

# Can We Make a Democratic Decision by Voting?

Dong-il Kim  
Gyeongsang National University  
dikim@gnu.ac.kr

## Abstract

Can we make a democratic decision by voting? We cannot, this paper argues, unless we presuppose a democratic principle that cannot be chosen in a democratic way. This argument takes the following steps. Having set up the democratic decision-making situation and explained the characteristics of a democratic decision, this paper examines a voting process as a normal way to make a democratic decision. It is argued that we cannot make a democratic decision by voting because the democratic decision-making situation is repeated over and over again, which is called the problem of democratic decision-making by voting. The endless repetition of the situation means that a decision needs a decision rule, which is again in need of a decision on how to make the decision rule. An implication of the main argument is that we need to presuppose a democratic principle, which cannot be democratically chosen, but cannot but be epistemically accepted, by those who would like to make a democratic decision.

**Keywords:** democracy, democratic decision, voting, democratic principles

## I. The Democratic Decision-Making Situation

Belonging to a community at various levels, we are supposed to make a decision as a group. Family members get to decide whether to eat in or out for dinner. Friends meet together and decide what to do for fun. At work, we are also exposed to a situation where a decision, big or small, has to be made for the (near) future of the business or the group. As democratic citizens of a political community, we make important decisions in elections on a regular basis. The more equal the members of a group in question are, the more likely they expect to make a democratic decision, normally giving every one of the group an equal weight in terms of their opinion. As far as we are living in a community of various sorts, we cannot avoid a decision-making situation although we can choose not to join a decision-making process.

Suppose we have two choices. The circumstance allows only one choice to be made. It is nearly impossible to make a unanimous choice of one or the other. Although it may be possible for one person to decide whether one is superior to the other, the superior one for that person is not equally superior for the whole community. The members who have the right to join the decision-making process can only have one vote. And no member of the community

has, or can exercise, the power to enforce a particular option on other members at any rate. Let's call this *the democratic decision-making situation*.

This situation is democratic because of its three characteristics that are normally believed to be the basis or conditions of democracy. First, democracy is based on the belief that there are many different opinions, any reasonable choice of which can be exclusively neither true nor false, or neither right nor wrong, to all members of a community.<sup>1</sup> Second, democracy respects the preferences of all members unless they are proven to be false. It is democracy that respects even the minority opinion. Third, democracy guarantees the freedom of expression to be reasonably exercised by anyone in the community. Satisfying these democratic characteristics, the situation described above can be called the “democratic” decision-making situation.

This paper explores whether we can make a democratic decision by voting, which is normally believed to be the most practical, though not the best, way to make a democratic decision. The exploration proceeds in the following order. The concept of a democratic decision is delineated in detail. Voting is suggested and examined as a method for a democratic decision. It is mainly argued that it is unfeasible for us to make a democratic decision by voting because of the newly formulated problem of democratic decision-making. The point of the main argument will be rather that we cannot make a democratic decision by voting unless we presuppose or believe that something is right independently of our collective decision or deliberation.

## II. A Democratic Decision

How can we make “a democratic decision” in the democratic decision-making situation? It might be a good idea to go for a lottery. It is hard to imagine an unfair lottery barring a cheated or manipulated one. And a lottery does not allow any influential power or bias to play a role in making a decision. It seems hard to say that a lottery is unfair.

But it is also hard to say that a decision by a lottery is a democratic decision. This is because the conditions for a lottery are different from those of the democratic decision-making situation. In case of a lottery, the condition is that all options must have the same value and no one should have a rational reason to prefer a particular option. For example, all combinations of numbers have the same probability of being a winning number, and no one can have a rational reason to prefer a particular number to any other. Thus, it is the case that the winning number can be best determined by lottery.

However, in the democratic decision-making situation, although it is hard to judge

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<sup>1</sup> According to epistemic democrats, there is a choice that is made by a collective decision and thus more likely to be true or right for the whole community. However, it is not clear whether a democratic group chooses something right or something is made right by the group. If the former is the case, then we do not have to make a collective decision in order to find the right one, which is still right even when decided by a single person. If the latter is the case, then there is nothing right as it is but only something that is believed to be right by the decision-making group. In addition, we cannot make a true and right decision about a coordinating problem, for which we simply need to make a choice in one way or another, either of which cannot be (made) true or right.

whether one choice is better than the other for the whole community, they do not have the same value, and each member prefers a particular option for some undeniable reasons. Therefore, in the democratic decision-making situation, a lottery cannot be an appropriate method to make a democratic decision.

In addition, it is not of democracy to make a decision by a lottery because the decision made by a lottery depends on luck, not on the will of the members of the community in question<sup>2</sup>; a democratic decision has to be made by the members who are going to be affected by the decision.<sup>3</sup> Autonomy of each member should be taken seriously in making a democratic decision for the members of the community. What if the members themselves have decided to go for a lottery? The decision by the members to go for a lottery is obviously a democratic one, but the very decision by a lottery is still a decision made by luck, not by the members, and thus undemocratic.

