What's Wrong with an Epistocratic Council?

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The growing literature on the epistemic justification of democracy sheds an important light on our various reasons to value democracy. Whether or not the comparative quality of their decisions is sufficient to justify democratic institutions is a matter of lively debate. To some, it seems that epistemic democrats take a risk in accepting the premise that we should not value democracy if we were convinced that alternative regimes could produce better results or make better decisions (Saffon and Urbinati, 2013). The worry is that purely epistemic approaches to the issue might finally succumb to the so called “epistocratic challenge” and admit the epistemic inferiority of democratic institutions compared to epistocratic or technocratic alternatives¹.

In this paper, after having defined epistocracy (section 1), I will argue that, properly understood, the epistemic justification of democracy can address the “epistocratic challenge” without necessarily calling upon democracy’s intrinsic virtues. I intend to do so by arguing that good democratic decisions must not only be instrumentally rational, but also morally impartial (section 2), that existing responses to the epistocratic challenge neglect this dimension (section 3), and by comparing standard democratic institutions with what I see as one of their strongest and most plausible competitors: an epistocratic council, as imagined by Jason Brennan, whose members would be selected through a competency exam (section 4). The argument against an epistocratic council is that it increases the risks of biases and misrule that egalitarian inclusion and democratic accountability help minimize – albeit very imperfectly. I then consider the objection that depriving one person or very few people of the right to vote would not necessarily entail epistemic losses and I qualify my initial claim by conceding that the epistemic argument for democracy may not be fully sufficient to tackle hypothetical (and practically implausible) objections (section 5). I nevertheless highlight the importance of laying the emphasis on the epistemic case for democracy compared with procedural approaches.

Behind the theoretical interest of imagining an epistocratic council and assessing its epistemic prospects, the general discussion has concrete political implications. There is nowadays a growing skepticism about democracy’s intelligence (Caplan, 2011; Brennan, 2016; Achen and Bartels, 2017) and a tendency to depoliticize many democratic issues and hence delegate political power to non-electorally-accountable institutions such as central banks, courts, independent committees or the European Commission (Hay, 2007: ch. 3; Urbinati, 2014: ch. 2). Our view on the epistemic potential of standard democratic institutions and epistocratic alternatives should inform our judgment about this technocratic trend.

The epistocratic challenge

Many epistemic democrats are uneasy with the possible implications of their epistemic starting point (see in particular Martí, 2006; Estlund, 2008). They seem afraid that their reasoning, unless qualified properly and topped with procedural arguments, might lead to the justification of epistocratic institutions, i.e. institutions in which those who are more knowledgeable, or wiser, have more formal political power than the rest of the population. Arguably, it is already the case in our democracies that some people enjoy more political power than others. People having a good knowledge of political institutions are more likely to access positions of power than others. And people with a certain expertise or communicative skills generally enjoy more political influence than others. Yet despite these political inequalities – which are not necessarily undesirable (Dworkin, 2000: ch. 4) – democratic regimes are based on a fundamental, formal political equality (one person, one vote) in the selection and retrospective judgment of political representatives. In an epistocracy, this would be the first salient difference: the selection and/or assessment of the rulers, if there is one, would not be grounded in formal political equality.

Two different aspects might differentiate an epistocracy from a democracy in this respect:

- The absence of political equality in the selection of the rulers: either there is no suffrage at all, or suffrage is restricted to some citizens, or some have more votes than others (plural voting)².
- The absence of inclusive and egalitarian accountability.

The second aspect introduces a distinction between democratic accountability and other forms of accountability, such as accountability to a subset of adult citizens or to an unelected (or non-representative) body. Although epistocratic institutions can include some form of accountability, this will typically not be accountability to the whole population. An epistocratic body could for example be accountable to other unelected bodies. The border cases are unelected bodies accountable to elected ones. Some may consider them democratic because, indirectly, they derive legitimacy from an authorized body. Others will consider them as epistocratic. According to this wider definition of epistocracy, institutions such as central banks or the European Commission can be regarded as epistocratic institutions embedded in (more or less) democratic arrangements. In a pure epistocratic regime, though, none of the decision-making bodies (if there is more than one) would face inclusive and egalitarian accountability. Otherwise, they would lose their independence from public opinion. Yet this independence is justified by their higher wisdom or better knowledge and necessary to insulate this wisdom from public pressure.

