



# Epistemic Injustice in the Political Domain: Powerless Citizens and Institutional Reform

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## Abstract

Democratic legitimacy is often grounded in proceduralist terms, referring to the ideal of political equality that should be mirrored by fair procedures of decision-making. The paper argues (§1) that the normative commitments embedded in a non-minimalist account of procedural legitimacy are well expressed by the ideal of co-authorship. Against this background, the main goal of the paper is to argue that structural forms of epistemic injustice are detrimental to the overall legitimacy of democratic systems. In §2 I analyse Young's notion of political powerlessness and claim that in structurally unjust social contexts members of powerless groups often are not properly acknowledged as functioning members of the polity, hence being jeopardized in their ability to develop part of their personal identity. In §III, I define gerrymandering as an example of political disempowerment that involves an epistemic harm for oppressed citizens, namely, to be prejudicially excluded from the community of epistemic trust. My thesis is that being epistemically disempowered has a negative impact on the way in which citizens understand themselves as political actors, since they suffer a lack of social recognition that may impede a proper development of their reflexive agency. In §IV, I discuss the proposal of granting epistemic privilege to members of oppressed groups, given their specific experience of social injustices. I introduce two concerns about this proposal, one morally grounded and one pragmatically oriented. Finally, in §V, I briefly sketch some institutional remedies that can be employed in order to politically fight systemic forms of epistemic injustice.

**Keywords** Non-minimalist account of procedural legitimacy · Opacity respect · Political powerlessness · Epistemic injustice · Structural reform

## 1 Normative Commitments and Democratic Procedures

Democratic legitimacy is often grounded in proceduralist terms, referring to the ideal of political equality as a non-instrumental value that should be mirrored by fair procedures of

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decision-making. Broadly speaking, a proceduralist view holds that democratic legitimacy does not depend on external criteria of assessment of the quality of decision outcomes, but rather on the principles that govern procedures of collective decision making.<sup>1</sup> More precisely, a proceduralist view claims that democratic processes are legitimate in virtue of the equal consideration that should be granted to the interests and preferences of all members of the constituency by means of suitably decision procedures.<sup>2</sup> Not all citizens' opinions can actually be implemented collectively, but at least each legitimate claim by citizens should be given a fair hearing and an equal opportunity of impacting decision-making processes (Beitz 1989; Christiano 2008). According to a normative oriented reading of proceduralism, we can claim that there are values that are inherently related to procedures, namely, that some normative democratic commitments are intrinsically realized in procedures, rather than promoted through them (Ceva 2016; Ottonelli 2012).<sup>3</sup>

In this section I sustain that the normative commitments embedded in a non-minimalist account of procedural legitimacy assume more relevance when these commitments are paired with the *ideal of co-authorship*. According to this ideal, democratic decisions are legitimate to the extent that all the individuals subjected to them can – allegedly – be described as authors of such decisions. In a functioning democratic system, political equality, as a non-instrumental value, should be mirrored in political institutions that fairly distribute the power of impacting political choices. In order to establish a legitimate system for making publicly justified political decisions, democratic procedures should grant to everybody the default position of equal respect, simply respecting their outward dignity as agents. The co-authorship paradigm satisfies these normative commitments grounding democratic authority in the viability of decision-making processes that involve each member of the constituency on an equal footing, respecting their reflexive agency and averting patronizing forms of epistemic deference.<sup>4</sup> This means, firstly, that the practice of publicly exchanging reasons is legitimate if and only if citizens are allowed to exercise their political agency, voicing their requests

<sup>1</sup> By contrast, recent instrumental conceptions of democratic legitimacy have claimed that to be legitimate a democratic decision-making process needs to promote substantive values and pursue the common good (Van Parijs 1998). According to this perspective, the legitimacy of a decision-making process depends exclusively upon the substantive quality of its outcomes, it does not require political equality. Within this framework, political disenfranchisement might be justifiable if such an unfair treatment would ensure substantively better choices (Ameson 1993). As a consequence, instrumental conceptions of legitimacy could justify a decision-making process in which citizens are treated as mere beneficiaries of policies rather than as political agents. As it will become clear in what it follows in the paper, this perspective is quite the opposite to the one I defend here.

<sup>2</sup> It is important to distinguish between: i. minimalist proceduralist accounts (Dahl 1959; Riker 1982), according to which the legitimacy of democracy is grounded in the very existence of a scheme of rules and procedures of consent formation under conditions of fairness, where no reference is made to the values promoted by those procedures; ii. normatively oriented versions of proceduralism (Ceva 2016; Christiano 2008; Urbinati and Saffon 2013; Waldron 1999) according to which democracy incorporates substantive political values that democratic procedures instantiate. For a more nuanced review of different proceduralist accounts, see Biale and Liveriero (2017) and Peter (2007, 2008).