When the members make a democratic decision, they want to do so in accordance with some rules that treat them with equal concern and respect. This idea is not only based on autonomy of the members but also equality among them. Democratic people want to make a decision, not arbitrarily but consistently and equally, in order to protect the autonomy of all members. This is why they will have some rules that should treat them consistently and equally. The best way to make the rules that should work for the consistent and equal treatment of all members is for them to make the rules, the rules about how to make a decision. Thus, when democratic people make the first-order decision, they must have established the second-order decision about the rules according to which they make the first-order decision.

Furthermore, the people in the democratic decision-making situation would make not only the first-order but also the second-order decision such that they be accountable substantially for what they have done. If they make the first-order decision according to the rules of not their own, they cannot be said to have made their own decision in a full sense. This means that they are not free enough to make their own decision. Those who have to follow the rules of not their own or their agreement are unfree and thus cannot be fully accountable for the first-order decision. As a matter of fact, people normally accept the decision rules not because they have made them or agreed with them but because there is no choice but to do so.

In summation, it is when the members of a community make a decision according to the rules of their own that they can make a democratic decision as this satisfies the conditions for a democratic decision such as autonomy, equality, and accountability of the people. That is, a democratic decision is an autonomous, equal, and accountable decision. And the question is, can we make a democratic decision by voting?

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<sup>2</sup> Estlund(2008: 8) argues that “democracy is better than random” because democratic decision-making is more likely to produce a better outcome than “flipping a coin”. However, this paper does not follow his “epistemic proceduralism” as discussed in the previous footnote.

<sup>3</sup> There is of course a debate between the proceduralist and the consequentialist argument about democracy. In order to obtain the democratic authority of a decision, the proceduralist argues, people should have been involved in the decision-making process, while it will do for the outcome of a decision to work for the interest of the people, according to the consequentialist. It is beyond the scope of this current paper to discuss about that debate. This paper proceeds simply within the proceduralist side. For the debate between the two sides, see the following as an example. Christiano (2004: 266-290). Peter (2008: 33-55).

### III. Unfeasibility of Making a Democratic Decision by Voting

A decision in a democratic community is normally and eventually made by voting. Even in the supreme or the constitutional court, where the judges take sufficient time to discuss and deliberate in great detail, they make a final decision by voting. A decision acquires legitimacy when and because it is made by voting, not when and because it is believed to be a right decision. Voting is taken to be the most practical way to make a democratic decision for the following reasons.

First, the members of a community as a whole make their own decision by participating in the voting process. In making their own decision in a voluntary voting, they exercise their autonomy. In this respect, the Australian voting system that legally requires people to vote lacks the autonomy condition for a democratic decision. Second, compared with a unanimity or a consensus where one might have weightier or lighter influence to the outcome, voting allows only one vote per person, which means that all participants perform the equal amount of influence on the outcome, in theory at least; equality is secured.<sup>4</sup> Third, the community members as a whole, winners or losers or non-participants in voting, are accountable for the result of the voting because they have participated in the decision-making process, directly or tacitly. (Non-participation may be taken as opposing to all candidates, but is normally taken as an agreement with the result.) Thus, voting that reflects the conditions of a democratic decision such as autonomy, equality, and accountability, seems to be a democratic way to resolve “the democratic decision-making situation”.<sup>5</sup>

Then, can we surely make a democratic decision through a voting process that reflects the conditions for a democratic decision? In the following, I investigate its feasibility in greater detail and argue that it is not technically possible to make a democratic decision by voting in the democratic decision-making situation.

Suppose, for example, one of two options is decided by the majority rule in voting. Why should I accept this decision? Of course, if I was in the majority, that is, if my preferred choice has been selected, I do not need to explain any other reasons. But why should I accept the decision that is not my choice? Several reasons can be found in the nature of democracy reflected in voting. Following is personal and psychological reasons.

First, because my opinion, autonomously chosen and freely expressed, has been respected in voting by being counted one vote, I have the psychological generosity to accept the decision of others' choice. I would not be able to afford such a psychological generosity if I was forbidden to participate in the decision-making process where the wrong choice has been made for me. The chance for the participation in voting makes the voting a democratic way for

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<sup>4</sup> Equality is secured in the sense that each and every participant casts no more or less than one vote.

<sup>5</sup> Voting might not be democratic to a satisfactory extent if a decision is made simply by casting a vote, especially as a result of the majority rule, without sufficient discussion ‘among equals’. Anderson (2009: 215). However, it is not voting itself but the majority rule that is not sufficiently of democracy. A voting process can include discussion ‘among equals’ which satisfies one of the democratic features such as autonomy, equality, and accountability.

a decision.