In addition to these undemocratic aspects, an epistocracy would differ from other non-democratic regimes by some mechanism selecting people who distinguish themselves from the mass by their wisdom or expertise to rule, or at least to enjoy an important degree of political power. A particularly interesting example is Jason Brennan (2016: 215-220)'s

idea of an “epistocratic council”. Members of this council would be selected on a meritocratic basis, passing a competency exam. And in order to minimize the risks of a biased test, all citizens could have a say and an equal vote in the determination of the required competencies.

What makes this idea particularly challenging is its relative political plausibility compared with other epistocratic arrangements disenfranchising a set of the population or overtly rejecting political equality as in plural or weighted voting. With an epistocratic council, there would be some degree of popular participation and political equality in the determination of the required competencies. There would also be formal equality in the access to political power. Differences in skills would of course translate into unequal real opportunities, but this is also the case with elections. Hence, the main difference with electoral representation is that there would be no institutionalized democratic accountability: during their mandate, epistocrats would have more or less free rein – at least vis-à-vis public opinion. For the rest, electoral representation has also partly been conceived as a way to select the wisest (Manin, 1997). In this respect, another difference with an epistocratic system is that the latter may be considered as more likely to effectively bring the wisest to power. Although people can make wrong choices in their selection of the criteria of wisdom or expertise, they do not run the risk, as is the case with elections, to be fooled by a candidate’s irrelevant personal traits. As Brennan argues, it is much easier to identify the criteria of expertise than the best experts (Brennan, 2016: 224-226). And this is precisely why the selection of the latter should, according to him, be made through a competency exam. Furthermore, this option has the merit of reducing the influence of money on the selection of rulers. Although a competency exam is likely to favor the more educated, and hence (under existing conditions) the higher social classes, it will not be necessary to raise money to make a chance to be selected.

For all these reasons, an epistocratic council might appear more acceptable than other epistocratic alternatives. This is why I will take it here as the most serious competitor to standard democratic institutions. Before comparing these alternatives, however, we need to make clear what we expect from our political institutions. We need standards to assess and compare rival options.

What makes the epistemic value of a political decision?

What we expect from our political institutions is of course a controversial issue. Economic prosperity, civil peace, social harmony or social justice are possible candidates. Therefore, several theorists somehow hide their opinion behind the unspecified notion of “right decisions”. This can be justified by the willingness to start from uncontroversial premises (Estlund, 2008: 169). Admittedly, it would be problematic to assess democracy’s epistemic potential drawing on a controversial theory of justice, democracy being supposed to arbitrate our disagreements about what a just society is (Waldron, 1999). However, an unspecified criterion of right decisions may not bring us very far in the discussion and can also generate ambiguity. Experts can make better decisions in light of some criteria and be outperformed by the many in light of others.

More specification could therefore be helpful. Yet we do not need to agree on a very substantive standard of epistemic quality (a theory of justice or an index of prosperity for example) to assess the epistemic potential of an institution or regime. No set of institutions or regime can guarantee specific decisions anyway. In Rawlsian terms, pure procedural justice is not possible (Rawls, 1971: §14). Thus, all we can try to assess is whether an institution or regime (would) foster(s) general qualities such as rationality, impartiality or civil peace, which are less controversial candidates for a standard of good decisions.

Here, I will focus on rationality and impartiality. Whatever the ultimate goal that we would like politics to pursue, I think we can all agree without much argument that these two qualities matter. Rationality, understood in an instrumental sense, refers to the capacity of a decision-making system to select the appropriate means for the ends pursued (see also Przeworski, 2018: 80). Whether we want peace, prosperity or justice, we will all agree that it matters to be able to identify the best ways to pursue our aims.

Impartiality, understood in a moral and substantive sense, as a property of public policies and of a political order, can be simply defined as not favoring some groups or individuals over others for morally arbitrary reasons (Elster, 2012: 150; Barry, 1995: 7-8). The opposite of an impartial policy is a discriminatory or biased one.

Admittedly, most policies have a different impact on different social groups. But this is not what matters here. The idea is that the fundamental interests of no one should receive higher importance than those of others – that everyone should be entitled to the same rights and opportunities for example. This understanding of impartiality does not forbid group-targeted policies, but any form of unfair discrimination or favoritism. Rothstein and Teorell (2008: 170) illustrate this distinction with the example of policies supporting poor families with children: “The enactment of such policies would not break the principle of impartiality, while denying such allowances for families from a certain ethnic group or parents with a certain sexual orientation when implementing the policy would”. Although the means to pursue such ideal of impartiality are extremely controversial, this fundamental moral requirement lies at the core of most modern ethical theories (Rawls, 1971: 5; Sen, 1995: 3-4; 16-19; Dworkin, 2000: 1-2), be they egalitarian, utilitarian or libertarian. When libertarians argue for property rights, for example, they believe that all citizens are equally entitled to these rights and that it would be unjust for some to have a property right and others not. This is why I will assume here the validity of this standard rather than argue for it.

