>549</sup> Perhaps normative political truth is entirely unknowable. I call this “strong political scepticism.” Alternatively, maybe normative political truth is not entirely unknowable but unknown. I call this “weak political scepticism.” In contrast, liberal democrats could accept normative political truth is occasionally known but that nobody knows which normative political judgements are true more often than anybody else. I call the “no the knowers” reply “epistemic egalitarianism.”<sup>550</sup> As the Introduction explored, Estlund rejects sceptical strategies (and epistemic egalitarian strategies) for two reasons. First, Estlund argues that the knowers do exist. As Estlund says, “it is certain that there are subsets of citizens that are wiser than the group as a whole.”<sup>551</sup> Liberal democrats should accept moral and political egalitarianism because all citizens are moral and political peers and no citizen is morally or politically superior to anybody else. However, liberal democrats should not accept epistemic egalitarianism since some citizens just are epistemically superior in the sense that they are more politically informed and epistemically rational than everybody else. Second, even if the knowers do not exist, Estlund argues that liberal democrats should not rely on political scepticism (or epistemic egalitarianism) to avoid epistocracy. They should rely on less exotic and less controversial views instead.

Third, liberal democrats can argue against the authority tenet. The knowers are not morally or politically entitled to more political power. (Alternatively,

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<sup>547</sup> (Estlund 2008: 31). Also see (Landemore 2012: 219; Goodin and Spiekermann 2018: 38-41).

<sup>548</sup> (Estlund 1993: 74)

<sup>549</sup> (Estlund 2008: 24-26). Also see (Estlund 1993: 80; Peter 2013).

<sup>550</sup> (Talisie 2009b; Peter 2013; Reiss 2019b)

<sup>551</sup> (Estlund 2008: 40)

liberal democrats can argue against the antiauthority tenet. The ignorant do not become morally or politically entitled to less political power.) Liberal democrats can employ several different arguments against the authority tenet. They can use instrumentalist arguments against the authority tenet. First, liberal democrats can accept epistemic instrumentalism. They can argue that experts do not know best and that democratic decisions tend to publicly reveal what promotes justice and the common good more effectively than any anti-democratic alternative.<sup>552</sup> Second, liberal democrats can reject epistemic instrumentalism. They can argue, even if experts know best, democracy induces moral (and epistemic) virtues in citizens more effectively than any anti-democratic alternative.<sup>553</sup> Alternatively, liberal democrats can argue that democracy induces moral (and epistemic) virtues in individual politicians more effectively than any anti-democratic alternative.<sup>554</sup>

## **B. Estlund Strikes Back**

Liberal democrats can also employ procedural arguments against the authority tenet. In particular, Estlund advances Rawls's liberal principle of legitimacy. As a political liberal, the later Rawls defends a conception of citizens as rational and reasonable agents.<sup>555</sup> First, reasonable citizens are epistemically reasonable, given that they follow particular epistemic norms. They base their conceptions of justice on reasoned arguments with informed premises and willingly change their conceptions of justice in the light of better arguments and better information.<sup>556</sup> However, Rawls argues that all reasonable citizens bear the "burdens of judgement."<sup>557</sup> Any reasonable citizen must perform several epistemically difficult tasks to hold a conception of justice. So, reasonable citizens often accept different conceptions of justice because of the burdens of judgement. Second, reasonable citizens are morally reasonable, following particular moral

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<sup>552</sup> (Converse 1990; Landmore 2012; Goodin and Spiekermann 2018)

<sup>553</sup> (Krouse 1982: 513-15; Elster 2002: 152; Peter 2008a; Farrelly 2012; Mill 2017: 74; Hannon 2020)

<sup>554</sup> (Krouse 1982: 513-15)

<sup>555</sup> (Rawls 1993: 48-54)

<sup>556</sup> (Talisie 2009b: 79-120; Talisse 2009a)

<sup>557</sup> (Rawls 1993: 54-58)

norms. They respect the burdens of judgement and seek fair (or otherwise mutually acceptable) terms for social cooperation (in the expectation that fellow reasonable citizens will reciprocate). So, Rawls defends a liberal principle of legitimacy. He says, “our exercise of political power is fully proper only when it is exercised in accordance with a constitution the essentials of which all citizens as free and equal may reasonably be expected to endorse in the light of principles and ideals acceptable to their common human reason.”<sup>558</sup> Independently of whichever conception of justice is true, the state is not a legitimate political authority unless the reasons for state coercion are acceptable to reasonable citizens.<sup>559</sup>

Estlund defends an undogmatic but substantive type of political liberalism. He says, “no doctrine is available in justification unless it is acceptable to reasonable citizens, not even this doctrine itself (this makes it undogmatic) because such an acceptability criterion is true or correct independently of such acceptability (this makes it substantive).”<sup>560</sup> the state morally owes reasonable citizens justifications for whichever doctrines the state promotes.<sup>561</sup>

As the Introduction explored, epistemic instrumentalism faces what I call the “problem of unfair procedures.” Suppose a fair (or otherwise reasonably acceptable) procedure produces bad results and an unfair (or otherwise reasonably unacceptable) procedure produces good results. Substantive justice is not the only political value worth promoting. Procedural fairness or reasonable acceptability is also a weighty political value worth promoting. In Estlund’s words, “unless all reasonable citizens actually agreed with the decisions of some agreed moral/political guru, no one could legitimately rule based on wisdom. So there might be political truth and

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<sup>558</sup> (Rawls 1993: 137)

<sup>559</sup> (Rawls 1993: 41). Also see (Estlund 1993: 74-75; 2008: 21-39; Peter 2008a; Quong 2011; Galston 2012: 142).

<sup>560</sup> (Estlund 2008: 57). Also see (Estlund 1997: 175). Political theorist David Estlund has an extensive conception of doctrines which includes factual statements, principles, practical proposals, moral or normative political judgments and so on (Estlund 2008: 44). Estlund argues that his undogmatic but substantive type of political liberalism is itself legitimate because no citizen is reasonable unless they accept his principle (Estlund 2008: 61).

Estlund’s qualified acceptability requirement is controversial (Enoch 2009; Copp 2011). Unfortunately, this exceeds the scope of this dissertation.

<sup>561</sup> (Estlund 1993: 85-92)

even the knowers of various degrees, without any moral basis for epistocracy.”<sup>562</sup> So, even if an unfair or otherwise reasonably unacceptable procedure promotes justice more effectively than any fair or otherwise reasonably acceptable alternative, it would remain an illegitimate procedure because it is unfair or otherwise reasonably unacceptable.

To avoid epistocracy, Estlund argues against a hidden fourth second-order knowledge tenet. (Nearly) nobody knows who the knowers are. Liberal democrats need not accept experts do know best or that experts do not know best. Liberal democrats can just abstain from deciding who knows best. Estlund argues that it is not enough for the knowers to know which normative political judgements are true. He calls this “first-order political knowledge.” Estlund argues that reasonable citizens need to know which experts are the knowers. As he says, “the trick is knowing and publicly justifying which experts to rely on for which problems.”<sup>563</sup> Estlund calls this “second-order political knowledge.”<sup>564</sup> Estlund argues that reasonable citizens are unlikely ever to know which experts are the knowers. He calls the “no knowledge of the knowers” reply “second-order political scepticism.”<sup>565</sup> Perhaps the knowers are entirely unknowable. I call this “strong second-order political scepticism.” Alternatively, maybe the knowers are not completely unknowable but often unknown to many. I call this “weak second-order political scepticism.” Estlund defends weak second-order political scepticism. A test for political competence is the easiest way to know the knowers. However, he argues that no test for political competence is acceptable to reasonable citizens. Estlund argues that it is less exotic and controversial to argue that the knowers in particular are not known than to argue that no normative political truths in general are known.

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<sup>562</sup> (Estlund 1997). The unreasonability of epistocracy is controversial (Brennan 2014a; Mulligan 2015). Unfortunately, this exceeds the scope of this dissertation.

<sup>563</sup> (Estlund 2008: 262)

<sup>564</sup> (Estlund 1993: 84-85)

<sup>565</sup> (Estlund 1993: 85-88). Also see (Hayek 2011: 524; 2018: 60; Gunn 2019; Kuljanin 2019; Somin 2022).

Estlund argues that epistocracy commits an “expert/boss” fallacy.<sup>566</sup> To infer that more normative political knowledge morally or politically entitles the knowers to more political power is to ignore the illegitimacy of epistocratic states. In Estlund’s words, “experts should not be privileged because citizens can not be expected or assumed (much less encouraged or forced) to surrender their moral judgment, at least on important matters.”<sup>567</sup> The burdens of judgement provide a good moral reason to tolerate diverse views. Even if experts are reasonably confident that they are correct and the non-expert is mistaken, it is still morally disrespectful for epistocratic states to enforce a unacceptable political competence test to reasonable citizens. So, even if epistocratic states would publicly reveal what promotes justice and the common good more effectively than any democratic alternative, no epistocratic state is fair or otherwise reasonably acceptable. Consequently, the knowers do know more than everybody else, but they are not morally or politically entitled to any more power than anybody else.<sup>568</sup>

#### IV. CAUTIOUS LIBERALISM

##### A. The Confidence Tenet

In this section, I defend an epistemic type of realism that concedes to the epistemic capabilities of reasonable citizens. Epistocrats do not just need a legitimate political competence test. They need a credible test. In my terminology, political credibility demands political authorities satisfy what I call the “confidence tenet,” which requires that the public can become reasonably confident that political authorities are legitimate. Reasonable citizens need to see the epistocratic state as a legitimate political authority.<sup>569</sup> Otherwise, sooner or later, undetectable legitimacy is likely to motivate a majority or a critical mass of the public to aim to replace political authorities that they are not reasonably confident are legitimate with credible political

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<sup>566</sup> (Estlund 2008: 3–4, 22, 40)

<sup>567</sup> (Estlund 1997: 183)

<sup>568</sup> Perhaps epistocracy is publicly justifiable (Brennan 2014a; Mulligan 2015). However, if competence demands the competent to tend to answer questions correctly, any interpretation of competence is likely to remain controversial, given that which answers are correct is controversial.

<sup>569</sup> I assume a majority of the public or a critical mass are reasonable.

authorities that they are reasonably confident are legitimate. So, epistocrats need a political competence test that reasonable citizens can become reasonably confident that does detect the knowers. They need a credible test.

As explored previously, independently of moral reasons, the burdens of judgement provide reasonable citizens with excellent epistemic reason to express the epistemic virtue of epistemic humility.<sup>570</sup> Epistemically reasonable judgements about which political competence tests detect the knowers are often incommensurable.<sup>571</sup> They all aim to track the truth and they are all based on reasoned arguments with informed premises. Out of the many incommensurable views, only one view can count as true and all else must count as false. So, the incommensurability of epistemically reasonable views provides reasonable citizens with excellent epistemic reason to become epistemically humble. Epistemically reasonable views about which political competence tests detect the knowers are often fragile.<sup>572</sup> Reasonable citizens should not become unreasonably confident that they are among the few with true views.<sup>573</sup> If anything, they should expect they are more likely among the many with mistaken views about which political competence tests would detect the knowers.<sup>574</sup>

Epistemic realism shows the fragility of normative political judgements about which competence tests detect the knowers. So, reasonable citizens should avoid unjustifiably high levels of confidence in which competence tests detect the knowers and unjustifiably low levels of confidence in

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<sup>570</sup> Similar views already exist. First, political theorist Judith Shklar defends epistemic humility (Shklar 1998: 7). Second, economists F.A. Hayek and Israel Kirzner and political scientist Vincent Ostrom defend epistemic humility (Ostrom 1999c: 392; Hayek 2014c: 372; 2018: 74; Kirzner 2018b: 428).

<sup>571</sup> See (Gaus 2003: 31-42). Also see (D'Agostino 2003).

<sup>572</sup> Epistemic fallibility also provides excellent epistemic reason to tolerate diverse views (Mill 1921: 277; Hayek 2011: 81-83).

<sup>573</sup> (Feldman 2006; Christensen 2007; Elga 2007b, 2007a; Feldman 2007; Christensen 2009; Kornblith 2010)

<sup>574</sup> Similar views already exist. First, political theorists Gerald Gaus and Michael Huemer defend the possibility of inconclusive interpretations of just principles, given that publicly justified principles lack a publicly justified interpretation (Huemer 1996; Gaus 2003: 216-17; Huemer 2013: 48-50; Gaus 2016, 2018). Independently of the (lack of) publicly justified interpretations of publicly justified principles, I argue that reasonable citizens should lack confidence in which interpretations are correct. Second, political theorist Chandran Kukathas defends freedom of association to express moral respect for the liberty of conscience (Kukathas 2007: 74-119). Independently of moral respect for the liberty of conscience, I argue that reasonable citizens should lack confidence in which consciences are correct.

reasonable opposing judgements. They should not epistemically revere any particular competence tests as the best reasoned and best informed and should epistemically respect reasonable opposing judgements. Consequently, reasonable citizens should avoid epistemic conceptions of legitimacy that make the legitimacy of political authority depend on the public revelation of the knowers. In high-stakes political contexts, reasonable citizens should aim to avoid likely errors.<sup>575</sup> Otherwise, they would risk avoidable harm. In particular, if reasonable citizens should lack confidence in whether epistocracy is more effective than democracy, epistemic instrumentalist conceptions of legitimacy risk destabilising the legitimacy of epistocratic states. The epistemic immodesty of epistemic instrumentalist conceptions of legitimacy risk instability.

Liberal democrats need not argue that experts know best or do not know best. They can argue that (nearly) nobody knows who knows best. In particular, reasonable citizens should lack confidence in which experts should rule. So, reasonable citizens should remain reasonably cautious about which experts should rule. Consequently, experts will probably never become credible knowers. Reasonable citizens should lack confidence in which experts are the knowers.

## **B. Scientific Judgements**

Reasonable citizens should lack confidence in which experts are the most scientifically knowledgable. So, experts will probably never become credible knowers on scientific grounds. It is helpful to explore the epistocratic misidentification problem. Political scientist Jeffrey Friedman says, “the true experts could be happy to identify themselves as such, but so, too, could those who falsely believe in the adequacy of their expertise. How can other political actors, being inexpert, know where to allocate power?”<sup>576</sup> Similarly, in economist Roger Koppl’s words, “we hope for a “healer” but fear the “quack” and it is hard to know which is which.”<sup>577</sup> Friedman argues

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<sup>575</sup> In real politics, high stakes decisions are the norm instead of an exception (Hampshire 1978; Williams 1978).

<sup>576</sup> (Friedman 2017: 296)

<sup>577</sup> (Koppl 2018: 23)

against a naive type of social scientific realism. The naive social scientific realist is confident that their social scientific theory tracks the truth. Friedman argues that confidence in which social scientific theory tracks the truth is naive because the assumptions within the best social scientific theories are incommensurable. In particular, no social scientific theory has acquired predictive success comparable to the predictive success of the best natural scientific theories. Human behaviour is too complex for the idealised assumptions within the best social scientific theories to acquire predictive success. So, unless a social scientific theory gains predictive success, social scientists should not become reasonably confident that their social scientific theory tracks the truth.

In the opposite direction to naive social scientific realism, liberal democrats should accept a view that I call “cautious social scientific realism.” They should accept any confidence that a social scientific theory tracks the truth must remain fragile. Philosopher of science Ian Kidd defends the epistemic virtue of epistemic humility. As Kidd says, “the virtue of epistemic humility therefore builds in, at the ground level, an acute sense of the fact epistemic confidence is conditional, complex, contingent and therefore *fragile* [emphasis in original].”<sup>578</sup> In particular, the individual expert is often ignorant of many real-world particulars and complexities to make reliable predictions based on generalised economic theories. In political theorist Gerald Gaus’s words, “no central intelligence—including economist *qua* policy adviser—has access to all the local and personal knowledge that is relevant to the specific proposed policy.”<sup>579</sup> So, liberal democrats need not argue that no social scientific theory tracks the truth. They need only express the epistemic virtue of epistemic humility.

### **C. Moral and Normative Political Judgements**

Reasonable citizens should lack confidence in which experts are the most morally and normative politically knowledgable. So, experts will probably

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<sup>578</sup> (Kidd 2017: 13)

<sup>579</sup> (Gaus 2008a: 298). Also see (Gaus 2006a, 2007; von Mises 2009: 89-116; Hayek 2014b: 90; 2014d: 265-6; 2014c: 362, 66; 2014e: 93-95; 2014a: 306; Kirzner 2018a: 387; 2018b: 427, 32-34; Klocksiam 2019; Barrett 2020; Bhatia 2020; Blunt 2020; Lenczewska 2021).

never become credible knowers on moral and normative political grounds. As explored in chapter two, many political questions are social scientific questions. In particular, policy questions about which policies promote shared aims are primarily social scientific questions. However, not all political questions are social scientific questions. Some political questions are moral and normative political questions. In particular, principled questions about which basic aims the state should promote are primarily moral and normative political questions.<sup>580</sup> Both which goals the state should pursue and which, if any, side constraints should constrain the state are moral and normative political questions instead of social scientific questions.

Liberal democrats can accept experts tend to hold better social scientific judgements than non-experts. However, they can argue that experts do not tend to have any better moral and normative political judgements than non-experts. Koppl says, “the theorist [should not] implicitly model themselves as motivationally, cognitively, ethically, behaviourally or in any other way different than the agents in the model. The theorist is but one more ant in the anthill.”<sup>581</sup> Liberal democrats should argue against a naive type of political cognitivism. Naive political cognitivists are confident that their moral and normative political judgements about which basic aims the state should promote are correct. However, liberal democrats should avoid naive political cognitivism, given the assumptions within the best moral and normative political theories are incommensurable.<sup>582</sup> The best moral and normative political theories are based on reasoned arguments with informed premises. So, as explored in chapter two, liberal democrats should accept a view that I call “cautious political cognitivism.” They should accept any confidence in which basic aims the state should promote must remain fragile. So, liberal democrats need not argue that no basic aims are correct. They need only express the epistemic virtue of epistemic humility. Cautious political cognitivism uncovers the second part of the problem.

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<sup>580</sup> (Christiano 2012: 33)

<sup>581</sup> (Koppl 2018: 91)

<sup>582</sup> (Gaus 2003: 31-42). Also see (D’Agostino 2003).

#### **D. Scientific Confidence**

In real politics, citizens and experts can agree on which basic aims the state should promote, but they can still disagree over which policies the state should implement. As explored in chapter two, I call this “policy disagreement.”<sup>583</sup> A judgement about which policies better promote shared aims is primarily a social scientific judgement. So, citizens most likely disagree with experts out of scientific ignorance. Both democracies and epistocracies should let experts primarily answer social scientific questions about which policies promote shared aims better. Experts should resolve policy disagreements.