<sup>3</sup> “In contrast with minimalist conceptions, proceduralism imposes a robust normative standard for democracy, which goes beyond the overcoming of violence among factions”, Urbinati and Saffon 2013: 2.

<sup>4</sup> It is important to clarify that, according to a non-minimalist reading of the ideal of co-authorship, this ideal is not exhausted by the democratic practice of voting. Co-authorship is a richer normative notion, that regards the kind of respect citizens owe each other *qua* political agents as well as should inform the informal participatory (and deliberative) practices that characterize democratic systems. As we shall see, in the formal and informal settings that shape the public sphere of a political society, the ideal of co-authorship is often disregarded in public conflicts over the definition of social standards and the management of public space. I thank an anonymous referee for suggesting this clarification.

(being properly and fairly heard), politicizing specific interests and ideals, and challenging the views of fellow citizens.<sup>5</sup> Secondly, I maintain that the ideal of co-authorship requires that each citizen is treated and respected as a putative epistemic authority. I take this second requirement to be a fundamental feature of any model of democratic legitimacy that has the goal of properly addressing instances of epistemic injustice, along with the attempt to meet procedural requirements of legitimacy. In fact, one of the goal of this paper is to argue that models of democratic legitimacy that fail to account for the epistemic aspects of the mutual recognition that citizens owe one another in public deliberative settings prove to be less adequate than my account in showing that structural forms of epistemic injustice are detrimental to the overall legitimacy of democratic systems.

In order to clarify what I mean by *putative epistemic authority*, let me introduce a specific account of respect that has been defined by Ian Carter (2011). Carter argues that a respectful attitude in the political domain consists in treating citizens as if “opaque” (Carter 2011), that is, granting to everybody the default position of equal respect, without first requiring the demos to assess the actual cognitive, moral, and practical abilities of each citizen.<sup>6</sup> Granted that subjects reach an absolute minimum of the relevant capacities that allow an individual to be a moral person and therefore to be entitled to equal treatment and respect, then the *opacity requirement* kicks in, meaning that agents should not be differentiated in value for differences in holding capabilities above the minimum threshold.<sup>7</sup> Carter refers to the notion of a *range property* (Rawls 1971: 444–445) to account for the kind of ascription of agential properties we ought to expect of one another in political settings. A range property is a binary property: it is either possessed or not possessed. The possession of a range property means possessing some other scalar properties above a minimum threshold. Agents might vary in the way they possess scalar properties, but all agents possessing them above the minimum threshold, possess the range property equally. At the political level, these minimal criteria can be envisioned in terms of the basic intellectual capacities required to be granted the right to vote. Individuals who do

<sup>5</sup> Famously Jeremy Waldron (1999) urged that neutrality per se does not grant substantive fairness. As long as neutrality among citizens is concerned, tossing a coin and majority-rule solution would both be procedurally valid. Normative oriented accounts of proceduralism reply to this criticism stressing that decision-making process should also reflect the commitment of giving equal weight to each person’s opinion, a feature that lacks in random selection. The criterion of equal consideration at work here is responsiveness: outcomes of democratic decision-making process should mirror the demands of participants involved in the decision making either by meeting their valid claims, or by offering a justification for rejecting their claims that would be acceptable to them (Estlund 2008; Mackie 2011).

<sup>6</sup> The notion of opacity respect derives from the fundamental distinction provided by Steven Darwall (1977) between recognition-respect and appraisal-respect. The first is attributed in virtue of the recognition of others as persons. Ascribed by default, it is a priori and unconditional and does not admit of degrees. Appraisal-respect, instead, expresses the positive consideration of a person. It is a posteriori, conditional on actual conduct and comes in degrees. Intersubjectively, agents relate to each other through appraisal-respect, but at the political level, as citizens, they should establish relations that are grounded in a form of recognition-respect. Opacity respect is a specific form of recognition-respect and is a fitting response to dignity in other persons when we are reasoning about political interactions among political institutions and citizens (Carter 2011: 557).

<sup>7</sup> “When is opacity respect an appropriate attitude? I suggest that we have reason to adopt the attitude of opacity respect toward a particular being when two (jointly necessary) conditions obtain: first, that being possesses *dignity as agential capacity* (which is to say, it possesses at least a certain absolute minimum of the relevant empirical capacities); second, we stand in a certain relation to that being such that it is appropriate for us to view that being *simply as an agent*. The basic idea is that when an agent is laid bare—when it is considered as an agent and no more than an agent—our respect for that agent depends on our clothing it with outward dignity as an agent—that is, on our adopting an external point of view, taking the agent as given and refraining from “looking inside” it in the sense specified earlier”, Carter 2011: 556 (italics in the original).

not meet this very minimum threshold are of course rights-holder moral beings, who need to be protected and supported by the social and institutional setting, but they are not directly included in the constituency of voters that is one of the procedural specifications of the ideal of co-authorship.<sup>8</sup>