Nonetheless, two further clarifications are needed. *Substantive* impartiality thus defined is distinct from *procedural* impartiality, i.e. not favoring any person or voice in the decision-making procedure. Democratic arrangements are procedurally impartial but may produce less substantively impartial decisions than non-democratic alternatives. It also differs from impartiality vis-à-vis people's *preferences*, which would also beg the question in favor of democracy. I will assume here that what is just and substantively impartial is potentially distinct from what most people actually prefer. As highlighted by Martí (2006), a standard of good decisions must be at least partly independent from the procedure in order to help assessing the latter's results.

Existing responses to the epistocratic challenge

In the existing literature on the epistemic value of democracy, the moral dimension of a good political decision – its normative validity – usually receives less attention than instrumental rationality (Vandamme, 2016). The focus is often laid on the cognitive intelligence of ordinary citizens, on their ability to solve problems or make predictions, for example (Landemore, 2013), or on their understanding of economics (Caplan, 2011; Brennan 2016). Although the importance of morally just decisions is often stressed (Martí, 2006: 43-44; Estlund, 2008: 17-18; Landemore, 2013; Brennan, 2016: 11), the significance of this moral dimension in our assessment of democratic and epistocratic institutions is somewhat neglected, with important implications: it might explain the frequent difficulty to rebut the epistocratic challenge, as I will try to show.

José-Luis Martí (2006, 2013), for example, argues that deliberative democracy is epistemically superior to alternative forms of democracy, but could be outperformed by epistocratic institutions. Hence, he believes that we also need to acknowledge the intrinsic value of political equality in order to defend democracy. The reason is that under the plausible assumption that some citizens are wiser than others, it is difficult not to think that the epistemic potential of deliberative procedures could be improved by restricting them to the wiser (Martí, 2006: 48).

Similarly, David Estlund (2008: 37-38) adds to the epistemic argument in favor of democracy a “general acceptability requirement”: not only should our political institutions be judged on the quality of their decisions, they should also be acceptable to all qualified points of view. This precludes for example excluding some adult citizens from the decision-making process, or giving more importance to some voices, and hence protects democracy against epistocratic challenges – yet not necessarily against the epistocratic council challenge.

In contrast with these modest epistemic defenses of democracy, Hélène Landemore's more recent contribution stands out by its ambition, arguing that “there are good reasons to think that for most political problems and under conditions conducive to proper deliberation and proper use of majority rule, a democratic decision procedure is likely to be a better decision procedure than any nondemocratic decision procedure, such as a council of experts or a benevolent dictator” (Landemore, 2013: 3). The general argument of her book relies on the epistemic benefits of cognitive diversity in the resolution of problems. This refers to a diversity of ways of representing and interpreting a problem, of generating solutions to it and inferring cause and effect (Landemore, 2013: 102). It seems that in the resolution of complex problems, the benefits of such diversity often outweigh the benefits of ability or expertise (see also Page, 2007). This empirical finding, she suggests, could speak in favor of maximizing the number of decision makers. In addition to that, she argues, it is difficult to identify in advance the cognitive qualities that we will need in the resolution of the diversity of cognitive problems faced by political decision makers. Therefore, maximizing diversity is preferable to trying to identify a subset of the population combining ability and diversity.

Landemore's stimulating epistemic argument in favor of democracy has faced a plurality of objections. Some of them concern the mathematical foundations of the "Diversity Trumps Ability Theorem" she relies upon (Houlou-Garcia, 2017) – which I lack the ability to assess. Others argue that the main problem lies in the generalization from the theorem, the latter providing only *pro tanto* reasons to enlarge the group of decision makers – if all other things remain equal, which is implausible when we move from problem solving in laboratory conditions to real decision making in large and complex societies. Finally, even if the "Diversity Trumps Ability Theorem" was correct and generalizable, it would still be difficult to exclude the possibility of performing better without universal inclusion. If what matters is competence and diversity, we can imagine maximizing them while excluding some citizens whose inclusion would add nothing in terms of diversity or competence (Martí, 2013). The theorem provides reasons to be inclusive, but not necessarily to include everyone or to give equal formal political power to all.