Alternatively, citizens and experts can disagree over which policies the state should implement because they disagree over which basic aims the state should promote. As explored in chapter two, I call this “principled disagreement.” A judgement about which basic aims the state should promote is primarily a moral or normative political judgement. So, experts most likely disagree with citizens out of political ideology. Liberal democratic states let the public answer primarily principled questions about which basic aims the state should promote. The public resolve principled disagreements in national elections (and referendums) and public deliberations. In contrast, epistocratic states let experts answer primarily principled questions about which basic aims the state should promote. Experts also resolve principled disagreements in weighted elections and epistocratic councils. Consequently, epistocracies do not just give experts a more significant say in policy questions. They also give experts a more significant say in principled questions. In “extra votes” models, experts get to cast extra votes for whichever basic aims they wish the state to promote. In “expert veto” models, experts get to veto whichever basic aims they wish the state to avoid.

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<sup>583</sup> Protagoras makes a similar distinction between technical expertise and political wisdom (Protagoras 2003: 322b). Also see (Friedman 1953; Berlin 1969; Weber 1994; Plato 1997; Kitcher 2001; Christiano 2008; Ostrom 2008: 5, 71; Kitcher 2011; Berlin 2019; Reiss 2019b; Cerovac 2020: 201).

As explored next, epistocratic states risk scientism, given that epistocracies give social scientific experts more political power to answer principled moral and normative political questions.<sup>584</sup> It is helpful to borrow epistemologist Rik Peels's conceptual map of scientism.<sup>585</sup> Peels says epistemological scientism defends the epistemic omnicompetence of science. Science successfully answers scientific questions and science successfully answers questions far outside the conventional domain of science. In particular, science can successfully answer principled questions. So, Peels say epistemological scientism tends toward moral scepticism (and presumably political scepticism). A scientific theorist tends to remain sceptical about which answers to principled questions are correct, given that science has not answered them yet. A scientific theorist can argue that science will answer principled questions over time. Conversely, a nonscientific theorist can argue that science will never answer principled questions because scientific methods are just not the right type to answer principled questions. To expect scientific methods to answer principled questions is to make a simple category mistake. Similarly, social scientific experts are just not the correct type of experts to resolve principled disagreements to begin with. To expect social scientific experts to resolve principled disagreements is to make a similar category mistake.

Alternatively, a scientific theorist can concede that science will never answer principled questions, but only because they lack right answers to begin with. Peels says ontological scientism defends a completed scientific description of reality as a complete description of reality. So, Peels say ontological scientism tends toward moral nihilism. A scientific theorist tends to become nihilistic towards moral truth (and presumably normative political truth), given that science will never know them. Conversely, a nonscientific theorist can argue that ontological scientism is not much better than epistemological scientism. It is helpful to borrow the metaphysician Edward Feser's "metal detector" analogy. In Feser's words,

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<sup>584</sup> It is helpful to distinguish between moral and normative political judgements. A moral judgement is a private judgement that need not become publicly justifiable. A normative political judgement is a public judgement that should become publicly justifiable.

<sup>585</sup> (Peels 2018). Also see (Hayek 1980; Buchanan 2000: 12).

“it is like reasoning from the success of metal detectors to the conclusion there are no non-metallic features of reality.”<sup>586</sup> Unless the metaphysician assumes metal detectors are epistemically omniscient, the inability of metal detectors to detect nonmetal qualities is not a good reason to accept nonmetal qualities do not exist. The metaphysician should not expect metal detectors to detect nonmetal qualities to begin with. Similarly, unless the metaphysician assumes science is epistemically omniscient, the inability of science to answer principled questions is not a good reason to accept principled questions lack right answers. The metaphysician should not expect science to answer principled questions to begin with.

To avoid the risk of scientism, epistocrats should not assume social scientific experts are the correct type of experts to resolve principled moral and normative political disagreements. Epistocrats should accept social scientific experts are not the correct type of experts to answer principled moral and normative political questions.

Epistocrats can argue that they do not risk scientism. Epistocrats need not argue that social scientific expertise is *sufficient* to know which answers to principled questions are correct. Epistocrats need only say a minimum threshold of social scientific knowledge is *necessary* to reasonably judge which answers to principled questions are correct. So, epistocrats can defend what I call the “epistocratic counterfactual.” If only citizens knew generally uncontroversial social scientific facts, they would support very different basic aims from the basic aims they actually do support. As Jason Brennan says, “we would need to know something about the possible tradeoffs and opportunity costs of such goals before I form reasonable views of what our aims should be. Once again, this requires tremendous social scientific knowledge—knowledge most citizens lack.”<sup>587</sup> The elected politician often argues that popular policies produce significant benefits for a reasonably small cost. However, the actual benefits are usually much smaller and the unintended costs unreasonably big. Consequently, citizens should know which basic aims are realistic before reasonably judging which basic aims

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<sup>586</sup> (Feser 2014: 129)

<sup>587</sup> (Brennan 2016: 164)

the state should promote. Otherwise, ignorant citizens risk supporting unrealistically demanding basic aims that no policy platform could effectively promote. Alternatively, they could support unattractively demanding basic aims, which would require policy platforms they would judge are prohibitively unfair, expensive, risky or slow if only they were more informed.

Unfortunately, epistocrats do not entirely avoid the risk of scientism. They only push it back a step. In particular, liberal democrats can abstain from deciding whether citizens should know which basic aims are realistic before they can reasonably judge which basic aims they should vote for in national elections. In the opposite direction, liberal democrats can argue that citizens must democratically decide which basic aims the state should promote before experts can become reasonably confident in which social scientific facts are politically significant. In particular, philosopher of science Philip Kitcher rejects science should just discover scientific truths. In Kitcher's words, "there are vast numbers of true statements it would be utterly pointless to ascertain. The sciences are surely directed at finding *significant* truths."<sup>588</sup> Kitcher argues that science should discover socially significant scientific truths. Kitcher says, "properly functioning inquiry—well-ordered science—should satisfy the preferences of citizens in the society in which it is practised."<sup>589</sup> Similarly, experts must become reasonably confident in which social scientific facts are politically significant before they can become reasonably confident in which social scientific facts citizens should know. However, I will argue that any epistemic confidence in which social scientific facts are politically significant must remain too fragile to make epistocratic states credible political authorities.

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<sup>588</sup> (Kitcher 2001: 65)

<sup>589</sup> (Kitcher 2001: 124)

## V. WILL THE REAL KNOWERS PLEASE STAND UP?

### A. The Credible Knowers

In this section, I use epistemic realism to reject epistocracy. Any epistemic confidence in which experts should rule must remain too fragile to make epistocratic states credible political authorities. Experts will probably never become credible knowers. Reasonable citizens should lack confidence in which experts are the knowers. The argument is simple:

(1) If reasonable citizens can become reasonably confident in which experts should rule, reasonable citizens can become reasonably confident in which social scientific facts are politically significant

(2) Reasonable citizens cannot become reasonably confident in which social scientific facts are politically significant

(3) So, reasonable citizens cannot become reasonably confident in which experts should rule

The argument is logically valid. If the premises are true, the conclusion is true. Second, it is probably sound. Premise (1) is more plausibly true than its negation. Unless reasonable citizens can become reasonably confident in which social scientific facts are politically significant, they cannot confidently distinguish between politically significant experts and politically insignificant pub quiz experts. As explored below, epistocrats face a “pub quiz” problem.

Premise (2) is more plausibly true than its negation. Reasonable citizens should lack confidence in which social scientific facts are politically significant. First, epistocrats face a “politically insignificant knowers” problem. Reasonable citizens disagree over which basic aims the state should promote. Second, epistocrats face a “morally incompetent knowers” problem. Reasonable citizens disagree over which basic aims are even minimally reasonable. In particular, morally incompetent experts can pursue unreasonably narrow, tribal or otherwise morally incompetent basic aims.

Third, experts would face a “morally incompetent knowledge” problem. Social scientific expertise can become deeply entangled with incompetent moral judgements. So, any confidence in which experts should rule must remain fragile. Consequently, reasonable citizens should lack confidence in which experts should rule.

## **B. The Pub Quiz**

Epistocrats can reject premise (1). Even if reasonable citizens should lack confidence in which social scientific facts are politically significant, they can still become reasonably confident in who the knowers are. So, experts can still become credible knowers. However, Estlund argues that failing the test is not evidence of political incompetence. In Estlund’s words, “we should be reluctant to infer from voters failing these quizzes to the conclusion that they are incapable of making good decisions.”<sup>590</sup> Conversely, the pub quiz problem shows passing the test is not evidence of political competence.<sup>591</sup> It is not a problem in degree because the test is either too demanding or not demanding enough.<sup>592</sup> It is a problem in kind because test competence need not translate into political competence.

Epistocrats face what I call a “pub quiz” problem. Suppose some public-spirited pub landlords wish to participate in producing an informed public. They create “political ignorance” pub quizzes with big cash prizes for anybody scoring full marks. To win the prize money, a few pub patrons decide to learn as many generally uncontroversial social scientific facts as quickly as possible. The now informed patrons easily score full marks and win the prize money. So, the winners know they know enough to win the pub quiz. They know they are pub quiz competent. However, the winners do not know if they know enough to qualify as politically competent. Unless

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<sup>590</sup> (Estlund 2008: 13)

<sup>591</sup> Similar views already exist. First, political theorist Michael Hannon argues that knowledge need not translate into competence, but for sociological rather than epistemic reasons (Hannon 2022). Second, political theorist Piero Moraro argues that knowledge need not translate into competence, but for motivational rather than epistemic reasons (Moraro 2018).

<sup>592</sup> (Gunn 2019; Kuljanin 2019; Somin 2022)

pub quiz facts are politically significant facts, the winners are not politically competent. They are only pub quiz competent.

Reasonable citizens must become reasonably confident in which facts are politically significant before they can become reasonably confident in which citizens are politically competent. Otherwise, reasonable citizens cannot confidently distinguish between political competence and politically insignificant pub quiz competence. Epistocrats could concede that many generally uncontroversial social scientific facts are not politically significant facts. However, they could still argue that knowledge of generally uncontroversial social scientific facts is good evidence of political competence. Many citizens willing and able to know generally uncontroversial social scientific facts are likely to seek out whichever facts are more politically significant.<sup>593</sup> However, reasonable citizens must still become reasonably confident that facts are politically significant before they can become reasonably confident that knowledge of generally uncontroversial social scientific facts is good evidence of political competence. Otherwise, reasonable citizens cannot confidently distinguish between good evidence of political competence and good evidence of politically insignificant pub quiz competence. So, the political competence test will probably never become a credible test. Unless reasonable citizens can become reasonably confident in which facts are politically significant, reasonable citizens should lack confidence in which political competence test detects political competence instead of politically insignificant pub quiz competence.

### **C. Politically Insignificant Knowers**

Epistocrats can reject premise (2). Reasonable citizens can become reasonably confident that social scientific facts are politically significant. So, experts can still become credible knowers. However, epistocrats now face a “politically insignificant knowers” problem. Both epistemic democrats and epistocrats often compare electorates to juries.<sup>594</sup> However,

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<sup>593</sup> (Brennan 2016: 212)

<sup>594</sup> (Brennan 2011; 2016: 155-62). Also see (Goodin and Spiekermann 2018: 17-84).

electorates are not entirely analogous to juries. Juries do not primarily answer normative legal questions. In particular, they do not decide what should become the legal standard of guilt to begin with. Juries answer primarily empirical questions. They determine if it is beyond reasonable doubt that the defendant meets the legal standard of guilt, given the empirical facts the prosecutor provides. In contrast, electorates do answer normative political questions. They decide which basic aims the state should promote to begin with. The electorate then elects a legislature to answer primarily empirical questions. The legislature decides which policies to implement to promote the basic aims of the electorate. So, legislatures must primarily answer empirical questions instead of electorates. Consequently, even if legislatures often become similar to juries, electorates often remain dissimilar.

To let experts decide the test for political competence is to let the basic aims of experts inform which citizens get the vote. Experts must distinguish between politically insignificant pub quiz facts and politically significant facts. However, which basic aims the state should promote influences which facts are politically significant. So, experts must implicitly decide which basic aims the state should promote. Consequently, to let experts distinguish between politically insignificant pub quiz facts and politically significant facts is to implicitly risk scientism. The risk of scientism is subtle. The moral or normative political judgements about which facts are politically significant are implicit. Worse, the standard for political competence itself is often implicit. As political theorist Thomas Christiano says, “rarely do people define the standard for saying when a person is sufficiently informed.”<sup>595</sup> Nevertheless, epistocrats must still implicitly presume some standard for political competence and it must implicitly presume which basic aims the state should or should not promote.

It is helpful to explore Jason Brennan’s implicit standard for political competence and which basic aims it presumes the state should promote. Brennan assumes a distinctively economic standard for political

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<sup>595</sup> (Christiano 1996: 180). Also see (Merkel 2014; Malcolm 2021a).

competence. In Brennan's words, "I can't make a reasonable choice between them unless I know whether free trade or protectionism is more likely to improve the economy, to know that, I need to know economics."<sup>596</sup> In the policy context of trade and immigration, Brennan assumes doubling world economic output is a basic aim the state should promote. Brennan says, "the deadweight loss of immigration restrictions is around 100 percent of world product... while doubling world economic output isn't everything, it swamps most things on the political agenda. But voters get the answer *wrong*."<sup>597</sup> So, social scientific facts about world economic output become of central political significance. Brennan assumes policies are primarily (but not merely) instruments to increase world economic output. Consequently, a public too ignorant to know which policies double world economic output is a public that is too ignorant to vote competently.

As explored in chapter two, in real politics, reasonable citizens often disagree over which basic aims to prioritise. Worse, in polarised societies, enough reasonable citizens are likely to disagree over which priorities are acceptable to destabilise any consensus or convergence among them.<sup>598</sup> In particular, they can disagree over whether world economic output should become of central political significance. According to sociologist Cathrine Holst, "both economists and engineers offer expert advice on technical problems and policy efficiency, but their analyses also include more or less controversial risk and value assessments."<sup>599</sup> As explored in chapter two, high liberals and classical liberals often disagree over which economic goals to prioritise. However, reasonable citizens do not just disagree over which economic priorities are acceptable. They can also disagree over which social priorities are acceptable. In particular, socialists often argue that protecting working-class communities swamps most things on the political agenda instead of doubling world economic output. They need not value immigration restrictions and trade tariffs to increase world economic output but as a means to protect working-class communities from the most harmful

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<sup>596</sup> (Brennan 2016: 32)

<sup>597</sup> (Brennan 2016: 162)

<sup>598</sup> Consensus is interpersonal agreement in light of the same reasons. Conversely, convergence is interpersonal agreement in light of different reasons (Gaus 2009).

<sup>599</sup> (Holst 2012: 47)

consequences of global market forces. They would willingly vote to protect working-class communities at the expense of world economic output. Conversely, conservatives often argue that the protection of national identity swamps most things on the political agenda. They would willingly vote to protect historical institutions and cultural norms at the expense of world economic output.

In polarised societies, enough reasonable citizens are likely to disagree over which experts are politically significant to destabilise any consensus or convergence among them. No expert is politically significant to all citizens. Every politically significant expert to some citizens is politically insignificant to opposing citizens. First, socialists could defend the not unreasonable view that knowing how to protect working-class communities is the most politically significant type of expertise. Knowing how to double world economic output is of little significance. So, experts in doubling world economic output only know social scientific facts of little significance and remain ignorant of the most politically significant facts about how to protect working-class communities. Second, conservatives could defend the not unreasonable view that knowing how to protect national identity is the most politically significant expertise. Consequently, experts in protecting working-class communities remain ignorant of the most politically significant facts about how to protect historical institutions and cultural norms. Hence, one reasonable citizen's politically significant expert is another reasonable citizen's politically insignificant pub quiz expert.

Perhaps many citizens are too ignorant to know which policies would double world economic output, but only because they reasonably judge that doubling world economic output is of little political significance to begin with. First, socialists could reasonably judge that protecting working-class communities is much more politically significant than doubling world economic output. Second, conservatives could reasonably judge that protecting national identity is much more politically significant than doubling world economic output. So, maybe which policies double world economic output is a primarily social scientific judgement, but whether

doubling world economic output is one of the primary aims the state should promote or not is a primarily moral or normative political judgement which reasonable citizens can reasonably disagree with over. Consequently, one reasonable citizen's politically significant standard for political competence is another reasonable citizen's politically insignificant standard for pub quiz competence.

Epistocratic states risk two types of error. First, it risks what I call the "politically insignificant knowers problem." The authority tenet gives more political power to the knowers. However, in polarised societies, enough reasonable citizens are likely to disagree over which types of expertise are politically significant to destabilise any consensus or convergence among them. So, the authority tenet risks giving more political power to politically insignificant pub quiz experts. Second, epistocratic states risk what I call the "politically competent citizens problem." The antiauthority tenet takes political power away from the ignorant. However, in polarised societies, many reasonable citizens are likely to disagree over which types of ignorance are politically significant. Consequently, the antiauthority tenet risks taking political power away from politically competent citizens.

Epistocratic states risk giving too much political power to politically insignificant pub quiz experts. When experts do not share the same basic aims as citizens, they can appear politically insignificant. So, liberal democrats can defend what I call an "anti-epistocratic counterfactual." Even if citizens knew generally uncontroversial social scientific facts, they would still support the same or very similar basic aims.<sup>600</sup> Perhaps most generally uncontroversial social scientific facts about global economic output are of little political significance to most citizens to begin with. Consequently, experts will probably never become credible knowers. Reasonable citizens should lack confidence in the knowers. Epistocratic states risk giving more political power to politically insignificant experts because they know many pub quiz facts about global economic output. Conversely, the political

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<sup>600</sup> Political theorists Robert Goodin and Kai Spiekermann argue that reasonable citizens would not hold very different judgements if they had more information (Goodin and Spiekermann 2018: 86-91).

competence test is unlikely to become a credible test. Reasonable citizens should lack confidence in the test's ability to reliably indicate political competence. Epistocratic states risk taking political power away from politically competent citizens because they do not know many pub quiz facts about global economic output.

#### **D. Morally Incompetent Knowers**

I contribute to the realistic view of expertise as embodied in experts who remain as human as nonexperts, facing different but similarly bad incentives. I advance the view that acquiring expertise can induce different and even worse moral and normative political values in experts than in nonexperts (or attract researchers already sympathetic to the worse values).

