

Democratic Deliberation and Impartial Justice

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Theories of deliberative democracy maintain that outcomes of democratic deliberation are fairer than outcomes of mere aggregation of preferences. Theorists of impartial justice, especially Rawls and Sen, emphasize the role of deliberative processes for making just decisions. Democratic deliberation seems therefore to provide a model of impartial decision-making applicable in the real world. However, various types of cognitive and affective biases limit individual capacity to see things from others' perspectives. In this paper, two strategies of enhancing impartiality in real world decision-making are discussed. The first involves decision-making processes which detach decision-makers from their particular interests, whereas the second aims to enhance the quality of democratic deliberation and empathetic reasoning. We conclude that new forms of democratic deliberation may be necessary if we hold on to the aspiration of making decisions which are both democratic (responsive) and impartial.

1. Introduction

Theories of deliberative democracy are based on the view that the outcomes of deliberation are fairer than the outcomes based on mere aggregation of preferences. Pure preference aggregation does not set qualifications on the justifications of political proposals, and therefore majority rule decision can violate minority's vital interests and rights (see Beitz, 1989, pp. 75-77). At the same time, theorists of justice, e.g. John Rawls and Amartya Sen, emphasize democratic deliberation in making just decisions. Robert Goodin (2004, p. 97)

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argues that there is a link between the concepts of democracy and justice which “runs through ‘impartiality’, which they both manifest and promote.”

Despite the shared commitment to impartiality, democracy and justice are clearly distinct concepts as theories of justice emphasize outcomes, and theories of democracy procedures (Goodin, 2004, p. 101). Responsiveness and accountability are essential properties of the democratic process, whereas justice as such does not necessarily require them. The quality of democratic decisions depends on the capacity of democratic processes to tackle, not only issues of justice, but also issues of ‘truth’, that is, the validity of assertoric sentences justifying a certain decision (Habermas, 1996, p. 153). Moreover, theories of deliberative democracy are not only concerned about the (epistemic and moral) quality of decisions but also about the legitimacy of authority.

In this paper, we focus on theories that use impartiality as a heuristic device when defining just outcomes. We argue that theories of deliberative democracy also rely on the idea of impartiality. Further, we analyze the ways in which democratic deliberation can be expected to enhance impartial reasoning and what are the main obstacles of achieving this ideal. As pointed out by Estlund (2008), real world deliberation cannot *mirror* idealized processes of impartial reasoning but yet the quality of democratic deliberation seems to depend on the extent to which it can *approximate* these processes. The paper thus examines the idea of whether and what kind of democratic deliberation can have the instrumental value of promoting impartial justice. In this respect, we follow the views of ‘epistemic theorists’ of democracy (e.g. Estlund, 2008).

The paper is organized as follows. We start with formal accounts of impartiality, and after that we look at how the idea of impartiality has been interpreted in theories of deliberative democracy. In the third section, we point out limitations of impartial reasoning in the realm of democratic politics. In this discussion, we refer to the growing empirical literature showing biases emerging in reasoning processes, especially to that of empathy bias. The fourth section focuses on the possibilities of democratic procedures to remedy these biases.

2. *Impartiality and deliberative democracy*

2.1. *The idea of impartiality*

Following the reasoning of Adam Smith (1759), Immanuel Kant (1785) and John Stuart Mill (1861), a number of more recent scholars define the idea of justice or morality as if it would be a result of an impartial decision-making procedure (Harsanyi, 1953, 1955; Hare, 1963; Rawls, 1971; Scanlon, 1982, 1998; Sen, 2009). In these theories, an imaginary and ideal decision-making situation is used as a justification for a certain view of justice.¹ Probably the most well-known characterizations of impartial justice is provided in Rawls's *Theory of Justice* where the idea of a veil of ignorance entails that people do not have any specific information concerning their own identity.² In Rawls's original position the veil of ignorance guarantees impartial decision making on the principles of justice.