Another possible objection to epistocracy relies on the Condorcet Jury Theorem. The latter is composed of two claims: "First, the majority vote among a group of (independent, competent, sincere) voters, each of whom is more likely to be right than not, is itself more likely to be right than are individual voters separately. Second, as the number of such voters approaches infinity, the probability that the majority among them is correct approaches one" (Goodin and Spiekermann, 2018: 5). It is often objected to this theorem that although its mathematical foundations are firm, it does not apply to real world circumstances where votes are not sufficiently independent from one another and voters' competence is dubious (Estlund, 2008: ch. 12; Brennan, 2016: 179-180). One of the merits of Goodin and Spiekermann (2018)'s recent contribution to the debate is to show how much the conditions necessary for the theorem to work can be relaxed, why it is not far-fetched to believe that people might be *on average* – and not all – better than random (second condition) and how this makes its application to the real world more plausible. Still, it seems to me that the Condorcet argument for democracy relies too heavily on a condition – average voters being better than random – that is extremely difficult to assess. Furthermore, it focuses too much on the instrumental-cognitive dimension of what counts as quality decisions, whereas their moral rightness seems central to me.

There are thus reasons to think that another argument is needed to strengthen the case for egalitarian inclusion and accountability in political decision-making processes. Must this additional argument be procedural, i.e. refer to the intrinsic value of democracy, not its results, as argued by Martí and Estlund? Not necessarily. I want to argue that taking seriously the importance of moral impartiality buttresses the general epistemic justification of democracy. Put simply, the reason is that *egalitarian inclusion and institutionalized accountability minimize the risks of morally biased decisions*, as I will argue in the next section, assessing the epistemic prospects of an epistocratic council.

Would an epistocratic council perform better than democracy?

Let us recall the basic features of such council: "Membership in the epistocratic council is potentially open to all members of society. Citizens may join the epistocratic

council only by passing rigorous competency exams” (Brennan, 2016: 216). And the required competencies could be decided through a popular consultation.

One obvious difficulty is the selection of those in charge of setting up the test and assessing its results. I will leave this issue aside here, assuming that the risks of abuse can be limited. More generally, in order to draw a fair comparison between democracy and epistocracy, I will try to compare plausible standards, each with their qualities and limits. The standard of democratic institutions includes free and fair elections, i.e. non-manipulated elections³ with a plurality of competing platforms or candidates, in a context of freedom of press and expression. The standard for the epistocratic council includes the same criteria of freedom and fairness for the collective vote on the required competencies, and a reliable competency test. However, for both democracy and epistocracy, I take it for granted that rulers are intellectually fallible and morally imperfect, and thus cannot be trusted to spontaneously and continuously behave impartially, which is a reasonable assumption.

Taking the idea of an epistocratic council beyond Brennan’s concrete proposal, we could imagine it with executive, legislative or controlling power. Brennan argues in favor of the latter: a power to veto any legislation. Let me however leave this question open for a while. I will first examine the general proposal, and then see whether some specific arrangements are more plausible or attractive than others.

The important question, for the purpose of this article, is to imagine the *consequences* of adopting an epistocratic institution. What would it change regarding the average quality of the decisions produced? Would there be a gain in instrumental rationality? Three conditions would therefore need to be met:

- 1) Citizens select appropriate competency criteria.
- 2) The test appropriately captures the relevant competencies, without introducing other demographic biases.
- 3) The loss in cognitive diversity (see above) is compensated by other epistemic gains obtained through the test⁴.

Whether these conditions would be met is debatable. The first is problematic, because it may be difficult to circumscribe precisely what competencies will be necessary to solve complex and heterogeneous political problems (Landemore, 2013: 110-113). The second and third are also problematic because any selection relying on knowledge is likely to exclude some voices and perspectives already disadvantaged (Estlund 2008: 215-219). And it is hard to ensure that this epistemic loss is compensated. Let us nonetheless assume, for the sake of the argument, that these conditions can be met, and hence that an epistocratic council would offer better prospects of instrumental rationality. It is not sufficient to build a case in its favor, as we also need to take into account moral rightness, previously defined as impartiality.

An impartial council?

What would be the prospects of impartiality with an epistocratic council? One point to count in favor of epistocracy is that experts may be better trained to look at things in aggregate (with cost-benefit analyses and certain impartial forms of consequentialism), which some suggest is very much in contrast to how most people consider laws or policies, i.e. by mostly considering how they affect themselves or their social group (Mintz-Woo, 2018).