It is helpful to push the problem of principled disagreement one step further. Epistocrats could concede that reasonable citizens should lack confidence in which experts are politically significant. However, the knowers need not perform perfectly. The knowers need only outperform the ignorant. So, epistocrats can concede reasonable citizens should lack confidence in which experts are politically significant. Nevertheless, epistocrats need only presume experts are politically competent. Suppose both citizens and experts defend competent moral or normative political judgements, but experts support more informed scientific judgements. In that case, experts will tend to defend better (even if not perfect) views overall. Consequently, experts can still become credible knowers. Hence, exploring whether experts defend competent moral or normative political judgments is helpful. Reasonable citizens should not presume experts are politically competent. They must become reasonably confident that experts are politically competent. Otherwise, reasonable citizens should lack confidence in the knowers, given the risk that epistocratic states could provide more political power to morally incompetent experts.

Epistocrats face a “morally incompetent knowers” problem. Experts are special because they know more social scientific facts than anybody else. However, experts are not special because they are more virtuously motivated

than anybody else. As Koppl says, “experts are driven by the same motives as non-experts.”<sup>601</sup> Similarly, in economists David Levy and Sandra Peart’s words, “people are all approximately the same messy combinations of interests.”<sup>602</sup> As explored above, Jason Brennan calls citizens rationally ignorant about social scientific facts “hobbits.” Similarly, I call experts rationally ignorant about different moral values, principles and theories “moral hobbits.” Expert moral hobbits tend to share similar interests, values and life experiences. They spend most of their professional life doing excellent research within an academic specialism and most of their private life with family and friends.<sup>603</sup> So, expert moral hobbits tend to internalise the same unreasonably narrow value assumptions within an academic specialism. They tend to remain ignorant about precisely how their unreasonably narrow values interact with and trade-off against different values. Consequently, expert moral hobbits are morally incompetent. They tend to lack reasoned justifications for their unreasonably narrow values. They could become morally competent enough to do excellent research and live virtuous private lives. However, they remain too morally incompetent to become morally or politically entitled to extra votes or expert vetos.

Brennan calls citizens rationally irrational about social scientific facts “hooligans.” Similarly, I call experts rationally irrational about different moral or normative political values, principles and theories “moral hooligans.” Expert moral hooligans spend most of their professional and private lives cheering for whichever political teams they loyally support. In Koppl’s words, “experts are people and do not change their human qualities when supplying expert opinions.”<sup>604</sup> Expert moral hooligans tend to internalise the same unreasonably tribal value assumptions within their unreasonably tribal political teams. They tend to become strategically informed about precisely how their unreasonably tribal values interact with and trade-off against different values. So, expert moral hooligans could

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<sup>601</sup> (Koppl 2018: 153)

<sup>602</sup> (Levy and Peart 2017: 7)

<sup>603</sup> Economists Gordon Tullock, Anthony Downs and William Niskanen argue that individual bureaucrats react to institutional incentives (Downs 1967; Niskanen 1971; Tullock 1986).

<sup>604</sup> (Koppl 2018: 152)

become strategically competent, but they are morally incompetent. They just acquire biased rationalisations for their unreasonably tribal values. Koppl says, “bias may emerge from human qualities we value and yet cause expert’s opinion to deviate from the public interest.”<sup>605</sup> Expert moral hooligans could support morally good causes for morally good reasons. Still, they tend to remain too morally incompetent to become morally or politically entitled to extra votes or expert vetos. Even if their goals are reasonable, their priorities are not. They give far too much weight to their tribal goals and far too little weight to much else.

Epistocrats often compare voting to driving.<sup>606</sup> Citizens must pass a driving test to drive. Similarly, epistocrats argue that citizens must pass a voting test to vote. However, voting is not wholly analogous to driving. Voting is more comparable to riding in a taxi. The passenger decides where to go and pays the taxi driver to get her there. So, the passenger does not require much, if any, factual knowledge of how to get to wherever she decides to go. The passenger pays the taxi driver to know on her behalf. Similarly, the electorate decides which basic aims the state should promote. The electorate then elects a legislature to know which policies they should implement on their behalf and how to implement them effectively. Consequently, voting requires primarily moral and normative political judgements about where to go. It does not require much, if any, social scientific knowledge about how to get there. The public elects a legislature to know how to get to wherever they democratically decide to go instead.

In practice, passengers often must know *something* about how to get somewhere before they can reasonably decide where to go. They must become reasonably confident that it is not impossible to get there or that it is prohibitively expensive, risky or slow. Similarly, liberal democrats could concede that voters must know something about likely policy consequences before deciding which basic aims to promote. They must become reasonably confident that the basic aims are not impossible to promote or that they are prohibitively expensive, risky or slow. However, the passenger does not

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<sup>605</sup> (Koppl 2018: 153)

<sup>606</sup> (Brennan 2016: 129). Also see (Caplan 2007: 197; Brennan 2012: 108).

require a driving license to get a taxi. The taxi driver should let the passenger know if her destination is impossible to get to or prohibitively expensive, risky or slow. Otherwise, the taxi driver risks reputational damage and the loss of passengers. Similarly, citizens do not require a voting license to get a vote. Politicians should let citizens know which basic aims are impossible to promote or prohibitively expensive, risky or slow. Otherwise, the politician risks reputational damage and the loss of voters.

Brennan tests whether citizens know generally uncontroversial social scientific facts. However, liberal democrats can remain sceptical about whether propositional knowledge is good evidence of political competence.<sup>607</sup> Jason Brennan faces what I call the “bad mechanic problem.” Suppose an experienced car mechanic hires a junior apprentice. Very few citizens, if any, know more about cars than the mechanic. Nevertheless, suppose the mechanic does not know how to drive well. She goes through orange lights, rarely giving way, and so on. The mechanic is also irrationally biased towards whichever car brand she loyally supports. The mechanic irrationally believes that anybody with the car brand they loyally support drives well and everybody else drives badly. So, good theoretical knowledge about how cars work is not sufficient for good practical knowledge about how to drive well. Conversely, many mechanics know more about cars than the apprentice. Nevertheless, suppose the apprentice knows how to drive well. She stops at orange lights, she often gives way and so on. Consequently, good theoretical knowledge about how cars work is not necessary for good practical knowledge about how to drive well.

Similarly, suppose an expert social scientist hires a junior researcher. Very few citizens, if any, know more about politics than the expert. Nevertheless, suppose the expert does not know how to vote competently. The expert is also irrationally biased towards whichever political team she loyally supports. The expert irrationally believes that any fellow supporters of the

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<sup>607</sup> Political theorists Robert Goodin and Kai Spiekermann argue that propositional knowledge is not the same as political competence. Reasonable citizens need not rely on personal propositional knowledge but on competent opinion leaders and reliable cues (Goodin and Spiekermann 2018: 86-91).

political team she loyally supports vote well and everybody else votes incompetently. So, good theoretical knowledge about how politics works is not sufficient for good practical knowledge about how to vote well. Conversely, many know more about politics than the junior researcher. Nevertheless, suppose the junior researcher knows how to vote competently. Consequently, good theoretical knowledge about how politics works is not sufficient for good practical knowledge about how to vote well either.

The bad mechanic problem shows epistocratic states risk two more types of error. First, it risks what I call the “morally incompetent knowers problem.” The authority tenet gives more political power to the knowers. However, social scientific expertise is not enough to vote competently any more than mechanical expertise is enough to drive well, especially if the knowers are drunk on moral hobbitism or moral hooliganism. So, the authority tenet risks giving more political power to morally incompetent experts. Second, epistocratic states risk what I call the “politically competent citizens problem.” The antiauthority tenet takes political power away from the ignorant. However, social scientific knowledge is not required to vote competently any more than mechanical expertise is required to drive well. Consequently, the antiauthority tenet risks taking political power away from politically competent citizens.

The spectre of epistocracy does identify a real risk of democracy giving too much political power to politically ignorant citizens. Citizens who do not share the same policy preferences as experts can appear politically ignorant. In Jason Brennan’s words, “most democratic citizens and voters are, well, ignorant, irrational and misinformed nationalists.”<sup>608</sup> So, epistocrats can instinctively infer epistocratic counterfactual. If only the public knew generally uncontroversial social scientific facts, they would support very different basic aims from the basic aims they actually do support. However, the morally incompetent knowers problem identifies a similarly real risk of epistocracies giving too much political power to morally incompetent experts. When experts do not share the same outcome preferences as

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<sup>608</sup> (Brennan 2016: 19)

citizens, they can appear too narrow, too tribal or otherwise morally incompetent. So, liberal democrats can advance what I call a “democratic counterfactual.” If only experts supported more reasonably acceptable basic aims, they would support very different policies from those they actually support. Consequently, experts will probably never become credible knowers. Reasonable citizens should lack confidence in the knowers. Epistocratic states risk giving morally incompetent experts more political power just because they know more pub quiz facts than anybody else. Similarly, the political competence test is unlikely to become a credible test. Reasonable citizens should lack confidence in the political competence test, given that epistocratic states risk taking political power away from politically competent citizens just because they do not know many pub quiz facts.

A real expert remains human and her expertise is not a cure-all for epistemic and moral vice. Political theorist should expect experts remain as epistemically and morally limited as the non-expert except that they possess one type of highly specialised social scientific knowledge. Worse, the expertise of a real expert could induce or attract particular epistemic and moral vices associated with social scientific specialisation in general and her school of thought in particular. Epistocrats argue against democracy, given public ignorance. As UK prime minister Winston Churchill is rumoured to have said, “it is often said that the best argument against Democracy is a five-minute conversation with the average voter.” Conversely, liberal democrats can argue against epistocracy, given the problem of morally incompetent experts. Perhaps the best argument against epistocracy is a five-minute conversation with the average expert.

### **E. Morally Incompetent Knowledge**

I introduce what I call “morally incompetent expertise.” The problem of fact/value entanglement in the philosophy of science shows how worse moral and normative political values among experts could spill over into their social scientific expertise and morally corrupt it. It is not just the

explicit epistemic values that are often central to the production of social scientific expertise; implicit nonepistemic values can also become central.

It is helpful to push the problem of principled disagreement one step further. Epistocrats could concede that reasonable citizens should lack confidence in which experts are politically competent. However, the knowers need not perform perfectly. The knowers need only outperform the ignorant. So, epistocrats can concede that reasonable citizens should lack confidence in which experts are politically competent. Nevertheless, epistocrats need only presume experts are scientifically competent. If both citizens and experts defend incompetent moral and normative political judgements, but experts defend competent scientific judgements, experts will tend to support better (even if imperfect) views overall. Consequently, experts can still become credible knowers. Hence, it is helpful to explore whether experts defend competent scientific judgements. Reasonable citizens should not presume experts are scientifically competent. They must become reasonably confident that experts are scientifically competent. Otherwise, reasonable citizens should lack confidence in the knowers, given the risk that epistocratic states could provide more political power to incompetent expertise.

Epistocrats face a “morally incompetent knowledge” problem. Philosopher of science Julian Reiss argues that there is no such thing as uncontroversial social scientific facts.<sup>609</sup> In practice, social scientific facts are often deeply entangled with moral and normative political values. So, disagreement over which moral and normative political values are correct spills into disagreement over which social scientific facts are true. Reiss uncovers the extent of disagreement over which social scientific facts are true. I push the argument one step forward. There is such a thing as a morally incompetent social scientific fact. It is not the case that expert moral hobbits and moral hooligans are morally incompetent, but their social scientific expertise

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<sup>609</sup> (Reiss 2019b: 183-87). Economist Cyril Hédoïn argues that Reiss overestimates the controversy and social scientific facts are often only moderately controversial (Hédoïn 2021). However, Hédoïn only pushes the problem back a step. In practice, many judgements about which social scientific facts are only moderately controversial are themselves often strongly controversial.

remains uncorrupted. In practice, unreasonably narrow, unreasonably tribal or otherwise unreasonable moral and normative political values spill over into the production of morally incompetent social scientific facts.

It is helpful to introduce the idea of “fact/value” entanglement.<sup>610</sup> Philosopher of science Vivian Walsh accepts facts and values are conceptually distinct. However, Walsh argues that facts and values are deeply entangled in practice. Walsh uses the tapestry metaphor that the philosophers of science Willard Van Orman Quine and Hilary Putnam also used.<sup>611</sup> The purely black threads of fact, the purely white threads of convention and the purely red threads of value are conceptually distinct. However, in practice, no threads are purely black facts, purely white conventions or purely red values. The tapestry of scientific knowledge is a greyish red with darker, lighter and redder threads. Facts, conventions and values are deeply entangled with no precise distinction between them.

Epistocrats can argue that some citizens’ ignorant, biased or otherwise incompetent social scientific judgements tend to produce scientifically incompetent moral and normative political judgments. In Jason Brennan’s words, “the problems examined in previous chapters—severe cognitive biases, political hooliganism and the lack of incentive to think rationally about politics—apply to normative as much as empirical considerations.”<sup>612</sup> Before citizens can reasonably judge which basic aims the state should promote, they must become reasonably confident in which policies are likely to cause which outcomes and how different policies and outcomes are likely to interact. In the opposite direction, some experts’ narrow, tribal or otherwise incompetent moral and normative political judgements tend to produce morally incompetent social scientific judgments. So, before experts can reasonably judge which social scientific facts are morally competent, they must become reasonably confident in which basic aims the state should promote. Similarly, before experts can reasonably evaluate which social

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<sup>610</sup> (Reiss 2017: 134). Also see (Ostrom 1999c: 378-79; Dasgupta 2005; *Value-Free Science?: Ideals and Illusions* 2007; Ostrom 2008: p7, 16, 24-25; Reiss 2008; Su and Colander 2013; Hausman, McPherson, and Satz 2016)

<sup>611</sup> (Quine 1963; Putnam 1993: 143-44; 2002: 12; Walsh 2012)

<sup>612</sup> (Brennan 2016: 210)

scientific facts are morally incompetent, they must become reasonably confident in which basic aims the state should avoid.

It is helpful to explore the risk of morally incompetent expert consensus. Jason Brennan identifies a general consensus over free trade. Brennan argues that many experts support free trade because it increases world economic output. So, exploring the risk of a morally incompetent expert consensus in the paradigmatic case of free trade is helpful. Reiss argues that there is no such thing as uncontroversial facts. In the original Ricardian free trade model, England and Portugal start to trade cloth and wine freely. In the model, comparative advantage causes England to specialise in cloth production and Portugal to specialise in wine production. Consequently, free trade in the original Ricardian model does increase world economic output. However, Reiss argues, even if the original Ricardian model is accepted, free trade still increases world economic output at the cost of British wine producers and Portuguese cloth producers. Hence, any free trade consensus would require an implicit moral and normative political judgement that world economic output should take priority over the profits of British wine producers and Portuguese cloth producers. Thus, a free-trade consensus is always morally controversial. Even if many experts do implicitly accept world economic output should take priority, reasonable citizens can always reasonably reject that it should take priority and prioritise the profits of British wine producers and Portuguese cloth producers instead.

It is helpful to now explore the risk of moral hobbitism. Expert moral hobbits judge that the state should prioritise unreasonably narrow aims. So, specialist hobbit consensus fails to fit the priorities of reasonable citizens well. Perhaps expert moral hobbits remain morally ignorant about how increasing world economic output precisely interacts with and trades off against protecting working-class communities. Reiss says, “financial transfers can hardly compensate for their loss of an occupation in a specific industry. Being a wine maker is something quite different from working in a cloth factory or receiving state benefits.”<sup>613</sup> Similarly, in economist Ron

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<sup>613</sup> (Reiss 2019b: 187)

Baiman's words, "in the longer run, both countries may suffer unemployment, lower wages and deteriorating social and environmental conditions because of the capability of agents that control this process of international arbitrage to force workers and citizens in both countries to accept these lower standards."<sup>614</sup> Consequently, expert moral hobbits lack reasoned moral arguments to justify their narrow moral and normative political judgements. They risk contributing toward a morally incompetent expert consensus over free trade. They produce morally incompetent facts because many stages of their social scientific research are deeply entangled with unreasonably narrow moral and normative political judgements.

Similarly, expert moral hobbits could remain morally ignorant about how increasing world economic output precisely interacts with and trades off against protecting national identity. They just assume increasing world economic output should take priority over protecting historical institutions and cultural norms. So, experts will probably never become credible knowers, given that expert moral hobbits risk contributing toward a morally incompetent expert consensus over free trade. They produce morally incompetent facts because many stages of their social scientific research are deeply entangled with unreasonably narrow moral and normative political judgements. Even if increasing world economic output takes priority within unreasonably narrow hobbit specialisms, it need not take priority within democratic politics.

It is helpful to now explore the risk of moral hooliganism. Expert moral hooligans judge that the state should prioritise unreasonably tribal aims. So, specialist hooligan consensuses strategically fit the priorities of their political teams well. Expert moral hooligans become strategically informed about how increasing world economic output precisely interacts with and trades off against protecting working-class communities. Whichever experts loyally support English cloth producers or Portuguese wine producers (or their real-world counterparts) strategically argue that increasing world economic output should take priority over protecting working-class

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<sup>614</sup> (Ron 2017: 43)

communities. They provide biased moral arguments to justify their tribal moral and normative political judgements. Consequently, expert moral hooligans risk contributing toward a morally incompetent expert consensus over free trade. They produce morally incompetent facts because many stages of their social scientific research are deeply entangled with unreasonably tribal moral and normative political judgements.

Similarly, expert moral hooligans could become strategically informed about how increasing world economic output precisely interacts with and trades off against protecting national identity. They strategically argue that increasing world economic output should take priority over protecting historical institutions and cultural norms to promote the narrow interests of British cloth producers and Portuguese wine producers (or their real-world counterparts). So, experts will probably never become credible knowers, given that expert moral hooligans risk contributing toward a morally incompetent expert consensus over free trade. Expert moral hooligans produce morally incompetent facts because many stages of their social scientific research are deeply entangled with unreasonably tribal moral and normative political judgements. Even if increasing world economic output takes priority within unreasonably tribal hooligan specialisms that loyally support particular political teams, it need not take priority within democratic politics.