Impartiality has been given different formulations in the literature.³ The formal understandings of impartiality set limits on decision-making or reasoning about ethical principles rather than defines those ethical principles. Impartiality implies that the evaluation of different principles, norms or policies should be *independent of the identity of the decision maker* holding other things constant. As an example, consider three individuals *i*, *j* and *h* situated in a particular social position with particular values, ideologies, interests and preferences. Impartiality means that *h*'s relationship to *i* and *j* should not influence his or her judgment, e.g. whether *h* is a friend or a relative of *i* or *j*, or whether *h* = *i* or *j*. Impartiality is similar to the anonymity condition in social choice theory which states that a social preference ordering should not be influenced by the identities of individuals who hold certain preferences. In other words, individuals should be "entirely interchangeable" (Estlund 2008, 73).

It is apparent that this kind of a formal impartiality is not sufficient to make claims about more substantial issues of morality and justice. To give an

¹ Communitarian or feminist ideas of justice emphasizing partial judgments represent

² Hare 1963, Harsanyi 1953, 1955, Barry 1989, 1995, Scanlon 1982, 1998 represent similar reasoning.

³ It is worth pointing out that impartiality is not equivalent with *neutrality* which requires independence from particular values or ideologies (Rawls 1993, pp. 191-194).

example, a procedure giving speeding tickets to drivers on a random basis would be impartial in the above sense but would not – according to our common understanding – produce fair outcomes. Peter Stone (2011, 78) formulates a more substantial principle of impartiality according to which goods ought to be allocated only according to claim strength, e.g. on the basis of merit or need. According to Stone, a random allocation fulfills impartiality only when claims are equal and when the goods are non-divisible. Apparently, Stone’s understanding of impartiality calls for reasoning processes where individual claims are weighed according to some generally acceptable criteria.

In all interpretations, impartiality rules out a priori favoring of particular parties. In other words, impartiality requires unbiased evaluation of claims and outcomes from the perspective of each relevant individual. Impartial decision-making should take into account all possible individuals, or at least those individuals that are *relevant* to the issue at hand (see e.g. Rosanvallon 2011, pp. 88-89). If some relevant perspectives were neglected the evaluation would be biased towards those perspectives that are included.⁴ Sen (2009) provides a model of impartial reasoning where the perspective of an impartial spectator is a key to truly universal or open impartiality. Regardless of whether impartial decision-maker is regarded as one of the contractual parties (Rawls, Scanlon) or as a single decision-maker (Sen), theories of impartial justice share a rather similar picture of a decision-maker. The ideal decision-maker is rational, makes choices based on reasons and is not motivated by envy or the willingness to harm others.⁵

2.2. *Impartiality in democratic deliberation*

In this section, we take a closer look at how processes of impartial reasoning and democratic deliberation are related. In Estlund’s (2008) terms, this section deals with the ‘aspirational’ level of theorizing where impartiality is regarded as something to be aimed for, at least when making collective decisions on particular types of issues. The quality of democratic deliberation is often

⁴ It is obvious that the definition of the set of relevant individuals is a major ethical issue, but a further exploration of this issue falls beyond the scope of this paper.

⁵ Rawls (1971, pp. 144-145) talks about mutually disinterested parties referring to the lack of envy, whereas an ideal spectator is commonly characterized as benevolent.

perceived to be dependent on the extent to which deliberative processes approximate certain standards set forth in theories of impartial justice. For example, Rawls' (and Scanlon's 1982, 1998) theories have been applied in the evaluation of the quality of arguments and outcomes of deliberative processes (e.g. Gutmann & Thompson, 1996; Steenberger et al., 2003).

In *Political Liberalism* (1993), Rawls enlarges his argument formulated in *Theory of Justice* to societies characterized by a plurality of religious, moral and political world views. In *Political Liberalism*, withholding information is no longer considered necessary, but impartiality is rather pursued through the use of public reason. The concept of public reason requires that people are open to others' perspectives and ready to justify their own claims in terms acceptable to others.⁶ Public reason therefore requires that justifications refer to values that can be shared by the free and equal members of a well-ordered society. In order to know what kinds of justifications can be accepted by all, the issue should be considered from all (relevant) perspectives. Quoting Kant, to reason publicly is to "think from the standpoint of everyone else" (cited in Gaus, 1997, p. 209).