However, one recurring argument in favor of democracy having historical roots in the works of Jeremy Bentham (1843), John Stuart Mill (1861), James Dewey (1929), and possibly Aristotle, is that we cannot have better guarantees that all citizens' legitimate interests will be protected or taken into account than by giving them all a voice and (equal⁵) voting power. The main risk with an epistocratic council is to fail to take into account some legitimate interests, to make biased and unjust decisions. To accept this argument, one does not need to assume that people are always good defenders of their interests. Actually, there is a lot of empirical evidence – not available back then to Mill and Dewey – denying it (Shapiro, 2003: ch. 5; Frank, 2007; Achen and Bartels, 2017). Nevertheless, as I will argue, their intuition was sound: although most people are poor defenders of their interests, others cannot be trusted to do better.

This does not assume either that people vote and act mainly in a self-interested manner. Evidence shows that – especially when their vote is unlikely to be decisive – voters are sociotropic, i.e. tend to vote for what they consider as the common good (Feddersen, Gailmard and Sandroni, 2009), which Brennan (2016: 227) considers as sufficient to dismiss the risk of misrule by the epistocratic council. The trick is that people's appreciation of the common good is likely to be biased by their social position – the reason why Rawls imagined the veil of ignorance. Even the most other-regarding voters and representatives run the risk of positional biases (Sen, 2009: ch. 5,7), making it difficult to know what it is like to be in another's shoes, what it is that someone else needs or wants. Thus, aiming at the common good or impartiality offers no guarantee of actually achieving this aim.

Now, what if the competency exam tried to select the most impartial people? The problem is that education, expertise in the social sciences and political philosophy, or any other cognitive criteria or virtue that might be selected will not guarantee impartial decisions. Furthermore, impartiality cannot be appropriately tested for it can be feigned and cannot be considered as a stable disposition acquired once and for all. Only an implausible virtue ethics could encourage us to rely on the virtues of particular individuals when they are supposed to be judge and party. We know from social psychological experiments that our moral character is not stable and that our disposition to act morally heavily depends on the circumstances and incentives (Doris, 2002). And the history of democratic theory is full of warnings about the corrupting character of power, in particular when it is not constrained or not accountable.

To be more precise, there would be two different risks of misrule with an epistocratic council. The first is *voluntary* misrule: decision makers unapologetically advancing their own interests at the expense of others – which would engender partial decisions. This risk stems from the lack of inclusive and egalitarian accountability. Because accountability is deficient in existing democracies (Przeworski, Stokes and Manin, 1999; Achen and Bartels, 2017), this problem affects them as well, but we can easily imagine things being worse without any mechanism of accountability to the whole citizenry. The more power epistocrats are endowed with, the more tempting it will be for them to abuse their power, and for lobbies to try to capture them. One could imagine reducing this risk by making epistocrats accountable to some elected body (the government or a legislative assembly), but we would then lose many of the benefits offered by their independence from elections and public opinion. Another solution, suggested by Brennan (2016: 227), is to have a large epistocratic council in order to reduce the decisiveness of individual votes in it and thus foster sociotropic voting. Then, however, assuming that they do not build ill-intentioned coalitions with voting discipline, another risk remains.

This second risk is *involuntary* misrule, or biased decisions. This can come from at least two sources: the lack of information (positional biases) and unconscious categorizations and stereotypes (implicit biases). Consider positional biases first. Even if we were comparing idealized models of epistocracy and democracy, assuming that rulers are willing to make impartial decisions, there would be more important risks of misrule in an epistocracy because of the lack of inclusion. Besides generating some accountability, elections and political parties also institutionalize a feedback mechanism (Anderson, 2006) that imperfectly allows information to circulate from the masses to the rulers and back. Especially when they are accompanied by public debates, elections and campaigning by political parties send signals and information that may be lacking in an epistocracy. Members of an epistocratic council may be very well educated and disinterested; they may still end up more biased because they would not have the electoral incentives to listen to the signals stemming from civil society. And this worry finds support in the literature on situated knowledge (Young, 2000, 2004; Harding, 2004): experts cannot know what it means to live specific experiences such as being a proletarian, a woman, an immigrant⁶. This does not imply the radical view that no one can speak for others, but it provides an important epistemological argument for inclusion in order to reduce biases or misrepresentations of the effects of some public policies on different individuals and groups. Granted, epistocrats aware of this epistemological problem might organize public consultations, but there would nonetheless be an important risk to see them rather trust their own knowledge – the reason why they were selected.