## VI. WANING PUBLIC CONFIDENCE IN THE KNOWERS

Reasonable citizens should not gain confidence in the knowers on purely scientific grounds. Reasonable citizens must become reasonably confident in them on partially moral grounds. First, the political competence test must detect politically significant experts. Otherwise, politically insignificant “pub quiz” experts risk supporting not much better policies than reasonable citizens. Second, the political competence test must detect politically competent experts. Otherwise, expert moral hobbits, expert moral hooligans or otherwise morally incompetent experts risk supporting even worse basic aims than reasonable citizens. Third, the political competence test must detect politically competent expertise. Otherwise, hobbit expertise, hooligan

expertise, or otherwise morally incompetent expertise risk supporting even worse basic aims than reasonable citizens. Consequently, reasonable citizens should lack confidence in which experts are the knowers. Reasonable citizens will probably never become reasonably confident in which experts know how to rule more effectively than the public. Public confidence in which experts should rule is likely to remain too fragile to make epistocratic states credible political authorities.

## VII. POSSIBLE REPLIES

Epistocrats can provide several mechanisms that apparently avoid the need to know which social scientific facts are politically significant. However, they do not solve the credible knowers problem. They only push the problems back a step.

### **A. Let The People Decide Who Knows Best**

Epistocrats can reject premise (1). Perhaps reasonable citizens should lack confidence in which social scientific facts are politically significant. However, reasonable citizens can still become reasonably confident in who the knowers are. So, experts can still become credible knowers. In particular, Jason Brennan lets reasonable citizens democratically decide who the knowers are. Brennan argues that they could use referendums, citizen councils, deliberative polling, etc.<sup>615</sup> Brennan argues that his democratic solution does not conflict with his epistocratic argument against democracy. Brennan argues that knowing which experts know best requires much less social scientific knowledge than knowing which policies are best. So, reasonable citizens are too ignorant to know which policies are best, but they are informed enough to know which experts know best.

Epistocrats could borrow the philosophers of science Harriet Collins and Robert Evans's concept of "meta-expertise."<sup>616</sup> The meta-expert judges expertise. The external meta-expert judges types of expertise that they individually lack. Collins and Evans argue that external meta-experts can

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<sup>615</sup> (Brennan 2016: 226)

<sup>616</sup> (Collins and Evans 2009: 69-70)

indirectly judge expertise by judging experts. They can judge experts' credentials, track records, experience, etc.<sup>617</sup> Similarly, epistocrats can argue that citizens are external meta-experts. They know enough to reasonably judge which credentials, track records and experiences are politically significant. So, citizens know enough to produce a good standard of political competence but are too ignorant to pass it.

However, Jason Brennan only pushes the problem back a step. First, in polarised societies, enough reasonable citizens are likely to disagree over which credentials are politically significant to destabilise any consensus or convergence among them. Socialists can argue that credentials in how to protect working-class communities are more politically significant than credentials in how to double world economic output. Similarly, conservatives can argue that credentials in how to protect national identity are the most politically significant. So, epistocrats face the problem of politically insignificant credentials. Second, the public can incompetently agree on which disciplines and specialisms are politically significant. The ignorant hobbits can all agree that the credentials they expect to benefit their local communities are the most politically significant. Similarly, irrational hooligans can all agree that the credentials they expect to help their political teams are the most politically significant. Consequently, epistocrats face the problem of morally incompetent credentials.

Epistocrats can argue that a democratically produced standard of political competence should satisfy citizens' preferences in the society in which it is implemented. Reasonable citizens are likely to compromise. So, they are likely to produce a moderate standard that (nearly) nobody accepts is the best standard, but that (nearly) nobody accepts is the worst. Reasonable citizens are likely to accept that the compromise standard is good enough. In response, epistocrats would only push the problem back one more step. First, in polarised societies, enough reasonable citizens are likely to disagree

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<sup>617</sup> Political theorist Alexander Guerrero argues that advanced degrees, years of professional experience, formal professional credentials from institutions with national or international accreditation, publication of research in independent, peer-reviewed journals, occupational experience and lived experience can provide fallible but good evidence of reliable expertise (Guerrero 2014: 161-62).

over which compromises are good enough to destabilise any consensus or convergence among them. Socialists can argue that compromises costing working-class communities are not good enough. Similarly, conservatives can argue that compromises harming national identity are not good enough. Consequently, epistocrats face the problem of politically unacceptable compromises. Second, the public can incompetently agree on which compromises are good enough. The ignorant hobbits can all agree that whichever compromises they expect to benefit their local communities are good enough. Similarly, irrational hooligans can all agree that the compromise they expect to help their political teams is good enough. Hence, epistocrats face the problem of morally incompetent compromises. Experts will probably never become credible knowers with democratic political competence tests.

### **B. The Knowers Know Enough**

Epistocrats can reject premise (2). Perhaps reasonable citizens should lack confidence in which experts know best. However, reasonable citizens can still become reasonably confident that social scientific facts are politically significant in a more modest sense. So, experts can still become credible knowers. Reasonable citizens can still become reasonably confident in which experts know enough. The easiest case is of omniscient experts. They know every social scientific fact. However, all-knowing experts are unrealistic. The second-best case is of interdisciplinary experts. Contributory experts contribute to a particular discipline or specialism.<sup>618</sup> In contrast, interactional or interdisciplinary experts interact between different disciplines and specialisms.<sup>619</sup> They know many social scientific facts across many disciplines. As economist John Maynard Keynes says, “the master-economist... must be mathematician, historian, statesman, philosopher... No part of man’s nature or his institutions must lie entirely outside his regard.”<sup>620</sup> The interdisciplinary expert is most likely to know enough to rule more effectively than the ignorant public. Perhaps reasonable citizens should

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<sup>618</sup> (Collins and Evans 2009: 14)

<sup>619</sup> (Collins and Evans 2009: 14)

<sup>620</sup> (Keynes 1924: 322). Also see (Hayek 1956: 463).

lack confidence in which standard of political competence is best. However, epistocrats can still argue that it is better to pick a moderately good standard of political competence than reject epistocracy altogether.

Philosopher of science Peter Galison provides the concept of “intellectual trading zones” where different disciplines trade information.<sup>621</sup> Taking up Galison’s concept, the philosophers of science Robert Chapman and Alison Wylie argue that intellectual trading zones provide the required range of expertise to inform evidential reasoning within archaeology.<sup>622</sup> So, epistocrats can argue that intellectual trading zones would give the needed range of expertise to inform expert views. First, moral hobbitism is less likely to survive when otherwise intellectually isolated experts must “trade” with many different disciplines. Moral hobbits must start to justify and refine their unreasonably narrow values whenever they “trade” with experts in different specialisms. Second, moral hooliganism is less likely to survive. Moral hooligans must start to justify and refine their unreasonably tribal values whenever they “trade” with experts within very different teams.

However, epistocrats still only push the problem back a step. First, in polarised societies, enough reasonable citizens are likely to disagree over which disciplines and specialisms are politically significant to destabilise any consensus or convergence among them. Socialists can argue that interdisciplinary experts ignorant of how to protect working-class communities remain politically insignificant experts. Similarly, conservatives can argue that interdisciplinary experts ignorant of how to protect national identity remain politically insignificant experts. So, epistocrats face the problem of politically insignificant disciplines and specialisms. Second, experts can incompetently agree on which disciplines and specialisms are politically significant. The interdisciplinary hobbits can still prioritise the unreasonably narrow values within their specialism after they apathetically learn about different values in different disciplines. Similarly, interdisciplinary hooligans can strategically learn about the different values within different fields to better promote the unreasonably

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<sup>621</sup> (Galison 1997: 803)

<sup>622</sup> (Chapman and Wylie 2016: 145)

tribal values within their political teams. Consequently, epistocrats face the problem of morally incompetent interdisciplinary experts. Experts will probably never become credible knowers with interdisciplinary expertise.

### **C. The Ignorant Know Least**

Epistocrats can reject premise (2) by a different path. Perhaps reasonable citizens should lack confidence in which experts know enough. However, reasonable citizens can still become reasonably confident that social scientific facts are politically significant in a much more minimal sense. So, the political competence test can still become a credible test. Reasonable citizens can still become reasonably confident in which political competence tests detect which citizens know least.

The easiest case is of the completely ignorant citizen. They do not know any social scientific facts. They do not even know any generally uncontroversial social scientific facts about the policies which would promote the basic aims they support. So, epistocracies could provide partially-personalised tests. The self-identified socialist must know generally uncontroversial social scientific facts about socialist policies, the self-identified conservative must know generally uncontroversial social scientific facts about conservative policies and so on. Consequently, epistocrats can argue that the democrat must show how completely ignorant citizens could competently judge which basic aims the state should promote, especially if they are entirely ignorant about the policies which would promote their basic aims.

However, within liberal democratic politics, citizens are beneficiaries of very complex divisions of epistemic labour.<sup>623</sup> First, politicians within political parties aim to defend policy platforms that they expect to win the next election. Second, social scientific experts within democratic institutions (public universities, research institutes, think tanks and so on) often advise political parties and politicians to filter out unrealistic basic aims that no policy platform could effectively promote and unattractive basic aims that

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<sup>623</sup> Economist F.A. Hayek argues that individually ignorant citizens often rely on complex social norms to inform their actions (Hayek 2011: 73-76).

would require prohibitively unfair, expensive, risky or slow policy platforms to promote. So, completely ignorant citizens need only pick one informed policy platform out of a bundle of similarly informed policy platforms.<sup>624</sup> In Christiano's words, "citizens choose candidates or parties that represent the packages of aims they want the political system to pursue."<sup>625</sup> Third, journalists within print media, broadcast media and online media aim to inform completely ignorant citizens about the different policy platforms. Consequently, completely ignorant citizens need only consume easily accessible information when they need to consume it. Hence, completely ignorant citizens need only support one informed policy platform in the light of easily accessible information.

Liberal democrats need not become reasonably confident that reasonable citizens are politically competent. They need only remain reasonably cautious about whether reasonable citizens are politically incompetent. The complex division of epistemic labour within liberal democratic politics makes citizen competence very difficult to evaluate either way. Perhaps the completely ignorant citizen competently judges which basic aims the state should promote. Maybe reasonable citizens are not ignorant because they expect to gain very little from voting competently. Reasonable citizens could expect to vote nearly as well as an informed counterpart by using heuristics instead.<sup>626</sup> It is helpful to explore a "take-the-best" heuristic. With a "take-the-best" heuristic, reasonable citizens need only know about a few "signals" that let them know which politician is most likely to promote whichever basic aims they wish the state to promote. So, the heuristic citizen need not perform quite as competently as an informed counterpart. Still, they need not spend nearly as much time, money and similarly scarce

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<sup>624</sup> Similar views already exist. First, political theorist Thomas Christiano argues that experts should filter out the worst choices and should let citizens decide between the better choices (Christiano 2012: 42). Second, political theorists Amy Gutmann and Dennis Thompson argue that reciprocity demands experts decide which empirical methods are most reliable (Gutmann and Thompson 1998). Third, political theorist Alfred Moore argues that experts and citizens can critically engage with each other. Experts can filter out the worst choices and citizens can critically redirect the basic aims of expert research (Moore 2017: 35-58).

<sup>625</sup> (Christiano 2012: 33)

<sup>626</sup> (Reiss 2019b: 2). Also see (McCubbins and Lupia 1998: 68-78; Ostrom 2010: 660; Lupia 2016: 240-60; Goodin and Spiekermann 2018: 178-94).

resources on acquiring political information in return.<sup>627</sup> Consequently, epistocratic states still risk giving less political power to politically competent citizens who rely on heuristics to vote competently as beneficiaries of complex divisions of epistemic labour characteristic of liberal democratic politics.

## VIII. CONCLUSION

Epistocratic states will probably never become credible political authorities. Reasonable citizens will probably never become reasonably confident that epistocratic states are legitimate political authorities. Epistocrats argue that epistocratic states are legitimate political authorities because epistocratic states would publicly reveal what promotes justice and the common good more effectively than liberal democratic states. However, epistocrats underestimate the significance of value pluralism among polarised societies. In particular, reasonable citizens disagree over which facts are politically significant. So, they disagree over which experts are politically significant. Second, epistocrats underestimate the risk of social scientific consensus among morally incompetent experts. Expert moral hobbits could all agree to prioritise unreasonably narrow moral and normative political values. Similarly, specialist moral hooligans could all agree to prioritise unreasonably tribal moral and normative political values. Third, social scientific expertise can become deeply entangled with morally incompetent aims. Expertise deeply entangled with moral hobbitism could prioritise unreasonably narrow moral and normative political values. Similarly, expertise deeply entangled with hooliganism could prioritise unreasonably tribal moral and normative political values. Consequently, reasonable citizens should remain reasonably cautious about whether any epistocratic state would publicly reveal what promotes justice and the common good more effectively than liberal democratic states.

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<sup>627</sup> (Rau and Redlawsk 1997)

**Chapter Five**  
**Democratic Deliberations and Fair Terms:**  
**The Problem of Exploitative Deliberation**

I. INTRODUCTION

In chapters two and three, I argued against epistemic democracy. Liberal democratic states are not credible political authorities with epistemic conceptions of legitimacy because reasonable citizens will probably never become reasonably confident that democratic decisions do publicly reveal what promotes justice and the common good. In chapter four, I argued against epistocracy. Epistocratic states are not credible political authorities with an epistemic instrumentalist conception of legitimacy because reasonable citizens should lack confidence in who the knowers are. So, epistemic democrats could return to fair proceduralism.<sup>628</sup> Liberal democratic states can become credible political authorities with a fair proceduralist conception of legitimacy. Reasonable citizens can become reasonably confident that democratic mechanisms are procedurally fair independently of whether democratic decisions do publicly reveal what promotes justice and the common good. Liberal democratic states are legitimate political authorities as promoters of fair procedures.

In this chapter, I argue against fair proceduralism. Liberal democratic states are not credible political authorities with a fair proceduralist conception of legitimacy because reasonable citizens will probably never become reasonably confident that democratic mechanisms are procedurally fair. In this chapter, I will apply epistemic realism to fair proceduralism. In polarised societies, there is persistent disagreement amongst reasonable citizens over which terms for social cooperation are fair. So, I argue that fair terms are not credible terms because reasonable citizens should remain reasonably cautious about which terms for social cooperation are fair. In particular, reasonable citizens should lack confidence in which terms for public deliberation are fair and which terms are unfair or exploitative. I call this the “problem of exploitative deliberation.” Reasonable citizens should

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<sup>628</sup> (Christiano 1996; Waldron 1999; Richardson 2002). Also see (Arendt 1967; Dahl 1989; Young 2000).

become reasonably cautious about which terms for public deliberation are fair. Consequently, legitimacy should only depend on which terms for public deliberation preserve a mutually beneficial peace independently of whether they are fair or not.<sup>629</sup>

## II. POLITICAL LIBERALISM

### A. Rawls's Liberal Principle of Legitimacy

In this section, I introduce political theorist and epistemic democrat David Estlund's interpretation of political liberalism. In later sections, I argue that his interpretation of political liberalism is not epistemically realistic. As the Introduction explored, the later Rawls, as a political liberal, defends a conception of citizens as rational *and reasonable* agents.<sup>630</sup> First, reasonable citizens are epistemically reasonable, following particular epistemic norms. They base their conception of justice on reasoned arguments with informed premises and willingly change their conception of justice in the light of better arguments and better information.<sup>631</sup> However, Rawls argues that all reasonable citizens bear the "burdens of judgement."<sup>632</sup> Any reasonable citizen must perform several epistemically difficult tasks to hold a conception of justice. So, reasonable citizens often accept different conceptions of justice because of the burdens of judgement. Second, reasonable citizens are morally reasonable, given that they follow particular moral norms. They respect the burdens of judgement and seek fair (or otherwise mutually acceptable) terms for social cooperation (in the expectation that fellow reasonable citizens will reciprocate). So, Rawls defends a liberal principle of legitimacy. He says, "our exercise of political power is fully proper only when it is exercised in accordance with a constitution the essentials of which all citizens as free and equal may reasonably be expected to endorse in the light of principles and ideals

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<sup>629</sup> Economist William Riker argues that no aggregation mechanism can become fair (Riker 1982: 116). In contrast, independently of whether any aggregation mechanism is fair, I argue that reasonable citizens should lack confidence in whether the terms for public deliberation are fair.

<sup>630</sup> (Rawls 1993: 48-54)

<sup>631</sup> (Talisso 2009b: 79-120; Talisso 2009a)

<sup>632</sup> (Rawls 1993: 54-58)

acceptable to their common human reason.”<sup>633</sup> Independently of whichever conception of justice is true, states are not legitimate political authorities unless the reasons for state coercion are acceptable to reasonable citizens.<sup>634</sup>

Rawls defends abstinence over which substantive conception of justice is true.<sup>635</sup> The state should morally respect the judgements of every reasonable citizen equally. In Rawls’s words, “reasonable persons will think it unreasonable to use political power, should they possess it, to repress comprehensive views that are not unreasonable.”<sup>636</sup> Consequently, he argues for an “overlapping consensus” among reasonable citizens in the sense that some conceptions of justice are acceptable to all reasonable citizens independently of whatever else they might accept.<sup>637</sup> As the Introduction explored, Rawls’s conception of justice as fairness contains two central principles. The first principle is the liberty principle. It demands the state to provide a fully adequate scheme of equal basic liberties to all citizens. The second principle is the equality principle. It demands the state satisfy two individually necessary and jointly sufficient principles to justify socioeconomic inequalities. The fair equality of opportunity principle requires the state to provide fair equality of opportunity to all citizens. The difference principle demands the state to provide an equal distribution of primary social goods unless an unequal distribution would primarily benefit the worst-off. Independently of whether it is true or not, Rawls argues that his conception of justice as fairness is the most reasonably acceptable conception of justice.

## **B. Estlund’s Qualified Acceptability Requirement**

Estlund advances Rawls’s liberal principle of legitimacy. Estlund defends a qualified acceptability requirement. Qualified acceptability requirements say

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<sup>633</sup> (Rawls 1993: 137)

<sup>634</sup> (Rawls 1993: 41). Also see (Estlund 1993: 74-75; 2008: 21-39; Peter 2008a; Quong 2011; Galston 2012: 142).

<sup>635</sup> Political theorist Joseph Raz argues that political theorist John Rawls abstains from deciding the truth-value of every view which is an incoherent view (Raz 1990). Alternatively, political theorist David Estlund argues that Rawls need only abstain from deciding the truth-value of every comprehensive doctrine which is not an incoherent view (Estlund 2008: 55-64).