It is noteworthy that the concept of public reason does not imply agreement on best reasons – it is sufficient that there is a shared understanding of what counts as reasonable (Rawls, 1999, p. 170). Public reason requires that deliberators are actually ready to seek for shared values and justify their claims based on these values. Rawls' concept of 'overlapping consensus' requires that citizens of a pluralist society adhere to public reason, i.e. laws and policies should be based on shared principles instead of citizens' nonpublic comprehensive doctrines. In this respect, Rawls seems to require a consensus at the 'meta' level, that is, consensus on the criteria according to which different claims are judged (Dryzek & Niemeyer, 2006).

Rawls (1993, p. 215) is rather specific about who should use public reason, i.e. citizens, members of political parties, candidates in their campaigns and other groups who support them, legislators and executive officials in their work, as well as the judiciary, the Supreme Court being Rawls's prime

⁶ Scanlon's (1982, 1998) theory on reasonable rejection entails impartiality in a comparable manner (Barry, 1995)

example. Rawls also specifies the types of issues which should belong to the realm of public reason that is, constitutional essentials and questions of basic justice. This suggests that the realm of public reason is narrower than that of democratic decision-making. However, Rawls (1993, p. 215) considers it possible to enlarge the use of public reason to a larger variety of political issues.

Rawls' references to Supreme Court as a prime example of deliberative processes may be illustrative, but perhaps not very helpful when analyzing the prospects of impartial reasoning in democratic decision-making (see below). Moreover, Rawls is not very specific about the ways in which impartial decision-making could be responsive to citizens' claims and preferences. In addition to providing models of communication and reasoning, the concept of deliberative democracy entails a further condition that all bound (or perhaps all those affected) by a collective decision can either participate or be represented in deliberation preceding decision-making.⁷ This seems to lead the focus to formal institutions of representative democracy, such as parliaments where representatives of different viewpoints make binding collective decisions after exchanging and weighing arguments.

Compared to Rawls, Habermas is much more specific when describing the relationship between citizens and decision-makers in representative democracies. He emphasizes the interaction between autonomous public spheres, i.e. the networks and associations of the civil society, and representative institutions where collectively binding decisions are made. Habermas points out the importance of deliberation in autonomous public spheres of civil society, for example, political discussions within associations and social movements as well as everyday political talk. According to Habermas, public deliberation in autonomous public spheres is a precondition for the legitimacy of democratic decisions. In the so-called two-track model of deliberative democracy, Habermas (1996, p. 371) stresses the interaction between public spheres and institutionalized deliberative will-formation in parliamentary forums. According to Habermas, the role of public spheres is to 'feed in' and to 'monitor' the forums of collective decision-making.

⁷ About the all affected principle, see e.g. Gutmann & Thompson, 1996, pp. 144-151

Habermas' two-track model of deliberative democracy is rooted in his theory of communicative action, which provides a more idealized model of communication among free and equal citizens.⁸ The central concepts of Habermas' theory of communicative action, communicative rationality and the ideal speech situation, can be regarded as analytical tools which help to understand the operation of theoretical reason which aims to interpret and explain empirical reality and, perhaps more importantly, practical reason which is involved in moral reasoning (Rawls, 1999, p. 382). Habermas' discourse ethics relies on the idea of impartiality. First, it requires that only the validity of claims should count in ideal speech situation instead of, for example, the identity or power resources of those who put forward the argument. Second, the validity of moral norms is defined through the universalization test which examines what is acceptable for all. The idea of universal acceptability of moral norms is parallel to the idea of public reason in Rawls' theory.⁹

Rawls' (1971, 1993) idea of public reason seems to imply that there is a pre-existing consensus on the fundamental principles of the political order. Rawls (1993, p. 430) claims that Habermas' account of public reasoning is incomplete because it does not specify the kinds of arguments 'fed in' to the process. Habermas emphasizes that universally acceptable principles should be determined in an ideal process of democratic deliberation which is the key to the discursive legitimation of public decisions. Habermas perceives democratic deliberation as an essentially intersubjective discursive process where arguments are exchanged and weighed. The publicity of discourse is a precondition to the emergence of communicative rationality and its validity criteria.

In contrast, Scanlon (1998, pp. 393-394n5) seems to highlight internal reflection in moral reasoning rather than agreement reached through

⁸ Habermas (2005b) actually denies this interpretation and argues that his theory describes "the rules of the game of arguing" which emerge in actual inter-subjective communication.