Second, I can compromise the fact that my vote has been wasted because I have been treated equally with others in voting. I had at least been given the opportunity to win the vote, as much as, and no less than, others. My vote has been equally counted one vote. A democratic decision is made not in the process where my voice is adopted but when equally heard. Being treated equally, I can admit the preference of others.

Third, when I participate in the process and make a decision collectively, I can hardly deny the result of the collective decision made by the community. My denial would amount to disregarding the community of which I am a member. The decision is not my own, but the one that has been made by the community that includes me. To reject the collective decision is to deny my community.

These reasons stemming from the features of democracy can be personal and psychological reasons to accept the decisions with which I do not agree. However, the *communal* reason why a decision-making community must accept the decision is different from the personal ones. The reason that each member accepts the decision made by the community is not because the chosen one is the correct answer. The option chosen by the majority in voting is not the right answer. It just won the majority vote. I accept the decision made by the majority because I have directly or tacitly agreed to the majority rule as a way to make a decision, even though I do not agree with the decision itself. It may be because the rule on voting, for example, the majority rule, is reasonable or appropriate that I agree with it. At any rate, the reason why each member does accept the decision is because the rule has been acknowledged, either tacitly or unanimously, by the members of a democratic community.

However, the rule on how to make a decision is not exclusive. For example, the majority rule may be justified as a democratic decision rule for it is based on political equality; each vote counts one and more votes should count heavier. However, the majority rule can be denied as it is not actually based on political equality but on political opportunity<sup>6</sup>; even though one is given an equal opportunity to vote, one's vote from a minority group does not count. In addition, depending on the importance of the decision, a decision by two-thirds vote may be adopted. Or, depending on the number of choices, other decision schemes may be adopted. If there are two choices and it is an important decision, the two-thirds rule can be adopted as a decision-making method, and a simple majority vote can be adopted if there are many options and the decision is not much important. But this cannot be exclusive either. This is because the members may not agree with the adopted methods for the sake of their own interests, or for some other reasons.<sup>7</sup> Therefore, we cannot but arrive at another decision-making situation in which we need to decide on how to make a decision. Let's call this "the second-order democratic decision-making situation".

Let's suppose that in the second-order democratic decision-making situation we can

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<sup>6</sup> Saunders (2010a: 116) suggests a lottery as a democratic decision-making rule in a different paper. Saunders (2010b: 148-177).

<sup>7</sup> Waldron (2014: 1692-1730), for example, tackles the majority rule in making a decision in court. Dworkin (2006: 131-143) criticizes the majoritarian view of democracy. These arguments mean that it is controversial to make a collective decision by a certain rule and how as well as what to decide has to be put on the table and decided in a democratic way.

choose from the options of the simple majority, two thirds, and a half. Which one is the right one? How should we decide on one of these three options? Criteria such as the importance of matters, convenience of decision, and the tightness of opinions can be suggested. That is to say, two-thirds for the important issues, the simple majority in order to make an easy decision, and a half should be adopted if the opinions are divided tightly into two sides. These reasons make sense in their own right, and it is true that they provide some help in making a decision. Therefore, without a lengthy dispute, one choice of decision-making method is normally taken for granted.<sup>8</sup>

However, there must be members who do not agree with reasons such as importance, convenience, and tightness with regard to the issue on their table. A democratic community cannot unanimously resolve the second-order democratic decision situation. People may recognize the degree of importance to different extents, it may be argued to be more important to gather greater opinions than just to go for convenience and thus the two-round system, and some may criticize that making a decision by the simple majority vote is a boost to community conflict. Therefore, we have to decide again how to decide in the second-order democratic decision-making situation. It is democracy that respects every opinion, treats all opinions equally and requires accountability of all opinions on any issue, the first-order or the second.

It should be noted that we cannot resolve the first-order democratic decision-making situation without having the second-order situation resolved. For example, suppose that a vote of “yes-or-no” to issue A has been proposed in a democratic community. The issue is so important to the community that it is taken into consideration to have its decision made by the vote of two-thirds. Those who favor the issue should get two-thirds or more votes to carry on their own will. On the contrary, those who dislike the issue need just more than one thirds to win the motion. The community is distinctly divided into two sides. Therefore, the two-thirds decision-making method is disadvantageous to the side with yes, who thus would not like to go through the decision-making process which employs the two-thirds method. No decision can be made on the first-order issue A without a decision about how to make a decision.

Those who side with “no” to the issue might take one step back and agree to make a decision on how to make a decision. The second-order democratic decision-making situation takes place and the choices are given, say a two-thirds and a majority vote. As the community is divided into two sides about the issue A, it is also tightly divided into the two choices about the issue B, i.e., how to make a decision. It is highly likely that those siding with “yes” to the issue A favor a majority vote while those siding with “no” two-thirds.