<sup>636</sup> (Rawls 1993: 60)

<sup>637</sup> (Rawls 1993: 56)

a doctrine should become publicly justifiable to “qualified” citizens to become legitimate (however public justification liberals wish to define “qualified”). First, liberal democrats could reject qualified acceptability requirements. Liberal democrats could defend the very exclusive view that a doctrine need not become publicly justifiable to any citizen to become legitimate. In particular, comprehensive liberals could say a doctrine need only promote the one true conception of justice to become legitimate.<sup>638</sup> However, the very exclusive view does not respect the burdens of judgement. It primarily aims for the state to enforce whichever conception of justice comprehensive liberals judge is true. Nevertheless, substantive justice is not the only political value worth promoting. Public justification is also a weighty political value worth promoting. It is arbitrarily single-minded for comprehensive liberals to accept only substantive justice holds independent value. If comprehensive liberals can value substantive justice independently of public justification, political liberals can value public justification independently of substantive justice. Alternatively, liberal pluralists can accept both substantive justice and public justification hold independent value and must often compete against and compromise with each other.<sup>639</sup>

Second, liberal democrats could defend the very inclusive view that a doctrine must become publicly justifiable to all citizens to become legitimate. Legitimacy demands actual unanimity. Estlund calls this an “unqualified acceptability requirement.”<sup>640</sup> However, first, an unqualified acceptability requirement is unrealistically demanding. In practice, no doctrine is publicly justifiable to all citizens. Second, an unqualified acceptability requirement is unattractively burdensome. No doctrine is legitimate unless publicly justifiable to the morally and epistemically worst citizens. As Estlund says, “this is an oddly amoral view, in which otherwise sensible lines of justification are unavailable if they are not acceptable to Nazis.”<sup>641</sup> Similarly, in political theorist Fabian Wendt’s words, “at least

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<sup>638</sup> (Rawls 1971)

<sup>639</sup> (Berlin 1969; Williams 1981; Hampshire 1999; Gray 2000; Crowder 2002; Galston 2002; Gaus 2003)

<sup>640</sup> (Estlund 2008: 44-45)

<sup>641</sup> (Estlund 2008: 4)

psychopaths, Nazis, or terrorists from the Islamic State, stand outside the constituency of public justification.”<sup>642</sup> Third, an unqualified acceptability requirement risks self-exclusion.<sup>643</sup> If the unqualified acceptability requirement is itself unjustifiable to just one citizen, the unqualified acceptability requirement is illegitimate on its own terms.

In between the very exclusive view and very inclusive view, Estlund defends the moderate view that a doctrine need only become publicly justifiable to some but not all citizens to become legitimate. In particular, Estlund supports a qualified acceptability requirement.<sup>644</sup> A doctrine is not legitimate unless publicly justifiable to “qualified” citizens (however public justification liberals wish to define “qualified”). Qualified acceptability requirements are not too exclusive. A doctrine need only become publicly justifiable to “qualified” citizens. Conversely, a moderate view is not too inclusive. A doctrine need not become publicly justifiable to “unqualified” citizens.

Estlund argues that qualified acceptability requirements avoid the problems of an unqualified acceptability requirement. First, qualified acceptability requirements are not unrealistically demanding. In practice, many doctrines are publicly justifiable to qualified citizens.<sup>645</sup> Second, qualified acceptability requirements are not unattractively burdensome. A doctrine need not become acceptable to the morally or epistemically worst citizens to become legitimate. A doctrine need only become acceptable to qualified citizens to become legitimate. Third, qualified acceptability requirements do not risk self-exclusion. If a qualified acceptability requirement is unacceptable to any qualified citizen, the qualified acceptability requirement is illegitimate on its own terms. However, Estlund argues that the qualified acceptability requirement cannot become unacceptable to any qualified citizen.<sup>646</sup> If the qualified acceptability requirement is unacceptable to any citizen, she does not count as qualified to begin with.

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<sup>642</sup> (Wendt 2016: 120)

<sup>643</sup> (Estlund 2008: 54-55)

<sup>644</sup> (Estlund 2008: 44-52)

<sup>645</sup> In particular, Estlund argues that democracy is procedurally fair (Estlund 2008: 6).

<sup>646</sup> (Estlund 2008: 60-61)

Estlund argues that qualified acceptability requirements produce an insular group of qualified citizens.<sup>647</sup> A qualified acceptability requirement makes qualified citizens “insular” in the sense that qualified citizens need only justify doctrines to each other and they need not justify doctrines to anybody else. The qualified group (composed of all and only qualified citizens) need not justify doctrines to outsiders in unqualified groups (groups consisting of only unqualified citizens). The qualified citizen need not justify doctrines to an unqualified citizen. The qualified citizen need only justify doctrines to fellow qualified citizens.

### **C. Estlund’s Undogmatic Substantive Political Liberalism**

The liberal principle of legitimacy provides one type of qualified acceptability requirement. Political liberals argue that doctrines must become acceptable to rational *and reasonable* citizens to become legitimate. However, the liberal principle of legitimacy is not the only type of qualified acceptability requirement. It only provides one type out of many. In particular, contractarians argue that doctrines need only become acceptable to *rational* citizens to become legitimate.<sup>648</sup> So, doctrines need not become acceptable to reasonable citizens to become legitimate. A legitimate doctrine can and must become acceptable to rational but unreasonable citizens.

As a qualified acceptability requirement, the liberal principle of legitimacy produces an insular group of reasonable citizens. The liberal principle of legitimacy makes reasonable citizens “insular” in the sense that reasonable citizens need only justify doctrines to each other and they need not justify doctrines to anybody else. The reasonable group (composed of all and only reasonable citizens) need not justify doctrines to outsiders in unreasonable groups (groups consisting of only unreasonable citizens). Reasonable citizens need not justify doctrines to an unreasonable citizen. Reasonable citizens need only justify doctrines to fellow reasonable citizens.

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<sup>647</sup> (Estlund 2008: 53-55). Insularity is controversial (Lister 2010). Unfortunately, this exceeds the scope of this dissertation.

<sup>648</sup> (Buchanan 1975; Gauthier 1986; Narveson 1988) Also see (Kraus 1993; Moehler 2018, 2020)

Estlund argues that political liberals face the impervious plurality of insular groups.<sup>649</sup> Many insular groups could self-identify as the qualified group. In particular, the reasonable group and an unreasonable group could both self-identify as the qualified group. It is impossible that both groups are correct. Both groups make mutually exclusive claims. Both groups may be mistaken. However, to reject the reasonable group as the qualified group is to reject political liberalism. So, Estlund argues that political liberals should accept the reasonable group *correctly* self-identifies as the qualified group and the unreasonable group *mistakenly* self-identifies as the qualified group. Consequently, the liberal principle of legitimacy is the one true qualified acceptability requirement and any alternative principle is false. Estlund calls this an undogmatic but substantive type of political liberalism. Estlund says, “no doctrine is available in justification unless it is acceptable to reasonable citizens, not even this doctrine itself (this makes it undogmatic) because such an acceptability criterion is true or correct independently of such acceptability (this makes it substantive).”<sup>650</sup> Estlund concludes that an undogmatic but substantive type of political liberalism is the most attractive solution to the impervious plurality of insular groups.

### III. THE PRESUMPTION OF INCLUSION

In this section, I defend what I call the “presumption of inclusion.” Liberal democrats should accept a democratic presumption in favour of inclusion. Everything else equal, the state should aim to promote terms for social cooperation in general and public deliberation in particular that are acceptable to more instead of fewer citizens. In Rawls’s words, “an enduring and secure democratic regime... must be willingly and freely supported by at least a substantial majority of its politically active citizens.”<sup>651</sup> Similarly, the public must become reasonably confident liberal democratic states are

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<sup>649</sup> (Estlund 2008: 55-58)

<sup>650</sup> (Estlund 2008: 57). Also see (Estlund 1997: 175). Political theorist David Estlund has an extensive conception of doctrines which includes factual statements, principles, practical proposals, moral or normative political judgments and so on (Estlund 2008: 44). Estlund argues that his undogmatic but substantive type of political liberalism is itself legitimate because no citizen is reasonable unless they accept his principle (Estlund 2008: 61).

Estlund’s qualified acceptability requirement is controversial (Enoch 2009; Copp 2011). Unfortunately, this exceeds the scope of this dissertation.

<sup>651</sup> (Rawls 1993: 38). Also see (Huemer 1996: 384-86).

legitimate. Otherwise, undetectable legitimacy is likely to motivate a majority or a critical mass of the public to aim to replace political authorities that they are not reasonably confident are legitimate with a credible political alternative that they are reasonably confident is legitimate.

The presumption of inclusion privileges political liberalism over comprehensive liberalism. Comprehensive liberals say the state should promote the one true conception of justice. Comprehensive liberals defend the very exclusive view that the one true conception of justice need not become acceptable to anybody. In contrast, political liberals say the state should promote terms for social cooperation that are acceptable to rational *and reasonable* citizens. Political liberals defend the moderate view that the terms for social cooperation should become acceptable to rational and reasonable citizens, regardless of whether their views about justice are true. Presumably, more citizens hold reasonable but false views about justice than hold true views. So, political liberals provide more inclusive terms for social cooperation than comprehensive liberals because reasonably acceptable terms are acceptable to more citizens than truly just terms.

Similarly, the presumption of inclusion privileges what I call “cautious liberalism” over political liberalism. Political liberals say the state should promote terms for social cooperation that are acceptable to rational *and reasonable* citizens. Political liberals defend the moderate but more exclusive view that the terms for social cooperation need not become acceptable to rational but unreasonable citizens. In contrast, cautious liberals say the state should promote terms for social cooperation that are acceptable to rational citizens. Cautious liberals defend the moderate but more inclusive view that the terms for social cooperation should become acceptable to rational citizens regardless of whether their views about justice are reasonable (in Rawls's sense). Presumably, more citizens have rational but unreasonable views about justice than hold reasonable views. So, cautious liberals provide more inclusive terms for social cooperation than political liberals because rationally acceptable terms are acceptable to more citizens than reasonably acceptable terms.

The presumption of inclusion does face what I call a “quantity/quality” tradeoff. The tradeoff is between the *number* of citizens and the *type* of citizen to whom the terms for social cooperation should become acceptable. The presumption of inclusion prioritises the number of citizens over the type of citizen unless shown why the type of citizen should take priority. In contrast, a presumption of exclusion would prioritise the type of citizens over the number of citizens unless shown why the number of citizen should take priority.

The presumption of exclusion privileges comprehensive liberalism over political liberalism. Comprehensive liberals say the state should promote the one true conception of justice, regardless of whether it is acceptable to reasonable but mistaken citizens. However, enough reasonable citizens are likely to disagree over which conception of justice is true to destabilise any consensus or convergence among them.<sup>652</sup> So, political liberals abstain over which conception of justice is true. Independently of whichever conception of justice is true, the state should promote terms for social cooperation that are acceptable to rational *and reasonable* citizens. It is morally disrespectful for the state to promote whichever conception of justice comprehensive liberals judge is the one true conception, especially if it is not acceptable to reasonable citizens seeking fair cooperation among free equals in the expectation of reciprocity.

The presumption of exclusion privileges political liberalism over cautious liberalism. Political liberals say the state should promote terms for social cooperation that are acceptable to rational *and reasonable* citizens, regardless of whether they are acceptable to rational but unreasonable citizens. However, I argue that, in polarised societies, enough epistemically reasonable (epistemically rational and politically informed) citizens are likely to disagree over which terms for social cooperation are acceptable to *reasonable* citizens to destabilise any consensus or convergence among them. So, cautious liberals abstain over which terms for social cooperation are acceptable to *reasonable* citizens. Independently of whichever terms are

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<sup>652</sup> Consensus is interpersonal agreement in light of the same reasons. Conversely, convergence is interpersonal agreement in light of different reasons (Gaus 2009).

reasonably acceptable, the state should promote terms for social cooperation that are acceptable to rational citizens. It is epistemically immodest for the state to promote whichever terms for social cooperation political liberals judge are reasonably acceptable, especially if they are not acceptable to polarised but epistemically reasonable citizens holding to incommensurable conceptions of reasonable acceptability.

#### IV. HARMFULLY EXPLOITATIVE DELIBERATION

##### **A. The Controversially Reasonable Citizen**

In this section, I argue that Estlund's interpretation of political liberalism is not epistemically realistic. Some unreasonable citizens are uncontroversially unreasonable. Some unreasonable citizens do not seek fair or otherwise reasonably acceptable terms for social cooperation. Some unreasonable citizens seek the state to promote whichever conception of justice they judge is true. However, not all unreasonable citizens are uncontroversially unreasonable. As political theorist Gerald Gaus says, "each rational citizen will rely on his or her epistemological judgments when deciding where reasonable dispute ends and irrational dissent begins."<sup>653</sup> Some unreasonable citizens do not seek the state to promote whichever conception of justice they judge is true. Some unreasonable citizens seek the state to promote whichever terms for social cooperation they (mistakenly) judge are fair or otherwise reasonably acceptable and reasonable citizens (correctly) judge them as unfair and even exploitative.

As the Introduction explored, a liberal egalitarian public contains a plurality of more liberal citizens and more egalitarian citizens that must often compete against and compromise with each other.<sup>654</sup> So, reasonable citizens often disagree over which values procedural fairness should prioritise. In particular, high liberals and classical liberals can provide two competing

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<sup>653</sup> (Gaus 2006b: 258)

<sup>654</sup> In real politics, the public does not just contain liberal egalitarian citizens. It also contains illiberal and inegalitarian citizens (Moehler 2020: 9). Unfortunately, this exceeds the scope of this dissertation.

conceptions of procedural fairness.<sup>655</sup> As explored in chapter two, high liberals prioritise economic equality over economic liberty.<sup>656</sup> They support higher tax burdens on the entrepreneurs and the bourgeois to finance more public spending.<sup>657</sup> In particular, they often support more stimulus and welfare spending to provide ordinary citizens and the worst-off with more primary social goods that all reasonable citizens want whatever else they might want, including more diverse occupational choices, more income and wealth and more social bases of self-respect. So, high liberals often aim to heavily regulate the use of privately owned productive property and employment contracts and tax profits and earnings heavily. Consequently, they only support a thin conception of economic liberty.

In contrast, classical liberals prioritise economic liberty over economic equality.<sup>658</sup> They support public spending cuts to cut the tax burdens on entrepreneurs and the bourgeois. In particular, they often support tax cuts for entrepreneurs and the bourgeois for more private investment, innovation and spending to empower competitive markets to provide ordinary citizens and the worst-off with more diverse occupational choices, more income and wealth, more social bases of self-respect alongside more, better and cheaper consumer goods and services over time.<sup>659</sup> So, classical liberals often aim to only lightly regulate the use of privately owned productive property and

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<sup>655</sup> Similar views already exist. First, political theorist Gerald Gaus argues that agreement among reasonable citizens over how to interpret general principles is not common (Gaus 2003: 216-17). Second, political theorist Michael Huemer argues that agreement among reasonable citizens over general principles is not common (Huemer 2013: 42). I argue that agreement among reasonable citizens over how to prioritise or rank general principles is not common.

<sup>656</sup> (Mill 1921; Keynes 1936; Rawls 1971; Kymlicka 1990; Sen 1992; Anderson 1993; Cohen 1995; Dworkin 2000; Nussbaum 2000; Murphy and Nagel 2002; Arneson 2004b; Gutmann and Thompson 2004)

<sup>657</sup> (Friedman 1973; Nozick 1974; Block 1976; Rothbard 1982; Lomasky 1987; Locke 1988; Narveson 1988; Machan 1989; Rasmussen and Den Uyl 2005; Kukathas 2007)

<sup>658</sup> (Hume 1960; Friedman 1962; Smith 1976a; Becker 1977; von Mises 1985; Barry 1986; Shapiro 1995; Gaus 1996; Nickel 2000; Tocqueville 2002; Hayek 2011; Tomasi 2012; Brennan 2014c)

<sup>659</sup> Political theorist Jason Brennan argues that thick economic liberties produce more economic and employment opportunities (Brennan 2007: 295-97). Also see (Schansberg 1996: 8; Schmidt and Goodin 1998: 39-40; Garibaldi and Mauro 1999; Ilg and Haugen 2000).

employment contracts and only lightly to tax profits and earnings.<sup>660</sup> Consequently, they support a thick conception of economic liberty.

In unpolarised politics, both high liberals and classical liberals remain inclusive because they justify doctrines to each other as fellow reasonable citizens. In contrast, in polarised politics, both high liberals and classical liberals can become insular in the sense that they only justify doctrines to each other and do not justify doctrines to anybody else. The high liberal group (a group composed of all and only high liberals) self-identifies as the reasonable group. So, high liberals only justify doctrines to each other and do not justify doctrines to classical liberals. Conversely, the classical liberal group (composed of all and only classical liberals) identifies itself as the reasonable group. So, classical liberals only justify doctrines to each other and do not justify doctrines to high liberals.

In polarised societies, high liberals argue that classical liberals provide unfair or otherwise reasonably unacceptable terms for social cooperation in general and public deliberation in particular. A thick conception of economic liberty unfairly weakens the capacity of the state to provide ordinary citizens and the worst-off with more primary social goods, including more diverse occupational choices, more income and wealth and more social bases of self-respect. Conversely, in polarised societies, classical liberals argue that high liberals provide unfair or otherwise reasonably unacceptable terms for social cooperation. First, a thin conception of economic liberty unfairly weakens the capability of competitive markets to provide ordinary citizens and the worst-off with more diverse occupational choices, more income and wealth and more social bases of self-respect than the state over time with more private investment, innovation and spending. Second, a thin conception of economic liberty unfairly weakens the capacity of the state to provide ordinary citizens and the worst-off with more primary social goods

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<sup>660</sup> Liberal democratic states need not (explicitly) tax its citizens to finance public spending. First, it can borrow money to finance public spending. However, economist James Buchanan argues that borrowed money tends to just push higher tax rates onto future generation to finance public spending on the present generation (Buchanan 1964, 2001). Second, liberal democratic states can print money to finance public spending. However, economists James Buchanan and Richard Wagner argues that printed money tends to produce inflation that acts like a tax on savings and earnings (Buchanan and Wagner 1977). Unfortunately, this exceeds the scope of this dissertation.

over time with lower tax rates, higher economic growth and higher tax revenues in return.<sup>661</sup> Third, a thin conception of economic liberty unfairly weakens the capability of entrepreneurs and the bourgeois to pursue entrepreneurial and bourgeois conceptions of the good life that many reasonable citizens wish to pursue.