⁹ Scanlon (1998, p. 393n5) highlights this similarity by pointing out Habermas's claim that moral arguments must rest on reasons that are acceptable to all.

intersubjective communication.¹⁰ Democratic deliberation apparently requires both collective processes of arguing and individual processes of reflection or, as Robert Goodin (2000) calls it, ‘deliberation within’. Internal deliberation requires that people are both reflective over their own viewpoints and empathetic towards others’ positions. The ability to put oneself in others’ positions, or to empathize with other people, is a crucial aspect of ‘deliberation within’. Even Habermas (1996, p. 162), who mostly emphasizes intersubjective aspects of deliberation, sees ‘ideal role-taking’ as a part of moral discourse. This term, originally introduced by G. H. Mead, means that people place themselves in others’ situations and perspectives. In Habermas’ discourse ethics, role-taking is used to track whether others have a generalizable attitude about the validity of a norm (Morrell, 2010, p. 79).

While empathizing, as such, is an internal process, communication between people is needed in order to deliver information about others’ positions and points of view. As a contrast to the Rawlsian idea of public reason which favors arguments appealing to shared values, many deliberative democrats hold the view that arguments which refer to individual or partial interests have an important role in the deliberative process. Mansbridge et al. (2010, pp. 72-73) argue that descriptions of others’ situations increase awareness of the relevant interests and viewpoints of affected parties. For example, if single parents with low income do not disclose their needs but remain silent, others may not become aware of their situation. This would compromise impartiality by excluding a relevant point of view from the moral discourse. Besides delivering information, self-interested arguments can also contribute to the justifications for certain points of view when the common good can be regarded as being composed of individual goods (Mansbridge et al., 2010, p. 75).

¹⁰ Howard (2013), however, claims that intersubjective communication is needed to define outcomes which, following Scanlon, nobody could reasonably reject; people cannot understand what can be reasonably rejected without hearing and considering others’ viewpoints

3. The limitations of impartial reasoning

As pointed out above, the ideas of democratic deliberation and impartiality are linked, because they both require a specific mode of reasoning where individuals judge claims made by all relevant parties, including themselves, by equal standards. We will next discuss how limitations in individual reasoning, especially empathy bias, affect democratic deliberation. Empathy seems to be a necessary element in the process of deliberating about justice. Generally speaking, empathy refers to the ability to put oneself in the other's shoes; it is a relation between a subject who empathizes and a target who gives rise to empathy. Despite recent contributions in this area (Morrell, 2010), the role of empathy is still neglected in empirical studies of deliberation and in the debate on how to enhance deliberation about justice in real world politics. Many theorists of deliberative democracy have given some role to empathy, but only few of them provide a plausible theory on how people begin to use empathy or 'ideal role-taking'. In this respect, Morrell (2010) raises an important question of how people actually become willing and able to empathize with others.

There is not a shared definition of empathy in the literature. The term has been defined in a number of ways and various elements have been connected to empathy (e.g. Hoffman, 2000; Preston and de Waal, 2002; Walter, 2012). Further, sentiments of sympathy, compassion and empathetic concern are closely related to empathy both conceptually and empirically. Conceptually they are sometimes separated from empathy but other times seen as its synonyms or components. Empathy can be characterized as a process of gaining understanding about experiences and situations of others by imagination or internal simulation. For example, one can empathize with somebody who is seriously ill by trying to imagine how he or she feels and perhaps by going through similar feelings. The first part represents the cognitive element of empathy and the latter its affective element. Some writers emphasize the affective element of empathy, i.e. reproducing others' sentiments, whereas others want to separate affective from cognitive empathy, i.e. understanding others' perspectives (Walter, 2012).

Democratic deliberation and impartiality clearly seem to require the cognitive aspect of empathy, that is, understanding of others' objective circumstances. Some writers (e.g. Krause, 2008, Morrell, 2010) argue that deliberation necessarily requires an affective component. Morrell (2010, pp. 60-63) puts forward a "process model of empathy" (Davis, 1980) which emphasizes interaction between the cognitive and affective aspects of empathy. He claims that open-mindedness and sensitivity to others' feelings are likely to be empirically related to the sense of reciprocity and commitment to deliberation. In other words, it is the affective part of empathy that motivates considerations of other people's situations in the first place. If this is the case, affective components of empathy facilitate or can even be a precondition for the cognitive type of empathy.