In addition to this, people can have or gather all the relevant knowledge they need to make impartial decisions and yet fail to be impartial because of implicit biases. Implicit biases – categorizations and stereotypes that unconsciously affect our judgments – are unavoidable because they derive from the human need to deal cognitively with the complexity of the world and from our irremediable lack of experience (Gendler 2011: 39). We cannot do otherwise than generalizing from experience and hence reducing complexity. People aware of the problem might pay more attention and form fewer implicit biases, but

the standard view in social psychology seems to be that the problem is inescapable. Thus, even if a person rejects some racial stereotypes, for example, his/her judgment might be affected by them by the mere fact of having encoded them (Gendler 2011: 43). What does it entail for our purpose? That we cannot trust some people to make unbiased decisions – in particular if, having passed through the same (non-random) selection process, they share some characteristics that distinguish them from the mass.

Is this fatal to an epistocratic council? Only if standard democratic institutions can be expected to produce less biased decisions. This is not easy to assess, and a priori arguments are necessarily limited in strength. Nevertheless, what counts in favor of democracy is that egalitarian inclusion is probably the best security against biases, for it maximizes all citizens' opportunity to defend their legitimate interests⁷ or to have their voice heard. One could not receive a more important opportunity without diminishing another's. Thus, although we know that many people vote against their interests even when these are legitimate from a moral viewpoint, that many are poorly informed and that electoral accountability is deficient, in the absence of guarantee that some easily identifiable individuals would prove more impartial, there is no more secure bet.

The latter reasoning draws on a fallibilist epistemology inspired by pragmatists such as Pierce and Dewey, and insisting on the collective dimension of the search for truth and justice (see Misak, 2000). A fallibilist pursuit of impartiality, recognizing that we do not know with certainty what the exact demands of moral impartiality are, pleads for democratic inclusion. If we knew with certainty the policies leading to a just society, we might not need democracy. However, because several claims to impartiality are competing, we need a procedure to make collective decisions. And as Habermas (1996) has argued, the best way to test the claim to impartiality of a political project is to submit it to the most inclusive deliberations and see if it can resist objections emanating from the widest variety of standpoints. This pragmatist view stands in sharp contrast with the epistocratic assumptions 1) that we can identify those who are the most likely to make the right decisions, and 2) that the latter could make impartial decisions without institutionalized interactions with the wider public.

Granted, existing democracies are poor realizations of democracy's impartiality potential. Some citizens are clearly privileged and others underprivileged. Democracies do not seem to be able to contain growing economic inequalities (Przeworski, 2010: 84-92). Cases of political corruption abound. Minority rights are often abused. Nothing in the argument developed here is intended to deny these massive democratic injustices. The consciousness of existing democracies' limits is the reason for formulating the epistemic potential in negative terms: *democracy minimizes the risks of injustices* (see also Elster, 2013; Shapiro, 2016). Thus, even someone very skeptical about the social progress associated with democracy would have good reasons to value it simply because it is hard to imagine a plausible alternative that would prove better at reducing the risks of biased decisions.

Even if epistocratic alternatives offered much better prospects of instrumental rationality, this could not compensate for their lack of impartiality. Instrumental rationality does not have value *in itself*. It derives its value from the goals it helps achieving more efficiently. If excellent policies are devised in the pursuit of unjust goals, their rationality does not make these policies normatively satisfying. The legitimate concern with instrumental rationality should therefore push us to identify, among different democratic configurations, the most able to gather the benefits of cognitive diversity and expertise.

Institutional variations

Our judgment about the idea of an epistocratic council should nonetheless differ depending on its power. The higher that power, the higher the risks of misrule. From this point of view, an epistocratic council exercising for example the function of second reading performed by second chambers in weak bicameral systems would already be more acceptable than an executive council. It would not be very different from second chambers with coopted representatives, or from the idea of a second chamber selected by lot⁸. The risks of misrule increase with the power of the council because positions of power stimulate our lowest passions and encourage strategic action, lobbying and corruption. In comparison, an institution that performs an essentially consultative role is more likely to produce reasoned recommendations after careful deliberations, precisely because the stakes are lower (Shapiro, 2016: 75). Hence, a kind of epistocratic council – whose name could change to “epistemic council” – could play an interesting deliberative role in a democracy if it had the mission to produce reports and recommendations on existing policies or law projects. Epistemic advantages can derive from some division of epistemic labor (see Goodin & Spiekermann, 2018: ch. 8). Thus, it can be beneficial if some people specialize and deepen their understanding of some issues but let the whole electorate or authorized representatives make the final decision (see also Jeffrey, 2018).

Another case is that of an epistocratic council reviewing and vetoing legislation. As observed by Brennan, such institution would bear important resemblance with the existing practice of judicial review. He even argues that the two are essentially similar. Hence those who accept the power of constitutional judges to veto legislation would have good reasons to accept an epistocratic council performing the same function (Brennan, 2016: 218-220).