Political liberals already accept that substantive justice is controversial. In Rawls's words, "in any actual political society several differing liberal political conceptions [of justice] compete with another."<sup>662</sup> Similarly, political theorist Jonathan Quong says, "there is, or can be, reasonable disagreement regarding what justice requires."<sup>663</sup> However, substantive justice is not the only controversial value. It is only one controversial value among many. Both reasonable acceptability in general and procedural fairness in particular can become as controversial as substantive justice. In political theorist Robert Nozick's words, "when sincere and good persons differ, we are prone to think they must accept some procedure to decide their differences. They both agree to be reliable and fair. Here we see the possibility that this disagreement may extend all the way up the ladder of procedures."<sup>664</sup> As explored below, I argue that disagreement over which terms for social cooperation are fair can spill over into disagreement over reasonable acceptability. Disagreement over which terms for social cooperation are fair is not seen as evidence of a reasonable mistake. Reasonable citizens do not only disagree over which terms for social cooperation are the most reasonable. In polarised societies, disagreement over which terms for social cooperation are fair is seen as evidence of unreasonability. Reasonable citizens disagree over which terms for social cooperation are even minimally fair.

Political liberals could argue that polarised citizens are not reasonable (in Rawls's sense). They do not sufficiently respect the burdens of judgement. However, the problem is not that polarised citizens do not adequately respect the burdens of judgement. The problem is that few terms for social

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<sup>661</sup> (Canto, Joines, and Laffer ; Sowell 2014: 447-51)

<sup>662</sup> (Rawls 1993: xlvi)

<sup>663</sup> (Quong 2011: 132)

<sup>664</sup> (Nozick 1974: 98)

cooperation are mutually acceptable among reasonable but polarised citizens. The more polarised a group of citizens becomes, the less likely any terms for social cooperation are to remain mutually acceptable. So, if the group of reasonable citizens are polarised, few terms for social cooperation are likely to remain mutually acceptable to them. In polarised societies, enough reasonable citizens are likely to disagree over which terms for social cooperation are even minimally fair to destabilise any consensus or convergence among them.

## **B. Harmfully Exploitative Deliberation**

I introduce what I call the “problem of exploitative deliberation.” I extend the risk of exploitation beyond the marketplace and into liberal democratic politics. A liberal market economy is often exploitative.<sup>665</sup> Firms often hire workers for low pay in insecure jobs with unsafe working conditions to maximise profits.<sup>666</sup> So, liberal democrats often demand state intervention to reduce and even eliminate market exploitation. However, liberal democrats should not underestimate the possibility that liberal democratic politics can also become exploitative. To win votes (or donations, contributions, employment or returns on investment), politicians often unfairly disadvantage demographics less likely to vote for them (or donate or contribute to them, employ them or provide returns on investment) to advantage demographics more likely to vote for them (or donate or contribute to them, hire them or provide returns on investment).

It is helpful to explore the concept of harmful exploitation. With harmful exploitation, exploiters expect to become better off and the exploited expect to become worse off because more than a fair share of a particular resource is taken from the exploited and more than a fair share is given to exploiters.<sup>667</sup> In some of the worst cases, harmfully exploitative terms for public deliberation can contribute to the democratic success of harmfully exploitative policies. Perhaps harmfully exploitative terms for public deliberation take more than a fair share of primary social goods to the

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<sup>665</sup> (Roemer 1982; Arneson 2016; Reiss 2019a: 321)

<sup>666</sup> (Zwolinski 2007)

<sup>667</sup> (Buchanan 1985: 87)

exploited and give more than a fair share of primary social goods to exploiters. So, harmfully exploitative terms for public deliberation empower exploiters to more effectively support harmfully exploitative policies that would give even more primary social goods to them. Conversely, harmfully exploitative terms for public deliberation constrain the capabilities of the exploited to effectively oppose harmfully exploitative policies that would take even more primary social goods from them. I call this “harmfully exploitative deliberation.” Harmfully exploitative terms for public deliberation corrupt which policies are likely to succeed democratically.

It is helpful to distinguish between the exploitation of circumstances and the exploitation of citizens.<sup>668</sup> First, political theorist Hillel Steiner argues that exploiters can exploit their circumstances.<sup>669</sup> Unfairly advantaged citizens are advantaged enough to effectively support a harmfully exploitative policy that would give them more than a fair share of primary social goods. In contrast, unfairly disadvantaged citizens are too disadvantaged to effectively oppose a harmfully exploitative policy that would take more than a fair share of primary social goods from them. So, unfairly advantaged citizens take unfair advantage of their unfair circumstances. Unfairly advantaged citizens are advantaged enough to extend their already more than a fair share of primary social goods. Conversely, unfairly disadvantaged citizens are too unfairly disadvantaged to protect their already less than a fair share of primary social goods.

Second, political theorist Matt Zwolinski argues that exploiters can exploit their fellow citizens.<sup>670</sup> Unfairly advantaged citizens need not only exploit their circumstances because they know they are unfairly advantaged enough to effectively support a harmfully exploitative policy that gives them more than a fair share of primary social goods. Unfairly advantaged citizens can also exploit their fellow citizens. They know unfairly disadvantaged citizens are too unfairly disadvantaged to effectively oppose a harmfully exploitative policy that takes more than a fair share of primary social goods from them.

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<sup>668</sup> (Goodin 1987). Also see (Wertheimer 1996).

<sup>669</sup> (Steiner 1984, 1987)

<sup>670</sup> (Zwolinski 2012)

So, unfairly advantaged citizens take unfair advantage of their fellow citizens. Unfairly advantaged citizens know unfairly disadvantaged citizens are too unfairly disadvantaged to protect their already less than a fair share of primary social goods.

In polarised societies, high liberals can argue that classical liberals provide unfair and even harmfully exploitative terms for public deliberation. A thick conception of economic liberty corrupts which policies are likely to succeed democratically. A thick conception of economic liberty gives (or returns) more than a fair share of income and wealth to entrepreneurs and the bourgeois. So, a thick conception of economic liberty empowers entrepreneurs and the bourgeois to more effectively support harmfully exploitative policies that would give even more income and wealth to them. First, entrepreneurs and the bourgeois can exploit their circumstances. With substantial income and wealth, they know they are economically advantaged enough to effectively support a harmfully exploitative policy that would give (or return) more than a fair share of income and wealth to them with unfairly high tax cuts. Second, entrepreneurs and the bourgeois can also exploit the worst-off. With minimal income and wealth, they know the worst-off are too unfairly economically disadvantaged to effectively oppose a harmfully exploitative policy that would take more than a fair share of their income and wealth with unfairly high welfare cuts.

Conversely, in polarised societies, classic liberals can argue that high liberals provide unfair and even harmfully exploitative terms for public deliberation. A thin conception of economic liberty corrupts which policies are likely to succeed democratically. A thin conception of economic liberty gives elected politicians more than a fair share of political power. So, a thin conception of economic liberty empowers elected politicians to more effectively support harmfully exploitative policies that would give them more than a fair share of political power. First, elected politicians can exploit their circumstances. With substantial political power, they know they are unfairly advantaged enough politically to effectively support a harmfully exploitative policy that would give more than a fair share of income and

wealth to demographics more likely to vote for them (or donate or contribute to them, employ them or provide returns on investment) with unfairly high stimulus spending.<sup>671</sup> Second, elected politicians can also exploit entrepreneurs and the bourgeois. With thinned economic liberties, they know entrepreneurs and the bourgeois are too unfairly disadvantaged economically to effectively oppose a harmfully exploitative policy that would take more than a fair share of income and wealth from them with unfairly high tax rises.

### **C. The Misidentification Dilemma**

Estlund's interpretation of political liberalism is not epistemically realistic given what I call the "misidentification dilemma." I argue that epistemically reasonable citizens can reasonably disagree over who is morally reasonable because they can disagree over which terms for social cooperation are fair and which terms are unfair and even harmfully exploitative. The risk of harmful exploitation risks social instability. In polarised societies, both high liberals and classical liberals self-identify as reasonable and identify each other as unreasonable. So, one of the insular groups misidentifies themselves as reasonable and they misidentify the other as unreasonable. Whoever is correct, both insular groups face the same dilemma.

On the one hand, if an unreasonable group misidentifies itself as reasonable, it likely mistakes unfair and even harmfully exploitative terms for public deliberation for fair or otherwise reasonably acceptable terms. In some of the worst cases, harmfully exploitative terms for public deliberation contribute toward the democratic success of harmfully exploitative policies. So, they risk social instability. First, the more often harmfully exploitative terms promote harmfully exploitative policies, the stronger the practical reasons the exploited gain to reject the efficacy of public deliberation. The harmfully exploitative terms for public deliberation just make the exploited worse off. Second, the stronger the moral reasons the exploited gain to reject the legitimacy of public deliberation. The harmfully exploitative terms for

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<sup>671</sup> Political theorist Judith Shklar argues that the abuse of public power burdens the poor most heavily (Shklar 1998: 9-10). Also see (Ostrom 1999a: 176-79; Ostrom and Ostrom 1999: 98-99).

public deliberation just make the exploited worse off and make them worse off unfairly. Consequently, the more likely the exploited become to (potentially violently) express dissatisfaction with public deliberation and expect antidemocratic alternatives to benefit them more and treat them more fairly instead. I call this first horn of the dilemma the “bad-for-good misidentification problem.”

On the other hand, if an unreasonable group misidentifies the reasonable group as unreasonable, it likely mistakes fair or otherwise reasonably acceptable terms for public deliberation for unfair and even harmfully exploitative terms. Fair terms are not always mutually beneficial terms. So, in some of the worst cases, the misidentification of fair terms for public deliberation for harmfully exploitative terms contributes toward the misidentification of the democratic success of substantively just policies for the democratic victory of harmfully exploitative policies. This also risks social instability. First, the more often the terms public deliberation are misperceived to promote harmfully exploitative policies, the stronger the practical reasons the perceived exploited gain to reject the efficacy of public deliberation. The terms for public deliberation are misperceived to make the perceived exploited worse off. Second, the stronger the moral reasons the perceived exploited gain to reject the legitimacy of public deliberation. The terms for public deliberation are misperceived to make the perceived exploited worse off and worse off unfairly. Consequently, the more likely the perceived exploited become to (potentially violently) express dissatisfaction with public deliberation and expect antidemocratic alternatives to benefit them more and treat them more fairly instead. I call this second horn of the dilemma the “good-for-bad misidentification problem.”

#### **D. The Persistent Imperviousness of Insular Groups**

Unfortunately, Estlund does not solve the impervious plurality of insular groups. As the misidentification dilemma shows, Estlund only pushes the problem back a step. Estlund argues that many insular groups can self-identify as the qualified group. In particular, the reasonable group and an

unreasonable group can self-identify as the qualified group. Estlund defends an undogmatic but substantive type of political liberalism to solve the impervious plurality of insular groups. The reasonable group correctly self-identifies as the qualified group and the unreasonable group mistakenly identifies itself as the qualified group. However, many insular groups can now self-identify as the reasonable group. So, Estlund now faces the impervious plurality of reasonable groups.

To avoid the impervious plurality of reasonable groups, reasonable citizens should become (or remain) reasonably cautious about who is reasonable. Political liberals face three solutions. First, both insular groups could become confident that they correctly self-identify as reasonable. In polarised societies, both high liberals and classical liberals self-identify as the reasonable group. However, it is impossible that both groups are correct. Both groups make mutually exclusive claims. So, both insular groups aim to dogmatically dictate that they are the reasonable group that promotes fair or otherwise reasonably acceptable terms for public deliberation. The other is an unreasonable group promoting unfair and even harmfully exploitative terms for public deliberation. Both insular groups aim to reject the alternative terms for public deliberation more and more. Consequently, both insular groups aim to deliberate with each other less and less. They lack mutually acceptable terms for public deliberation.

Second, maybe one group could win and one group lose. One group dogmatically dictates by fiat that they are the reasonable group promoting fair or otherwise reasonably acceptable terms for public deliberation. Ex hypothesi, high liberals and classical liberals are the most likely groups to qualify as the reasonable group. So, political liberals should accept one of the groups correctly self-identifies as the reasonable group and the other group mistakenly identifies itself as the reasonable group. One of the two interpretations of the liberal principle of legitimacy is the one true interpretation and any alternative interpretation is false. The winners are successful in a practical sense. They successfully coerce the losers to deliberate under the terms the winners judge are fair or otherwise reasonably

acceptable. Nevertheless, the winners are not successful in a moral sense. They do not successfully persuade the losers to judge that the terms they deliberate under are fair or otherwise reasonably acceptable. The losers still judge that the terms they deliberate under are unfair and even harmfully exploitative. So, the coerced consensus is not stable. The misidentification dilemma explored above shows the losers gain strong practical and moral reasons to change the terms they deliberate under whenever they can change them. They judge the terms they deliberate under to harm them and harm them unfairly.

Third, perhaps neither group should become confident that they correctly self-identify as reasonable. Both groups remain reasonably cautious about whether they are the reasonable group that promotes fair or otherwise reasonably acceptable terms for public deliberation. Rawls argues that the burdens of judgement provide a good moral reason for reasonable citizens to tolerate different conceptions of justice. They should abstain from deciding which conception of justice is true to express moral respect for the different judgements of every reasonable citizen. So, reasonable citizens should seek terms for social cooperation that are mutually acceptable.

Similarly, I apply the spirit of the later Rawls's scepticism about comprehensive liberalism to political liberalism itself. Independently of moral reasons, I defend a cautious type of liberalism that argues that the burdens of judgement provide an excellent epistemic reason to express the epistemic virtue of epistemic humility.<sup>672</sup> Epistemically reasonable judgements about which conceptions of procedural fairness are legitimate are often incommensurable.<sup>673</sup> Both high liberal and classical liberal judgements about which conceptions of procedural fairness are legitimate aim to track the truth and they are both based on reasoned arguments with informed premises. However, in polarised societies, both views cannot count as true since they are mutually exclusive. So, the incommensurability of

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<sup>672</sup> Similar views already exist. First, political theorist Judith Shklar defends epistemic humility (Shklar 1998: 7). Second, economists F.A. Hayek and Israel Kirzner and political scientist Vincent Ostrom defend epistemic humility (Ostrom 1999c: 392; Hayek 2014c: 372; 2018: 74; Kirzner 2018b: 428).

<sup>673</sup> (Gaus 2003: 31-42). Also see (D'Agostino 2003).

epistemically reasonable views provides reasonable citizens with excellent epistemic reason to become epistemically humble. Epistemically reasonable views about which conceptions of procedural fairness are legitimate are often fragile.<sup>674</sup> Reasonable citizens should not become unreasonably confident that they are among the few with true views.<sup>675</sup> If anything, they should expect they are more likely among the many with false views about which conceptions of procedural fairness are legitimate.<sup>676</sup>

Epistemic realism shows the fragility of normative political judgements about which terms for public deliberation are fair. So, reasonable citizens should avoid unjustifiably high levels of confidence in which terms for public deliberation are fair and unjustifiably low levels of confidence in reasonable opposing judgements. They should not epistemically revere any particular terms as the best reasoned and best informed and should epistemically respect reasonable opposing judgements. Consequently, reasonable citizens should avoid a fair proceduralist conception of legitimacy, making legitimacy depend on implementing fair terms. In high-stakes political contexts, reasonable citizens should aim to avoid likely errors.<sup>677</sup> Otherwise, they would risk avoidable harm. In particular, if reasonable citizens should lack confidence in which terms for public deliberation are even minimally fair, fair proceduralist conceptions of legitimacy risk destabilising the legitimacy of liberal democratic states. The epistemic immodesty of fair proceduralist conceptions of legitimacy risk instability.

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<sup>674</sup> Epistemic fallibility also provides excellent epistemic reason to tolerate diverse views (Mill 1921: 277; Hayek 2011: 81-83).

<sup>675</sup> (Feldman 2006; Christensen 2007; Elga 2007b, 2007a; Feldman 2007; Christensen 2009; Kornblith 2010).

<sup>676</sup> Similar views already exist. First, political theorists Gerald Gaus and Michael Huemer defend the possibility of inconclusive interpretations of just principles, given that publicly justified principles lack a publicly justified interpretation (Huemer 1996; Gaus 2003: 216-17; Huemer 2013: 48-50; Gaus 2016, 2018). Independently of the (lack of) publicly justified interpretations of publicly justified principles, I argue that reasonable citizens should lack confidence in which interpretations are correct. Second, political theorist Chandran Kukathas defends freedom of association to express moral respect for the liberty of conscience (Kukathas 2007: 74-119). Independently of moral respect for the liberty of conscience, I argue that reasonable citizens should lack confidence in which consciences are correct.

<sup>677</sup> In real politics, high stakes decisions are the norm instead of an exception (Hampshire 1978; Williams 1978).

## V. CAUTIOUS LIBERALISM

### A. Epistemic Realism

In this section, I argue for cautious liberalism as a better alternative to Estlund's interpretation of political liberalism. In particular, I defend what I call a "peaceful instrumentalist" conception of legitimacy that makes legitimacy depend on the preservation of a mutually beneficial peace. First, I defend a view I call "epistemic realism." Political liberals do not just need a legitimate conception of procedural fairness. They need a credible conception of procedural fairness. In my terminology, political credibility demands political authorities satisfy the "confidence tenet," which requires that the public can become reasonably confident that political authorities are legitimate. Reasonable citizens need to see states as legitimate political authorities.<sup>678</sup> Otherwise, sooner or later, undetectable legitimacy is likely to motivate a majority or a critical mass of the public to aim to replace political authorities that they are not reasonably confident are legitimate with credible political authorities that they are reasonably confident are legitimate. So, political liberals need a conception of procedural fairness that reasonable citizens can become reasonably confident is legitimate. They need a conception of procedural fairness that reasonable citizens can become reasonably confident is acceptable to fellow reasonable citizens. They need a credible conception of procedural fairness.

In my terminology, confident liberal democrats become reasonably confident in terms of social cooperation in general and public deliberation in particular are fair. In contrast, cautious liberal democrats remain reasonably cautious about which terms for social cooperation in general and public deliberation in particular are fair. As explored above, fair proceduralism is not epistemically realistic. It neglects the epistemic limits of reasonable citizens to become reasonably confident in whether the terms for public deliberation are ever fair, especially given the misidentification dilemma. So, cautious liberal democrats can accept what I call "cautious fair proceduralism." They accept some terms for social cooperation are fair.

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<sup>678</sup> I assume a majority of the public or a critical mass are reasonable.

However, they avoid high levels of epistemic confidence in which terms for social cooperation are fair. Consequently, reasonable citizens should remain reasonably cautious about whether they participate in public deliberation on fair terms.