However, there are many reasons for being critical of the view that democratic deliberation requires the reproduction or interpretation of others' sentiments. First, people can misunderstand others' feelings as well as misrepresent their own feelings to enhance better outcomes for themselves. There is also the problem of morally 'wrong' feelings, e.g. "the pain the racist feels in the face of anti-discrimination laws" (Krause, 2008, p. 166). Another concern with the emotional aspects of empathy is the ambiguous relationship between emotions and justice. As an example, consider two poor single parents living under same objective conditions. Despite the same circumstances, it is possible that one of them is deeply unhappy, whereas the other is content with her or his situation. If empathy is interpreted in terms of understanding the objective characteristics of others' positions, the two parents can be considered to be in an equal situation and, therefore, deserving equal help or resources. However, if the idea of considering people's emotions is taken seriously, the first parent might be seen to deserve more help or resources than the second.¹¹

The acknowledgement of the necessity of affective components of empathy helps to recognize potential sources of biases which can be problematic when impartiality is considered as the goal of democratic

¹¹ There is a discussion of whether the measure of justice should be objectively measurable resources or subjective experiences of well-being (e.g. Barry, 1989; Cohen, 1989).

deliberation. Social psychological literature provides a number of examples of empathy biases. People are more able and willing to empathize with people who are similar or close to them than with members of socially more distant out-groups (for references see Cikara et al., 2011). A single parent understands the circumstances of another single parent, a disabled person is familiar with the feelings of other disabled etc. Out-group members, on the other hand, are not as likely to give rise to empathy, and their suffering may even create positive sentiments (for references see Cikara et al., 2011). Bruneau et al. (2012b) show how compassion is lower for an out-group member who represents the other side in a conflict.

The biases in the capacity to empathize are related to other well-known cognitive biases which play a role in deliberative processes. Morrell (2014, p. 162) regards attribution, ingroup/outgroup and information processing biases as especially harmful if the aim of democratic deliberation is regarded to reach “democratically rational or reasonable decision”. Biases in people’s cognitive processes are linked to empathy biases, and thereby they hinder impartial reasoning. A typical example is the confirmation bias which means that information is searched for and interpreted in a way that confirm already held beliefs and opinions (e.g. Nickerson, 1998). Attribution bias refers to the tendency of holding oneself responsible for success but not for failure, whereas others are more likely to be held responsible for their failures but not for their success (e.g. Arkin et al, 1980). A paradigm example is the tendency of wealthy people to see that their success is due to hard work and, at the same time, perceive poor people as simply lazy. Poorer people are likely to think the opposite, that is, being wealthy or poor depends on luck or background and not on one’s own efforts. Morrell argues that references to public reason, suggested by Rawls, would not help in such situations because there is no shared understanding on the moral issue at hand.

From this perspective, it becomes less self-evident that inclusive deliberation, as such, would be sufficient for such equal and systematic consideration of everybody’s positions. The problem of aforementioned biases seems to be related to the problem of internal exclusion, pointed out by Young (2000), which means that all viewpoints are not necessarily considered

equally in deliberative processes.¹² Consequently, deliberative democracy as a political system seems to require a particular kind of civil society where people are exceptionally reflective to others' perspectives. In such a system, people's capacity to consider viewpoints of those who are in different positions is enhanced by active communication and interaction across different segments of society. Indeed, Sunstein's (2009) concerns about group polarization in democratic societies are related to the view that when people interact only in enclaves of like-minded people, they lose their capacity to put themselves in positions different from their own.

However, there may be some ways of expanding people's capacity to empathize with out-group members. It has been suggested that empathy could be evoked through affective forms of communication such as rhetoric and story-telling. However, it should be remarked that individual capability to use rhetoric, stories and other types of communication varies. In this respect, these communication types do not provide an unmistakable remedy to the empathy bias. Goodin (2000) and Morrell (2010) endorse the idea that literature, films and arts could increase capacities to empathize with people who are different from oneself. Morrell argues further that there may be specific ways of enhancing empathy in democratic deliberation. He (2010, pp. 106-113) suggests that deliberative processes could be supplemented with processes of affective role-taking where people are encouraged to pay attention to others' feelings. Morrell refers to social psychological evidence that empathy can be stimulated. Indeed, there are findings which show that inducing empathy can enhance empathetic evaluations of out-groups.¹³

¹² Young (2000, pp. 55-56) points out that the emphasis on rational argumentation in the Habermasian account of deliberative democracy may lead to dismissal of arguments by those with less education or cognitive resources.