I would like to make two different remarks here. First, I believe that there is an important difference, overlooked by Brennan, between constitutional courts and the idea of an epistocratic council. Under strong judicial review, where courts have a real veto power, judges do have some degree of discretionary political power. Yet they have to judge and are required to justify their judgments in reference to a corpus of collectively recognized rights or constitutional essentials that have been shaped by intergenerational discussions and revisions. This does not impede them to act on the basis of partisan motives – because the Constitution seldom offers clear guidance on controversial issues – but it is still a constraint. In comparison, the members of an epistocratic council could defend any view on the basis of their alleged epistemic superiority. Judges are not better rulers than the people; they are just supposed to be better equipped to detect infringements to rights most of us

value. Hence, both the limitation of their scope of action (to the realm of constitutional law) and the source of their authority (constitutional expertise, not higher general wisdom) distinguish judicial review from an epistocratic reviewing council.

However, we could consider the risks of misrule with strong judicial review as too important and reject the institution for the same reasons as genuinely epistocratic institutions, or reform it so as to make it play an essentially deliberative role (Nino, 1996: 215; Gargarella, 2014), without strong veto power. Judicial review is not a necessary component of a just democracy. There is actually no empirical evidence that rights are better protected with it (Przeworski, 2010: 160).

Do we really need *everyone*?

There are thus important epistemic reasons to mistrust epistocracy – at least in the form of an epistocratic council. And I believe that they apply to any decision-making procedure privileging some citizens' perspectives over others'. Are they nonetheless sufficient to ground the case for universal inclusion? To come back to a point made earlier, it seems that depriving one person or very few people from the right to vote would not by itself affect the impartiality of the decisions produced. The risks of biases come from the political exclusion or marginalization of some *groups*. Even if we believe in a certain dispersion of knowledge and in the epistemic importance of including all possible standpoints, it is hard to believe that, within a large electorate, each and every individual perspective will be an epistemic added value – an input that others cannot offer. And this is particularly the case when votes are the only means of political expression for most citizens and rulers are selected through majority rule. Thus, it is hard to deny that we could include everyone in public deliberations but exclude a few from suffrage without affecting the epistemic potential of the process.

There are two ways of responding to this challenge. First, one can point out that the exclusion of very few individuals from suffrage is an unlikely scenario. In real world politics, it is always *groups* that have been excluded, inevitably generating a bias against them. What is more, opening the door to disenfranchisement would more probably lead to the arbitrary exclusion of marginalized or vulnerable groups than to net epistemic gains. As highlighted by Estlund, those with the most epistemic deficiencies are also likely to be groups already suffering other disadvantages (Estlund, 2008: 215-219). Yet if these groups already suffer disadvantages with the right to vote, it is hard to imagine them better-off without it. This could happen only if they appear to be the main political responsible for their current disadvantages, which is difficult to believe. Granted, the most disadvantaged – when they vote – do not always make the best electoral choices in light of what could be perceived as their objective interests, but they are also mostly suffering from the lack of concern – if not frank hostility – from other voters. Thus, even if disadvantaged people are poor guardians of their interests, even if they participate less in politics, it would be implausible in the real world to trust others to take better care of these interests.

There are thus good *political* reasons to opt for universal inclusion. These can be considered as secondary reasons. Our ultimate concern is epistemic and provides us primary reasons to include a wide diversity of perspectives. Some individual votes might not add anything, yet political or strategic considerations provide us secondary reasons to enfranchise all adult citizens.

We can nonetheless *imagine* an implausible scenario where the disenfranchisement of very few citizens would have no negative epistemic impact. Hence, the case for democracy might need additional *philosophical* grounding. There is arguably a somewhat intellectually lazy move from the consideration that we need an important variety of perspectives to the decision to enfranchise everyone. Even if it is hard to imagine what criterion would allow us to disenfranchise some without increased risks of biased decisions, this does not mean that it is impossible.

Hence, an additional – neither epistemic nor strategic – argument might be necessary to make a decisive case in favor of democracy. This is the second line of argument. We could say, for example, following Brian Barry and Thomas Christiano, that justice must not only be done, but also seen to be done (Barry, 1995: 111; Christiano, 2008: 8), and hence equality or impartiality should not only be pursued but publicly affirmed in order to reduce public suspicion. Or, following Estlund (2008), we could argue for a general acceptability requirement. Nevertheless, these procedural arguments should not be considered as sufficient to defend democracy. They should be conceived as supplementary arguments that may help moving from wide inclusion to universal suffrage in a philosophical discussion. However, in debates about democracy's value, it seems to me that the emphasis should be laid on the *epistemic* benefits of democracy as minimizing the risks of biases. Otherwise, we send the message that we are committed to democracy however bad it is, that we would defend it even if alternative regimes offered better prospects of social justice. Yet we cannot just build “bulwarks” protecting political equality (Saffon and Urbinati, 2013); we need to be able to justify this choice to those who heavily suffer from current democratic decisions. And in such argumentation, as Christiano (2017) recently recognized, “the expressive value piggy-backs on instrumental value”.