### **B. Qualified Acceptability: The Rational Citizen**

Political liberals already accept the state should abstain from deciding which conception of justice is true. As Rawls says, “holding a political conception as true and for that reason alone the only suitable basis of public reason, is exclusive, even sectarian and so likely to foster political division.”<sup>679</sup> Any evaluation of which conception of justice is true is unacceptably exclusive. So, political liberals accept that the state should only enforce a conception of justice acceptable to rational *and reasonable* citizens, regardless of whether it is true. Similarly, political liberals should also accept the state should remain reasonably cautious about who is reasonable (in Rawls's sense). In Rawls's words, “our account runs the danger of being arbitrary and exclusive.”<sup>680</sup> Any evaluation of who is reasonable also risks becoming unacceptably exclusive. Consequently, political liberals should accept the state should only enforce terms for social cooperation in general and public deliberation in particular that are acceptable to rational citizens, regardless of who is reasonable.

Rational citizens pursue a reflective conception of the good life. However, rational citizens are not reasonable (in Rawls's sense). Rational citizens are not politically just, given that a political conception of justice does not constrain the actions of rational citizens. Nevertheless, calculations of their long-term self-interest do constrain their actions. Rational citizens seek mutual gain.<sup>681</sup> They prefer mutual gain to joint loss. The unconstrained rational citizen is willing to benefit themselves in the short-term at the cost of their fellow citizens. So, unconstrained rational citizens are disposed

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<sup>679</sup> (Rawls 1993: 129)

<sup>680</sup> (Rawls 1993: 59)

<sup>681</sup> (Gauthier 1986: 160-66). Also see (Downs 1957; Rapoport and Chammah 1965; Tullock 1967a; Brennan and Buchanan 1985: 67-72; Tullock 1985; Hampton 1987: 208-19; McClennen 1988; Narveson 1988: 149-59; Binmore 1994: 179-81; Kavka 1995; Overbye 1995; Tullock 1999; Mueller 2003: 9-14, 326-29; Reiss 2013: 56, 74-75).

towards violent “winner takes all” conflict. However, unconstrained rational citizens risk that their fellow citizens will retaliate, which will cost them in the long term. In contrast, constrained rational citizens are willing to forego the benefits of predation in the short term to avoid the risk of retaliation in the long term.<sup>682</sup> Constrained rational citizens are disposed against violent “winner takes all” conflict because they are uncertain of retaliation. Constrained rational citizens are disposed towards peaceful coexistence and mutually beneficial cooperation with their fellow citizens. Consequently, constrained rational citizens seek mutually beneficial or otherwise rationally acceptable terms for public deliberation (in the expectation that similarly rational citizens will reciprocate).

### **C. Mutually Beneficial Exploitative Deliberation**

It is helpful to explore the concept of mutually beneficial exploitation. In mutually beneficial exploitation, both exploiters and the exploited expect to become better off. Still, less than a fair share of a particular resource is given to the exploited and more than a fair share is given to exploiters.<sup>683</sup> Mutually beneficial terms are not always fair terms. In some of the worst cases, mutually beneficial but exploitative terms for public deliberation can contribute to the democratic success of mutually beneficial but exploitative policies. Perhaps mutually beneficial but exploitative terms for public deliberation give exploiters more than a fair share of primary social goods. So, mutually beneficial but exploitative terms for public deliberation induce an unwillingness in exploiters to support substantively just policies that would not give them more than a fair share of primary social goods. Conversely, maybe mutually beneficial but exploitative terms for public deliberation give the exploited less than a fair share of primary social goods. So, mutually beneficial but exploitative terms for public deliberation induce a willingness in the exploited to support mutually beneficial but exploitative

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<sup>682</sup> Violent conflict is often expensive. Violent conflict itself and protective measures to prevent it and punish it consume scarce resources better spent on more productive projects (Buchanan 1975: 23-27; Kavka 1986: 124-25). Some undeterred citizens could still instrumentally value violent conflict because they still expect the practical benefits to exceed the practical costs. Alternatively, some undeterred citizens could still intrinsically value violent conflict because they still enjoy it (Hampton 1987: 63-73). Unfortunately, this exceeds the scope of this dissertation.

<sup>683</sup> (Wertheimer 1996: 14; Zwolinski 2008; Arneson 2013)

policies that would give them less than a fair share of primary social goods. I call this “mutually beneficial exploitative deliberation.” Mutually beneficial but exploitative terms for public deliberation corrupt which policies are likely to succeed democratically.

First, exploiters can exploit their circumstances. Unfairly advantaged citizens are advantaged enough to effectively oppose a substantially just policy that would not give them more than a fair share of primary social goods. In contrast, unfairly disadvantaged citizens are disadvantaged enough to willingly support a mutually beneficial but exploitative policy that would give them less than a fair share of primary social goods. They would prefer a fair share to an unfair share but prefer something to nothing. So, unfairly advantaged citizens take unfair advantage of their unfair circumstances. Unfairly advantaged citizens are advantaged enough to extend their already more than a fair share of primary social goods. Conversely, unfairly disadvantaged citizens are unfairly disadvantaged enough to forego getting their fair share of primary social goods to avoid getting nothing. Second, exploiters can exploit their fellow citizens. Unfairly advantaged citizens know unfairly disadvantaged citizens are disadvantaged enough to willingly support a mutually beneficial but exploitative policy that would give them less than a fair share of primary social goods. So, unfairly advantaged citizens take unfair advantage of their fellow citizen. Unfairly advantaged citizens know unfairly disadvantaged citizens are disadvantaged enough to willingly forego their fair share of primary social goods to avoid getting nothing.

In polarised societies, high liberals can argue that classical liberals provide mutually beneficial but exploitative terms for public deliberation. A thick conception of economic liberty empowers entrepreneurs and the bourgeois to effectively oppose substantively just policies that would not give more than a fair share of income and wealth to them. First, entrepreneurs and the bourgeois can exploit their circumstances. With substantial income and wealth, they know they are economically advantaged enough to effectively oppose a substantially just policy that would not give (or return) more than a

fair share of income and wealth to them with unfairly high tax cuts. Second, entrepreneurs and the bourgeois can also exploit the worst-off. With minimal income and wealth, they know that ordinary citizens and the worst-off are economically disadvantaged enough to willingly support a mutually beneficial but exploitative policy that would give them less than a fair share of income and wealth with more but unfairly little stimulus and welfare spending.

Conversely, in polarised societies, classic liberals argue that high liberals provide mutually beneficial but exploitative terms for public deliberation. A thin conception of economic liberty empowers elected politicians to effectively oppose substantively just policies that would not give even more political power to them. First, elected politicians can exploit their circumstances. With substantial political power, they know they are unfairly advantaged enough politically to effectively oppose a substantially just policy that would not give more than a fair share of income and wealth to demographics more likely to vote for them (or donate or contribute to them, employ them or provide returns on investment) with unfairly high stimulus spending. Second, elected politicians can also exploit entrepreneurs and the bourgeois. With thinned economic liberties, they know entrepreneurs and the bourgeois are unfairly disadvantaged enough economically to willingly support a mutually beneficial but exploitative policy that would give (or return) less than a fair share of income and wealth to them with more but unfairly small tax cuts.

#### **D. Social Stability**

Mutually beneficial but exploitative terms for public deliberation are not the morally best terms, especially if they contribute to the democratic success of mutually beneficial but exploitative policies. Fair terms for public deliberation are morally better, especially if they contribute to the democratic success of substantively just policies. However, mutually beneficial terms for public deliberation are not the morally worst. Harmfully exploitative terms for public deliberation are morally worse, especially if they contribute to the democratic success of harmfully exploitative policies.

The primary vice of harmfully exploitative terms is that they make the exploited worse off. In contrast, the primary virtue of mutually beneficial but exploitative terms is that they make the exploited better off.

On the one hand, the primary vice of mutually beneficial but exploitative terms is that they are exploitative. The more often mutually beneficial but exploitative terms promote mutually beneficial but exploitative policies, the stronger the moral reasons the exploited gain to reject the legitimacy of public deliberation. The mutually beneficial but exploitative terms for public deliberation make the exploited less well off and they make them less well off unfairly. Consequently, the more likely the exploited become to (potentially violently) express dissatisfaction with public deliberation and expect antidemocratic alternatives to treat them more fairly. The expectation of exploitation risks social instability.

On the other hand, the primary virtue of mutually beneficial but exploitative terms is that they are mutually beneficial. The more often mutually beneficial but exploitative terms promote mutually beneficial but exploitative policies, the stronger the practical reasons the exploited gain to accept the efficacy of public deliberation. The mutually beneficial but exploitative terms for public deliberation make the exploited better off. Consequently, the less likely the exploited become to (potentially violently) express dissatisfaction with public deliberation and expect antidemocratic alternatives to benefit them more. The expectation of mutual benefit preserves social stability. If the sense of unfairness exceeds the sense of mutual benefit, mutually beneficial but exploitative terms risk social instability. However, if the sense of mutual benefit exceeds the sense of unfairness, mutually beneficial but exploitative terms preserve social stability.

Unfortunately, the expectation of mutual benefit is unrealistically demanding. In practice, the terms for public deliberation and the policies they produce will never benefit everybody. However, the expectation of a mutually beneficial peace is not unrealistically demanding. As explored next, the winners gain strong practical and moral reasons to avoid terms for

public deliberation and policies that would cost the losers so much that they would judge them as harmfully exploitative. The winners would risk retaliation. The losers would (potentially violently) express dissatisfaction with public deliberation as they would start to expect antidemocratic alternatives to benefit them more and to treat them fairly instead. So, the winners should aim to avoid the perception of harmful exploitation to preserve a mutually beneficial peace independently of whatever they judge is fair or otherwise reasonably acceptable.<sup>684</sup>

Political liberals argue that legitimacy should depend on reasonable acceptability in general and procedural fairness in particular instead of substantive justice. So, reasonable citizens should still seek to promote substantive justice, but within the constraints of fair or otherwise reasonably acceptable procedures that are accepted as legitimate because they are fair or otherwise reasonably acceptable even if their outcomes are not just. Similarly, cautious liberals can argue that legitimacy should depend on violence avoidance instead of procedural fairness. So, reasonable citizens should still seek to promote substantive justice and to implement fair or otherwise reasonably acceptable terms for social cooperation in general and public deliberation in particular, but within the constraints of peaceful procedures that are accepted as legitimate because they are peaceful even if they are not fair or otherwise reasonably acceptable and their outcomes are not just.

### **E. Deliberated Compromises**

Rawls argues that just social institutions are more stable than unjust social institutions.<sup>685</sup> He maintains that reasonable citizens could only accept unjust social institutions as a moral compromise for the practical reason that they preserve a mutually beneficial peace. Conversely, he argues that unjust

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<sup>684</sup> Similar views already exist. In particular, sociologist Max Weber argues that an ethics of responsibility demands the elected politician to take responsibility for the unintended but foreseeable consequences of their principled political behaviour and aim to avoid them (Weber 1994: 360). Similarly, I argue that reasonable citizens should take responsibility for the unintended but foreseeable social instability of promoting fair terms for social cooperation (mistakenly) perceived as harmfully exploitative and aim to avoid it.

<sup>685</sup> (Rawls 1993: 147, 458–59)

social institutions are unstable because reasonable citizens will seek to change them whenever they become capable of changing them. Thus, he argues that reasonable citizens accept just social institutions for the moral reason that they promote justice. He thinks that just social institutions are stable because reasonable citizens will not seek to change them even if they become capable of changing them. Rawls maintains that reasonable citizens will seek to preserve just institutions. Reasonable citizens gain an “overlapping consensus” in the sense that, whatever else reasonable citizens might accept, they all accept just social institutions provide fair terms for social cooperation.

Unfortunately, in real politics, just social institutions need not remain stable and can even become less stable than unjust social institutions.<sup>686</sup> In polarised societies, reasonable citizens need not gain an “overlapping consensus” that social institutions provide fair terms for social cooperation, given that they can disagree over which terms are fair to begin with. So, just social institutions can become unstable. If many reasonable citizens misidentify them as unfair and even harmfully exploitative, they will seek to change them whenever they become capable of changing them. Political realists often put the political value of moral compromise at the centre of normative political theory.<sup>687</sup> They value moral compromise for feasibility reasons. The public is much more likely to gain compromises than consensus or convergence, given that the public contains conflicting interests and values. Independently of feasibility, I value moral compromise for primarily epistemic reasons. Reasonable citizens are much more likely to become reasonably confident in which terms of social cooperation in general and public deliberation in particular preserve a mutually beneficial peace as a moral compromise than in which terms are fair, given that reasonable citizens hold to incommensurable conceptions of procedural fairness.<sup>688</sup>

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<sup>686</sup> (Huemer 1996: 394)

<sup>687</sup> (Gray 2000; Horton 2010; McCabe 2010). Also see (Machiavelli 1981; Hobbes 1994; Hampshire 1999; Plato 2000: 338c2–3; Williams 2005; Geuss 2008; Galston 2010; Rossi 2012; Sleat 2013; Wendt 2016; Hall 2020).

<sup>688</sup> It is helpful to distinguish between moral and normative political judgements. A moral judgement is a private judgement that need not become publicly justifiable. A normative political judgement is a public judgement that should become publicly justifiable.

Wendt distinguishes between two levels of moral evaluation. On the first level, citizens evaluate which outcome is morally best. On the second level, citizens evaluate which outcome is morally second-best. The second level is the level of moral compromise. Citizens can forego the best outcome and accept a second-best outcome as a moral compromise to avoid the worst outcome. Wendt says, “peace and public justification are moral values that provide the model politician with moral reasons to make moral compromises, including moral compromises that establish unjust laws or institutions.”<sup>689</sup> Similarly, as philosopher of science and political theorist Karl Popper says, “there are only two solutions; one is the use of emotion and ultimately of violence and the other is the use of reason, of impartiality, of reasonable compromise.”<sup>690</sup> Reasonable citizens should become willing to forego the best terms for social cooperation in general and public deliberation in particular and to accept second-best or even worse terms as a moral compromise to avoid the worst terms.

It is helpful to distinguish between a negotiated compromise and what I call a “deliberated compromise.” A negotiated compromise seeks a middle ground over what the negotiators expect to promote self-interest. In contrast, a deliberated compromise seeks a middle ground over what the deliberators expect to promote substantive justice or procedural fairness. A deliberated compromise is not the morally best outcome but not the worst. A deliberated compromise foregoes the morally best result and accepts a morally second-best or even worse outcome to avoid the morally worst outcome. In particular, a deliberated compromise can forego fair terms for public deliberation that promote justice and accept mutually beneficial terms that preserve a mutually beneficial peace to avoid harmfully exploitative terms that risk social instability. In polarised societies, high liberals can accept thicker economic liberties than they judge as fair as a deliberated compromise and classical liberals thinner economic liberties to preserve a mutually beneficial peace.

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<sup>689</sup> (Wendt 2016: 1)

<sup>690</sup> (Popper 2011: 411)

Wendt distinguishes between practical and moral reasons to accept a moral compromise. First, reasonable citizens can accept a moral compromise for practical reasons. Reasonable citizens should accept a second-best or even worse outcome as a moral compromise if they expect the avoidance of the worst outcome to benefit them. In particular, reasonable citizens should wish to avoid the costs of social instability on their capability to effectively pursue their conceptions of the good life and exercise their basic liberties. So, the practical value of social stability should constrain the willingness of reasonable citizens to support terms for social cooperation in general and public deliberation in particular perceived as harmfully exploitative. It is mutually beneficial to avoid violent conflict. Reasonable citizens should forego the short-term benefits of terms for social cooperation perceived as harmfully exploitative to avoid the long-term risk of (unreasonable) retaliation social instability. Consequently, reasonable citizens should become willing to forego terms perceived as harmfully exploitative as part of a deliberated compromise to preserve a mutually beneficial peace.

Second, reasonable citizens can accept a moral compromise for moral reasons.<sup>691</sup> Reasonable citizens should accept a second-best or even worse outcome as a moral compromise if they expect the avoidance of the worst outcome to benefit the wider society. In particular, social stability is not just of practical value. Independently of practical value, social stability is also of moral value.<sup>692</sup> Even if the opposing citizen is unreasonable, it is still beneficial for wider society in general and the worst-off in particular to avoid violent conflict. Violent opposition is likely to harm wider society. Ordinary citizens and especially the worst-off become less capable of pursuing their conceptions of the good life and exercising their basic liberties. Ordinary citizens and the worst-off need not gain the best social institutions to live what they consider a good life. They remain capable of living what they consider a good life even if they do not gain fully just social institutions. However, they must avoid the worst social institutions to

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<sup>691</sup> (Wendt 2016: 21-34). Also see (Gray 2000: 5, 20, 135-36; Richardson 2002: 144-61; Kukathas 2007: 252; Moehler 2009: 196; Horton 2010: 439-40; Rossi 2013; Urbinati 2014).

<sup>692</sup> (Wendt 2016: 85-88). Also see (Shklar 1998; Carter 1999; Gray 2000; Allan 2006; Moehler 2009; Horton 2010; Wall 2013; Weinstock 2013).

live what they consider a good life. They become incapable of living what they consider a good life if they do not avoid completely unstable social institutions. Consequently, reasonable citizens should become willing to forego terms that they judge to be fair but that their opponents perceive as harmfully exploitative. They should become willing to accept terms they judge as partially unfair as part of a deliberated compromise to preserve a mutually beneficial peace.

A stable society is not the morally best outcome. A just society is the morally best outcome. However, a stable society is not the morally worst outcome. It is morally better than an unstable society. An unstable society is the worst of both worlds. Sooner or later, an unstable society tends to become an unjust society. In exceptional circumstances, the avoidance of the worst injustices should take priority over social stability. Nevertheless, in normal circumstances, the preservation of stability should take priority over the promotion of justice. Unless a society can remain stable, it unlikely to become any more just. So, partially unjust social institutions can become stable because reasonable citizens should not seek to change them even if they become capable of doing so.<sup>693</sup> Reform can risk (unreasonable) retaliation and risk harmful instability. Consequently, reasonable should become willing to preserve partially unjust social institutions that preserve a mutually beneficial peace as a deliberated compromise. They can still seek fair and just reforms within the constraints of peaceful procedures that are accepted as legitimate, but only if they can become reasonably confident that it does not risk (unreasonable) retaliation and harmful instability.