¹³ In this respect, empathetic imagining could even be regarded as a potential remedy for the problems of external exclusion (Young, 2000, pp. 54-55). Of course, it must be acknowledged that from the perspective of democracy understood as a responsive government, empathetic concern towards out-groups can be only a poor substitute to people's actual representation in political decision-making.

4. The role and limits of democratic institutions

The preceding discussion shows that there are biases in individual reasoning which limit the prospects of equal consideration of all relevant claims. The problem is aggravated by the fact that democratic deliberation is based on the involvement of stakeholders themselves, not of impartial outsiders such as Rawlsian Supreme Court judges. Indeed, democratic deliberation necessarily entails a complex mix of self-interested and impartial reasoning. For example, elected representatives seem to have a dual role in democratic systems; they are expected both to promote particular interests and viewpoints of their constituents and to make impartial judgments of different claims put forward in the process of deliberation. The understanding of the dual role of the representatives helps to understand why impartiality seems to be so hard to come by in the realm of representative politics. For example, voters do not necessarily expect their representatives to be impassionate judges searching for a just outcome, but rather advocates of particular interests or ideologies.

Although the importance of partisan politics and partial arguments is acknowledged by many deliberative democrats, it is also important that political actors are able and willing to make reasonable judgments at least when it comes to the issues related to the basic aspects of the social contract (cf. Rosanvallon, 2011, pp. 119-120). The design of institutions of representative democracy seems often to be deficient in this respect. Most importantly, the partisan characteristic of representative politics makes it hard for representatives to detach themselves from specific interests. The accountability of representatives undermines representatives' capacity to engage in deliberation where different viewpoints are seriously considered. Constituents, especially when they are polarized, may constrain the scope of impartial reasoning within representative institutions.

Overall, there seems to be two different strategies in enhancing impartial reasoning in public decision-making. The first strategy detaches decision-making from particular interests, whereas the second aims to enhance the quality of democratic deliberation. Following the first strategy, impartiality can be seen as a normative principle guiding the operation of courts, institutions of public administration and independent agencies. Rothstein and Teorell

(2008) argue that impartiality can be enhanced in public administration through principles of administrative ethics. Moreover, there are specific agencies which are impartial in the sense that they are dedicated to a specific task and insulated from partisan interests. For example, Pierre Rosanvallon (2011, pp. 113-119) discusses central banks as examples of impartial institutions exercising significant power in policy-making. It is worth pointing out that judges, administrative institutions and independent agencies may promote impartiality in a relatively formal sense because they can only aim to apply certain pre-established norms and rules in an impartial manner, not to define the contents of these norms. Moreover, there is nothing democratic about these kinds of institutions since they do not entail systematic mechanisms of responsiveness or accountability (cf. Thompson, 1985).

Authors inspired by Rawls have suggested ways of enhancing impartiality through institutional arrangements which disconnect democratic decision-makers from their particular values and interests. Elster (1998) suggests institutional arrangements in the process of constitution-making which simulate the Rawlsian 'veil of ignorance'. He (1998, p. 117) puts forward a procedure where constitutional changes would come into force after a long time lag, for example, after twenty years of ratification. According to Elster, this would help to overcome the influence of short-term partisan interests in constitution design. More generally, Vermeule (2007, pp. 31-33) discusses the idea of so-called veil rules which encourage decision-makers to consider a variety of possible positions and payoffs structures. Veil rules call for more reflective modes of decision-making which is likely to counteract different biases affecting individual decision-making. Vermeule argues further that veil rules can be translated into institutional design principles which are widely applied in constitution-making such as the generality, prospectivity and durability principles.