Conclusions

In this article, I have defended the view that standard democratic institutions provide better securities against misrule than any form of epistocratic council with decision-making or vetoing power, thanks to egalitarian inclusion and accountability, which respectively reduce the risks of biases and minimally check the use of power. Even in the case where such epistocratic institution would increase the instrumental rationality of political decisions, and even under the strong assumption that the selection process would not be manipulated, it is hard to believe that it would increase substantive impartiality. Assessed against this widely shared standard of social justice, an epistocratic council is thus not appealing. However, although the epistemic argument combined with political prudence seems sufficient to defend democracy, I conceded that we might need to call upon an additional – procedural – argument in order to philosophically reject politically implausible hypothetical examples.

A diversity of other epistocratic rules or institutions have been imagined. John Stuart Mill defended literacy tests and plural voting – the latter being still advocated today (Mulligan 2018). Beside his epistocratic council, Brennan also imagines a system (inspired by Scott Althaus and Bryan Caplan) of votes weighted based on people's objective political knowledge, possibly "controlling for the influence of race, income, sex, and/or other demographic factors" (2016: 15), and he supports Claudio Lopez-Guerra (2011)'s idea of an enfranchisement lottery, where a set of voters is randomly selected among the population and has the opportunity to inform and deliberate properly before electing representatives for the whole. It seems to me that the argument defended in this article applies to these alternatives as well, but they also raise specific questions that would require a more careful discussion. For this reason, this article has not offered a full epistemic case in favor of standard democratic institutions, but suggested and tested a way of epistemically assessing competing decision-making systems.

Before finishing, I would like to stress that asserting the epistemic superiority of standard democratic institutions vis-à-vis their plausible alternatives is fully compatible with the conviction that existing democratic institutions are unsatisfying and should be reformed with the aim of improving their epistemic potential. All the reforms that could increase citizens' social and political knowledge and reduce the risks of biases are welcome (see Goodin and Spiekermann, 2018: ch. 6-9). The epistemic justification of democracy should thus not be interpreted as an ideological justification of the current state of affairs. It is rather grounded in a historically-informed and epistemologically-based mistrust against alternative regimes. As David Runciman (2018) puts it, "sometimes it is more important to avoid the worst".

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Notes

¹ David Runciman (2018) suggests distinguishing epistocracy and technocracy, the former being about making right decisions, the latter about selecting appropriate means. According to him, only epistocracy is a challenge to democracy, technocracy being an “add-on” to democratic institutions. In this article I take technocracy to be a reduction of political issues to technical issues that can be judged by experts and epistocracy to refer to the rule of the wisest, both morally and technically.

² If random selection is used instead of elections, either some cannot be selected, or some have more chances to be selected.

³ All elections are manipulated *ex ante* because those in power can decide the rules of the electoral game (Przeworski, 2010: 119). What I have in mind is *ex post* manipulation, i.e. not counting some voices or changing numbers.

⁴ For example, one can expect experts in some empirical field, and more generally people more knowledgeable of empirical issues, to have a better understanding of the means-end relationships in policy, to know more about the practical implications of adopting particular policies (see Mintz-Woo, 2018).

⁵ Mill (1861) did not believe that equal voting power was desirable, because he trusted the more educated to be more responsive to the public interest. Judging from political experience, however, it seems clear that education is no guarantee of disinterested behavior.

⁶ Unless these meaningful social experiences are also targeted in the selection process. However, it seems implausible to succeed in selecting people having both the situated knowledge attached to a disadvantaged social position and the education and political knowledge otherwise required. And if we tried to select separately both kinds of knowledge, problems of deliberative domination would likely appear.

⁷ People usually see themselves as voting for the common good, but the point is that having voting power enables them to choose among competing platforms claiming to promote the common good, and reject those that harm their legitimate interests, i.e. their interests aligned with the common good.

⁸ The important difference is of course that one lays the emphasis on competence while the other argues that all citizens have a sufficient political capacity. But there is similarity in the fact that this second chamber would not be accountable and can be justified as bringing epistemic benefits (Vandamme and Verret-Hamelin 2017).

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