Justice is not the primary virtue of social institutions. Social institutions should not become completely unjust, but they need not and should not become fully just, especially if reasonable citizens remain reasonably cautious about whether fair and just reforms would risk (unreasonable) retaliation and harmful instability. The moral demand for justice must often

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<sup>693</sup> Political theorist Avishai Margalit distinguishes between rotten compromises and compromises. A rotten compromise is too unjust to accept, even if it would likely preserve peace. It is not reasonably acceptable. Conversely, a compromise is not too unjust to accept to preserve peace. It is a reasonable compromise, even if it is partially unjust (Margalit 2010: 117). Also see (Leopra 2012; Van Parijs 2012; Sleat 2013: 99).

compete against and compromise with the moral demand for stability. So, the misidentification dilemma provides an excellent epistemic reason to concede to the epistemic limits of reasonable citizens and accept a cautious type of liberalism that prioritises the avoidance of harm over the promotion of justice. In particular, what I call a “peaceful instrumentalist” conception of legitimacy makes legitimacy depend on the preservation of a mutually beneficial peace. Reasonable citizens can publicly observe that liberal democratic states tend to make the vote remain more politically attractive than the pitchfork.<sup>694</sup> So, liberal democratic states can become credible political authorities with peaceful instrumentalism.<sup>695</sup> Consequently, reasonable citizens can still seek to implement fair terms for public deliberation. Still, they should not make legitimacy depend on it, given the misidentification dilemma.

## VI. POSSIBLE REPLIES

### A. Fair Deliberation Is Not So Ugly

I defend peaceful instrumentalism as a deliberated compromise, given that reasonable citizens should remain reasonably cautious about which terms for social cooperation are fair or otherwise reasonably acceptable. However, political liberals can argue that peaceful instrumentalism is an inadequate compromise. In polarised societies, many reasonable citizens are likely to disagree over which terms for social cooperation in general and public deliberation in particular are best. Still, they do not risk misidentifying harmfully exploitative terms for fair or otherwise reasonably acceptable terms. So, both high liberals and classical liberals should morally prefer to accept a second-best interpretation of which terms are fair rather than to

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<sup>694</sup> (von Mises 1927: 42; Popper 1945: 4; Hayek 1973: 5; Buchanan 1975: 23-27; Hayek 1997b: 237; Bellamy 1999; Przeworski 1999: 15-16). One possible explanation for why democracy tends to discover moral compromises that avoid political violence is that elected politicians tend to seek the vote of the median voter (Black 1948). Second, elected politicians tend to “logroll” or trade votes to more effectively express the intensity of political preferences (Tullock 2004a: 51-53). So, they tend to discover moral compromises few, if any, judge are the best decisions but few, if any, judge are the worst decisions either. They tend to discover second-best decisions that are acceptable as moral compromises.

<sup>695</sup> Political theorist J.S. Mill, political theorist Judith Shklar, economist F.A. Hayek and political theorist Geoffrey Brennan and economist James Buchanan aim to avoid harm when man is at his worst ((Mill 1975: 505; Shklar 1998: 9-10; Brennan and Buchanan 2000: 80-81; Hayek 2018: 57).

accept peaceful instrumentalism. As political theorist Richard Arneson says, “suppose there turn out to be several alternative distributive justice conceptions, none obviously superior to the others, but all more plausible than the denial of democracy and distributive justice matter. Then the egalitarian liberal can say it is better to implement any one of these rival conceptions than to scrap the entire lot.”<sup>696</sup> Similarly, reasonable citizens should morally prefer to accept terms that are in some sense fair as a deliberated compromise rather than to accept terms that only preserve a mutually beneficial peace as a deliberated compromise.

In reply, cautious liberals can argue that political liberals should adequately distinguish between unpolarised and polarised disagreement. In unpolarised societies, reasonable citizens agree on which terms are fair or otherwise reasonably acceptable and only disagree over which terms for public deliberation are best. In contrast, in polarised societies, they do not agree on which terms for public deliberation are fair or otherwise reasonably acceptable to begin with. In the worst cases, they disagree over which terms for public deliberation are harmfully exploitative. As explored above, the misidentification dilemma shows the perception of harmfully exploitative terms for public deliberation risks harmful instability. So, reasonable citizens can still seek to implement fair or otherwise reasonably acceptable reforms. Still, they should not make legitimacy depend on it, given the misidentification dilemma. Legitimacy should depend on whether democratic mechanisms preserve a mutually beneficial peace. Both high liberals and classical liberals should accept peaceful instrumentalism as a deliberated compromise to avoid the perception of harmful exploitation and to preserve a mutually beneficial peace.

## **B. Peaceful Deliberation Is Not So Pretty**

Political liberals can argue that peaceful instrumentalism is an inadequate compromise for a different reason. Social stability can still permit harmful exploitation. In particular, rational citizens forego predation's short-term benefits to avoid the long-term risk of retaliation. The risk of retaliation

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<sup>696</sup> (Arneson 2017: 65-66)

deters predation. However, political liberals can argue that constraint is an exception rather than the norm. Rational citizens harmfully exploit their fellow citizens whenever they know their fellow citizens are incapable of retaliation. So, peaceful instrumentalism does not put a high enough floor under how exploitative policies can become.

In reply, cautious liberals can argue that rational citizens are uncertain whether their fellow citizens are capable of retaliation.<sup>697</sup> First, many citizens incapable of retaliation today can become capable of retaliation tomorrow. Second, many citizens incapable of retaliation in an expected way can become capable of retaliation in unexpected ways. Third, many citizens who are incapable of retaliation by themselves can become capable of retaliation together. Fourth, many citizens capable of retaliation can retaliate on behalf of those incapable of retaliation. So, the uncertainty of retaliation deters predation. Consequently, peaceful instrumentalism does put a higher floor under how exploitative policies can become than harmfully exploitative terms misidentified as fair or otherwise reasonably acceptable terms. In some of the worst cases, harmfully exploitative terms contribute to the success of harmfully exploitative policies. In return, harmfully exploitative policies risk retaliation. In contrast, terms that aim to preserve a mutually beneficial peace aim to filter out those harmfully exploitative policies to avoid the risk of retaliation.

### **C. Better To Gain Fair Terms Than To Forego Them**

Political liberals can argue that peaceful instrumentalism foregoes too much to gain too little in return. Even if mutual beneficial or otherwise rationally acceptable terms for public deliberation tend to filter out policies that risk social instability, they still need not filter out exploitative policies (even if they put a floor under how exploitative policies can become). So, peaceful instrumentalism gains too little. In contrast, fair or otherwise reasonably acceptable terms for social cooperation in general and public deliberation in particular contribute toward the democratic success of substantively just policies. So, peaceful instrumentalism forgoes too much. The

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<sup>697</sup> (Buchanan and Tullock 1962: 96)

misidentification dilemma does not provide a strong enough reason to reject fair proceduralism and accept peaceful instrumentalism as a deliberated compromise.

In reply, cautious liberals can argue that peaceful instrumentalism does forgo much but gains much in return. It gains a mutually beneficial peace. It is morally bad for ordinary citizens and especially the worst-off to forego fair or otherwise reasonably acceptable terms for public deliberation that would contribute to the democratic success of substantively just policies. Nevertheless, it is morally worse for them to gain terms for public deliberation perceived as harmfully exploitative that would contribute to the democratic success of policies perceived as harmfully exploitative. As explored above, it risks a harmful instability that harmfully interferes with the capabilities of ordinary citizens and especially of the worst-off to pursue their conceptions of the good life and exercise their basic liberties. So, it is morally good for ordinary citizens and especially the worst-off to gain fair or otherwise reasonably acceptable terms for public deliberation that contribute to the democratic success of substantively just policies. Nevertheless, it is morally better for them to avoid terms for public deliberation perceived as harmfully exploitative that contribute toward the democratic success of policies perceived as harmfully exploitative. Otherwise, they risk (unreasonable) retaliation and a harmful instability that makes ordinary citizens and especially the worst-off even worse off.

#### **D. Less Exploitation Is Better Than More**

Political liberals can argue that peaceful instrumentalism risks exploitation more often than fair proceduralism. Rational citizens would knowingly support exploitative policies whenever expected to benefit them. In contrast, reasonable citizens would unknowingly support exploitative policies only if they misidentified them as substantively just policies. So, the misidentification dilemma does not provide a strong enough reason to reject fair proceduralism and accept peaceful instrumentalism as a deliberated compromise. The risk of exploitative policies under fair or otherwise reasonably acceptable terms for social cooperation in general and public

deliberation in particular is rare. In contrast, the risk of harmfully exploitative policies under mutually beneficial or otherwise rational acceptable terms for public deliberation is regular.

In reply, cautious liberals can argue that political liberals should remain uncertain about whether peaceful instrumentalism does risk exploitation more often than fair proceduralism. In polarised societies, reasonable citizens disagree over which policies are harmfully exploitative. With classical liberal terms for public deliberation, classical liberals see harmfully exploitative policies nowhere and high liberals see harmfully exploitative policies everywhere. Conversely, with high liberal terms, high liberals see harmfully exploitative policies nowhere and classical liberals see harmfully exploitative policies everywhere. So, reasonable citizens should not decide between peaceful instrumentalism and fair proceduralism based on the expected frequency of exploitation. Consequently, they should lack confidence in whether peaceful instrumentalism does risk exploitation more often than fair proceduralism.

Reasonable citizens should decide between peaceful instrumentalism and fair proceduralism based on the expected intensity of exploitation. Reasonable citizens can misidentify harmfully exploitative terms for public deliberation that contribute toward the democratic success of harmfully exploitative policies as fair terms. Alternatively, fair terms are not always mutually beneficial. So, reasonable citizens can misidentify fair terms as harmfully exploitative terms that contribute toward the democratic success of harmfully exploitative policies. Conversely, mutually beneficial or otherwise rationally acceptable terms for public deliberation are not always fair. However, as explored above, they tend to filter out harmfully exploitative policies and policies perceived as harmfully exploitative to preserve a mutually beneficial peace. So, peaceful instrumentalism puts a higher floor under how harmfully exploitative policies can become than fair proceduralism. Consequently, reasonable citizens should prefer peaceful instrumentalism to fair proceduralism. It constrains the intensity of

exploitation or of perceived exploitation independently of whether it constrains the frequency of exploitation or of perceived exploitation.

## VII. CONCLUSION

Liberal democratic states will probably never become credible political authorities with a fair proceduralist conception of legitimacy. Liberal democrats should not overlook the risk that reasonable but fallible citizens misidentify harmfully exploitative terms for fair terms and fair terms for harmfully exploitative terms. So, reasonable citizens should lack confidence in whether liberal democratic states provide fair or otherwise reasonably acceptable terms for social cooperation in general and public deliberation in particular. Consequently, liberal democrats should not overestimate the epistemic capabilities of reasonable citizens and underestimate the risk of exploitative deliberation.

In contrast, liberal democratic states can become credible political authorities with peaceful instrumentalism. Reasonable citizens can become reasonably confident liberal democratic states provide mutually beneficial or otherwise rationally acceptable terms for public deliberation that preserve a mutually beneficial peace. Reasonable citizens can publicly observe that very few citizens wish to swap the vote back for the pitchfork. So, the liberal democratic state need not become legitimate political authorities as promoters of fair procedures. The liberal democratic state need only become legitimate political authorities as promoters of peaceful procedures that preserve a mutually beneficial peace.

## **Cautious Conclusions**

In this dissertation, I transformed the problem of political authority into the problem of political credibility. Stable political authorities need credibility. They need reasonable citizens to become reasonably confident that they are legitimate. In my terminology, credible political authorities satisfy what I call the “confidence tenet,” which requires that the public can become reasonably confident that political authorities are legitimate. Unless political authorities can satisfy the confidence tenet, political authorities risk social instability. Sooner or later, undetectable legitimacy is likely to motivate a majority or a critical mass of the public to aim to replace political authorities that they are not reasonably confident are legitimate with a credible political alternative that they are reasonably confident is legitimate.

I defend a new type of realism that I call “epistemic realism.” A conception of legitimacy should concede to the epistemic limits of reasonable citizens. It should avoid normative political principles that reasonable citizens will probably never become reasonably confident that political authorities do satisfy. The problem of political credibility prioritises epistemically attractive conceptions of legitimacy over morally attractive conceptions of legitimacy. A morally attractive conception of legitimacy makes legitimacy depend on the promotion of justice in some sense. Unfortunately, not all morally attractive conceptions of legitimacy are epistemically attractive. Often, reasonable citizens are not reasonably confident that political authorities do promote justice in some sense. So, political authorities would not become credible political authorities. In contrast, an epistemically attractive conception of legitimacy makes legitimacy depend on conditions reasonable citizens can become reasonably confident that political authorities do satisfy. Consequently, political authorities do become credible political authorities.

In search of a solution, I defend what I call “cautious liberalism.” A cautious conception of legitimacy prioritises the avoidance of harm over promoting justice for primarily epistemic reasons. Reasonable citizens can become reasonably confident liberal democratic states do avoid harm in some sense.

In particular, what I call a “peaceful instrumentalist” conception of legitimacy makes legitimacy depend on the preservation of a mutually beneficial peace. Political authorities can still aim to promote justice in some sense, but legitimacy should not depend on it. Peaceful instrumentalism is a morally unattractive but epistemically attractive conception. Legitimate political authorities need not promote justice in any sense with peaceful instrumentalism. Nevertheless, reasonable citizens can become reasonably confident that democratic decisions do avoid political violence and preserve a mutually beneficial peace. They can publicly observe that liberal democratic states tend to make the vote remain more politically attractive than the pitchfork. So, liberal democratic states can become *credible* political authorities that reasonable citizens are reasonably confident are legitimate with peaceful instrumentalism.

A cautious conception of legitimacy is less than perfect, but it is better than a highly moralised conception of legitimacy. One objection to cautious liberalism is that it is not more epistemically attractive than highly moralised liberalism. In particular, it could be argued that a peaceful instrumentalist conception of legitimacy that makes legitimacy depend on the preservation of a mutually beneficial peace is not epistemically attractive. Reasonable citizens will probably never become reasonably confident liberal democratic states do satisfy peaceful instrumentalism. If true, this may mean that no conception of legitimacy satisfies the confidence tenet. No political authority is a credible political authority. The problem of political credibility becomes unsolvable and cautious liberals should accept some type of anarchism. However, in my view, it is not true. A peaceful instrumentalist conception of legitimacy is epistemically attractive. Reasonable citizens can become reasonably confident liberal democratic states do satisfy peaceful instrumentalism. Publicly observable behaviour reveals that most citizens prefer the vote to the pitchfork. So, independently of whether democratic decisions promote justice and the common good or if democratic mechanisms are fair, reasonable citizens can become reasonably confident that democratic participation remains more politically attractive than political violence.

A second objection to cautious liberalism is that it is too risk-averse. It bears big opportunity costs. Cautious liberal states forgo opportunities to promote justice and implement fair terms for social cooperation to preserve a mutually beneficial but unjust and unfair peace in return. However, in my view, cautious liberalism is not too risk-averse. The expected benefits of cautious liberal states exceed the expected costs. In particular, cautious liberal states are more credible political authorities than highly moralised states. Suppose highly moralised states do promote justice or implement fair terms for social cooperation more often than cautious liberal states. Still, reasonable citizens should remain reasonably cautious that they do. So, to make legitimacy depend on the highly moralised characteristics of liberal democratic states is to risk undetectable legitimacy, making liberal democratic states lose credibility and become unstable political authorities. In contrast, reasonable citizens can become reasonably confident liberal democratic states do preserve a mutually beneficial peace. So, to make legitimacy depend on the cautious characteristics of liberal democratic states is to provide detectable legitimacy making liberal democratic states gain credibility and become stable political authorities.

A third objection to cautious liberalism is that it is too reductive. It is too indifferent to justice. Legitimacy does not depend on whether liberal democratic states promote justice. Legitimacy depends on whether liberal democratic states avoid harm. In particular, a peaceful instrumentalist conception of legitimacy makes legitimacy depend on the preservation of a mutually beneficial peace. However, in my view, cautious liberalism is not too indifferent to justice. The strongest reply is that, in normal circumstances, cautious liberal states can and should aim to promote justice and implement fairer terms for social cooperation if reasonable citizens can become reasonably confident that it does not put a mutually beneficial peace at risk. A second reply is that, in exceptional circumstances, cautious liberal states can and should aim to avoid the worst injustices since the worst injustices make a mutually beneficial peace infeasible. They should aim to avoid the killing, enslavement and persecution of any particular demographic within society given that they nullify a mutually beneficial

peace. A third reply is that liberal democratic states are not the only institution that can and should aim to promote justice and implement fairer terms for social cooperation. Liberal democratic societies contain many voluntary market, civil and private institutions that can and should aim to promote justice and implement fairer terms for social cooperation. The cumulation of the three replies shows that to make legitimacy depend on preserving a mutually beneficial peace is not to express indifference to the promotion of justice. It is to recognise that stable political authorities must become credible political authorities that reasonable citizens can become reasonably confident is legitimate.

The cautious liberalism solution to the problem of political credibility uncovers opportunities for future research. First, it uncovers a need for a cautious account of public deliberation. Unfortunately, public deliberation could lose many of its highly moralised characteristics. It is potentially no longer seen as a fair and reliable mechanism that corrects errors and promotes justice. Nevertheless, public deliberation could gain more realistic characteristics. It could discover deliberated compromises as a compromise-discovery mechanism. Compromise may allow reasonable citizens to show moral respect towards mistaken but reasonable opponents. Compromise might allow reasonable citizens to show epistemic humility in whether they are correct. Compromise potentially allows reasonable citizens to avoid violent disagreement with unreasonable opponents. Second, it uncovers a need for a cautious account of political experts. Unfortunately, political experts could lose many of their highly moralised characteristics. They are potentially no longer seen as wise and reliable arbiters of political truth. Nevertheless, political experts could gain more realistic characteristics. They could become imperfect but credible checks on political judgement. They potentially filter out the morally and epistemically worst views that risk political violence.

Liberal democratic states can and should aim to promote justice, but their legitimacy should not depend on it. Legitimacy should not depend on tracking the truth or acquiring agreement. It should not depend on

promoting justice or implementing terms for social cooperation all reasonable citizens agree are fair. Liberal democratic states do not become *credible* political authorities with highly moralised conceptions of legitimacy. In polarised societies, the highly moralised characteristics of liberal democratic states should not ground their legitimacy and the citizen's duty to obey, given the persistent disagreement amongst reasonable citizens over whether liberal democratic states do possess those highly moralised characteristics. Liberal democratic states need only become legitimate political authorities as preservers of a mutually beneficial peace. They need only change violent disagreement into peaceful disagreement. Liberal democratic states can become credible political authorities with a cautious conception of legitimacy. In particular, liberal democratic states can become credible political authorities with a peaceful instrumentalist conception of legitimacy that makes legitimacy depend on the preservation of a mutually beneficial peace. In polarised societies, reasonable citizens can still publicly observe that democratic decisions tend to make the vote remain more politically attractive than the pitchfork.

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