On what basis should the issue B be determined? Should the majority rule be adopted because the opinions are tightly divided? Or is it to be decided by two-thirds because it is an important issue? If we respect both sides, treat them equally, and let them make a choice and take accountability for their own decision, that is, to make a democratic decision, we cannot avoid running into “the third-order democratic decision-making situation”. In order to make a

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<sup>8</sup> For example, according to Robert’s Rules of Order (Robert 1967: 75), more than a two-thirds votes are required in order to amend or suspend the rules of a decision-making group because the rules have been adopted by more than a two-thirds. However, why should the rules have won more than a two-thirds in the first place? This is simply has been taken for granted.

democratic decision about the issue B, we need to go through another issue C, an issue on how to make a decision on the issue B. In other words, we need to make a decision about the issue C which is about the issue B which is again about the issue A.

Put another way, the community that is to make a democratic decision about the issue A must make a democratic decision about the issue B, how to make a decision, which requires another kind of decision about the issue C, how to make a decision about the issue B. To make a democratic decision about an issue requires a decision about how to make that decision, and another decision about how to make a decision about how to make a decision. And this reproduces endlessly the following decisions to be made, the issues B, C, D, E, F..... Because we cannot make a decision without making a decision about how to make that decision, we cannot make a democratic decision by voting at all. Let me call this *the problem of democratic decision-making by voting*.

The problem of democratic decision-making by voting does not amount to the well-known problem with voting, normally called the Condorcet paradox of voting, initially discovered by Condorcet and subsequently developed by Arrow, May, etc. Their concern is about the irrationality of voting normally made by the majority rule. The basic idea is that the result of voting made by the majority rule does not make sense in the sense both that a contradictory result is brought about depending on how to vote and that the decisions made according to different methods of voting cancel out one another. On the other hand, the problem of democratic decision-making by voting derives from the impossibility of voting, which means that people cannot vote at all under a democratic rule about how to vote, which should have been established democratically by the people.

The problem of democratic decision-making by voting shares its basic idea with what Olson calls ‘the paradox of the founding’, which points out ‘the infinite regression of procedure’ that makes it impossible to set up a democratic constitution. However, ‘the paradox of the founding’ is focused on the *illegitimacy of the very first constitution* that cannot but be taken for granted in the beginning while the problem fleshed out in this paper on the *undemocratic feature of voting rules*. According to ‘the paradox of the founding’, there is no law for the founders of the very first constitution to follow in founding the constitution. In contrast, we do not have the problem of democratic decision-making by voting because there is no law for guiding voting process but because the guiding law cannot be made democratically by the voters. “*Legitimacy* is clearly central to the paradox of the founding.” (Olson 2007: 331, italics added) while *democracy* is obviously crucial to the problem of democratic decision-making by voting.

#### **IV. Conclusion**

Can we make a democratic decision, an autonomous, equal, and accountable decision by voting? No, we cannot. We cannot make it because of the problem of democratic decision-making by voting, that is, unless we stop the endless democratic decision-making situations by presupposing that one option is the right one.

This conclusion does not mean that we cannot make a democratic decision, but rather

that we have to presuppose, not make a democratic decision on, the democratic requirement that we have to make a democratic decision. People may want to make their own mind on the rule they would like to adopt for the community and vote for it. This is only possible because they believe that the rule in their mind is the right one, which is not determined collectively but acknowledged epistemically. For example, people can decide to adopt the majority rule as a decision rule, giving it the authority on the basis of the popular decision, which is only possible when people believe that the majority rule is the right one for an epistemic reason.<sup>9</sup>

One may point out that the democratic presupposition that all are free and equal should be open to a debate if that is really committed to democracy. We may discuss whether the presupposition is democratic or not. However, we cannot make a democratic decision on whether the belief is democratic unless we are protected by an already-established democratic decision rule. An extreme democrat should want to decide democratically whether he/she can make a decision in a democratic way. However, no democrat would want to do that because this is only self-defeating. If one wants to remain a real democrat, one has to epistemically accept a democratic rule, only on the basis of which one can put into practice one's own democratic vision.

Democracy requires that the members of a community should decide the rules under which they are going to live together. These rules should include the decision rules as well. Unfortunately, we cannot make a rule in a democratic way without having a democratic rule on how to make a decision. Fortunately, however, we can (and should) just presuppose the rule that is believed to be democratic in its own right.

A theoretical implication for democracy might be that it is necessary for democracy to depend upon the rule of law, a law which cannot but be taken for granted, not only by political philosophers or legislators but also by all people who must be autonomous in themselves, equal one another, and responsible for what they take for granted.

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<sup>9</sup> In the same spirit, Wolff (1998: 42-43) holds that "if we hold that majority rule has some special validity, then it must be because of the character of majority rule itself, and not because of a promise which we may be thought to have made to abide by it."

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