Deliberative democrats, on the other hand, argue that biases in individual reasoning and empathy can be remedied through inclusive forums of deliberation where people are systematically exposed to others' viewpoints and encouraged to take them into consideration. Mercier and Landemore (2012) put forward empirical evidence of the positive influence of public

deliberation on certain cognitive biases which undermine impartial reasoning. For example, they point out that confirmation bias can be alleviated by the requirement of justification and by exposure to alternative viewpoints (Mercier & Landemore, 2012, p. 253). It is notable that different modes of deliberation may be helpful for counteracting different types of biases. For example, while consensual forms of deliberation may be expected to encourage people to consider issues from everybody else's perspectives, i.e. use empathy, more confrontational forms of deliberation may be needed to reveal and challenge cognitive biases.

In the context of parliamentary democracies, institutional arrangements such as nonpublic committee work have been regarded as a way of severing party discipline and constituency constraints and promoting impartial reasoning among representatives (Elster, 1998; Chambers, 2004). Impartial reasoning can also be enhanced by delegating the task of deliberating to non-accountable committees including experts and stakeholders or, more democratically, to non-accountable 'citizen representatives' in deliberative mini-publics (Warren, 2008). In deliberative mini-publics, lay citizens who represent different viewpoints deliberate on a specific issue. These forums entail some procedural features, such as balanced information briefing and impartial moderators, which can be expected to help to overcome biases in reasoning. There are also studies showing that organized citizen deliberation helps to increase deliberators' understanding of viewpoints different from their own (for a review, see Setälä & Herne, 2014). Organized citizen deliberation could be helpful especially in fundamental issues such as constitution-making or in cases where elected representatives' strong vested interests undermine their motivation to impartial reasoning. This applies, for example, to issues such as electoral reforms (see e.g. Thompson, 2008).

Apparently, there are limits to the extent to which traditional representative institutions can even out certain types of biases, e.g. those based on gender, ethnicity and education. What may be even more worrying from the perspective of deliberative democracy is that social inequalities seem to play a role even in deliberative mini-publics. There is empirical evidence that unprivileged or marginalized groups tend to silence themselves at such

forums (e.g. Setälä et al., 2010). This suggests that social inequalities may be mirrored in deliberative processes even when particular efforts have been made to overcome patterns of internal exclusion.

Indeed, it has been argued that measures enhancing social justice, e.g. opportunities through free universal education and egalitarian income distribution, should be perceived as a precondition for successful democratic deliberation (see e.g. Fraser, 1992; Young, 2000, pp. 34-5). Another possibility of responding to negative impacts of social inequalities would be to improve procedures of democratic deliberation. These improvements could involve measures that stimulate empathy among deliberators, as Morrell suggests, or that allow ‘enclave deliberation’ among disempowered people (Karpowitz & al., 2009).

5. Conclusions

In this paper, we have pointed out that both theorists of impartial justice and democratic deliberation require processes of weighing arguments by their merits only, not on the basis of partial considerations or specific interests. Following Estlund, impartiality can only be regarded as an aspirational goal which is yet worth aiming for especially on issues pertaining to basic rights and interests. We have also discussed certain limitations in people’s capacity of impartial reasoning, especially biases in capacity to empathize. Finally, we have pointed out how democratic deliberation can be expected to enhance impartial reasoning.

As Räikkä (1998, p. 37) points out: “Often morally desirable arrangements are infeasible because injustices are so deeply entrenched”. When it comes to the relationship between impartial justice and democratic deliberation, there seems to be kind of ‘chicken egg’ problem. The tendency of social inequalities being mirrored rather than corrected in processes of deliberation seems to limit the possibilities of democratic deliberation to enhance impartial justice. Moreover, representative institutions are partisan in character which may reinforce rather than counteract biases in representatives’ reasoning. In Rawls’s theory, this problem is circumvented by limiting the realm of public deliberation to certain social and institutional contexts.

Deliberative democrats are keen to develop practices and institutional designs enhancing more inclusive forms of public reasoning.

Despite observed biases in individual reasoning and empathy, democratic deliberation seems to be the only feasible option if we hold on to the aspiration of making decisions which are both democratic (responsive) and impartial. Moreover, there are good reasons to believe that the effects of biases in reasoning can be alleviated by well-designed processes of democratic deliberation. The regularity of biases, the conditions under which they occur, and the ways in which they can be avoided are empirical problems which call for further studies. A thorough understanding of biases emerging in different decision-making contexts is needed in order to make more informed choices about the design of institutions enhancing inclusive and impartial reasoning.

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