Following Carter, I maintain that the notion of opacity respect is crucial when dealing with interpersonal exchanges at the public and political level (Liveriero 2020). My point here is that in a democratic setting, where each citizen should be respected as a co-author of public choices, we should engage in evaluative abstinence, ascribing the status of putative authority to citizens, without engaging in an assessment of persons' agential, moral and epistemic capacities. It follows that in democratic legitimated contexts, citizens should be treated and publicly recognized as equally in possession of the relevant agential, moral and epistemic properties, regardless of the fact that they may not actually be equally competent (Ottonelli 2012). We can also note that the ideal of co-authorship expresses the fact that democracy is a model of decision-making according to which the legitimacy of decisions is strictly connected to the possibility of establishing stable and reliable relations of epistemic trust among citizens (Buchanan 2004; Fuerstein 2013). At the ground level, democratic epistemic trust should be ecumenical, meeting the requirement of opacity respect with regard to each citizen and therefore resting on an ascription of putative epistemic credibility to every member of the constituency.<sup>9</sup>

This conclusion is relevant for at least two reasons: i. it requires that at the political level we grant equal respect to each member of the constituency ascribing to citizens the putative status of practical (i.e. share the ability to impacting political choices with fellow citizens) and epistemic (i.e. not being dismissed as epistemically not – or less – credible) authority; ii. it provides a normative standard against which assessing injustices perpetrated toward individuals, often members of unprivileged groups. Specifically, in this paper I investigate instances of epistemic injustice, namely, cases in which some individual are wrongfully treated as their status as epistemic agent is unfairly

<sup>8</sup> We can debate about how inclusive the right-to-vote-threshold should be and we ought to be careful to avoid any form of prejudice-based argument in establishing the absolute minimal criteria that ought to be met in order to be granted the right to vote. Yet, there is a sense in which people with severe cognitive disabilities, animals – and, as mentioned by one of the anonymous referees, may be even the environment – are bearer of rights, but cannot be directly included among the constituency of voters. I should note that Martha Nussbaum (2009) contends that the equal citizenship of individuals with substantial intellectual impairments requires that they are enabled to exercise such political rights as voting and jury service through appropriate surrogates. I do not have space here to address this topic, but I agree with Nussbaum that the normative commitment to political equality imposes to find ways to include as much as possible subjects with cognitive disabilities in the decision-making processes, otherwise a large group of citizens would end up simply as disqualified from the most essential functions of citizenship.

<sup>9</sup> Naturally, a functioning democratic system should be able to provide public procedures to establish which subjects ought to be acknowledged as epistemically privileged sources to whom we should defer for deciding specific matters (e.g. a special committee for political matters intertwined with scientific findings; members of juries; members of boards with technical goals, etc.). The model I am defending here requires that for public choices each citizen is regarded as a putative epistemic authority by default, as an input condition. This does not mean though that legitimate forms of epistemic asymmetries should be ruled out. Rather, when epistemic privileges must be granted, then the opacity requirement should be bracketed, in order to properly assess – through public accountable procedures – who deserve to be ascribed epistemic authority over specific matters. Here then the legitimacy derives from the adequacy of public and accountable procedures for establishing who can be warranted the status of expert to decide over specific relevant matters.

questioned.<sup>10</sup> My main goal is to assess the capacity of real-world democracies to satisfy the normative-oriented procedural model of democratic legitimacy through the lens of structural forms of epistemic injustice. My insight is that this ideal is clearly betrayed when democratic settings allow structural forms of epistemic injustice to mistreat members of the polity making them powerless and not fully respected as political agents.

In section II, I focus on the structural aspects that affect the implementation of the ideal of political equality in actual circumstances and claim that members of powerless groups are often jeopardized in their ability to develop part of their personal identity, since their social standing is not fully respected. In section III, I analyse gerrymandering as a staggering example of political disenfranchisement and I argue that suffering this kind of political disempowerment often involves a secondary epistemic harm, namely, to be prejudicially excluded from the community of epistemic trust. My thesis is that being epistemically disempowered has an extremely negative impact on the way in which members of disadvantaged groups understand themselves as political actors, since they suffer a lack of social recognition that may impede a proper development of their reflexive agency. In section IV, I discuss the proposal of granting epistemic privilege to members of oppressed groups, given their specific experience of social injustices. I introduce two main concerns about this proposal, one morally grounded and one pragmatically oriented. Finally, in section V, I briefly sketch some institutional remedies that can be employed in order to politically fight systemic forms of epistemic injustice.

## 2 Structural Unequal Circumstances and the Notion of Political Powerlessness

Before presenting further arguments, let me introduce a brief and yet important caveat. Throughout this paper, I refer to political equality that ought to be acknowledged to each agent *qua* citizen. What I am referring to here is a normative-laden notion of *political equality*, derived from a specific account of democratic legitimacy. I do not investigate or defend any specific account of moral equality, since this goal would go beyond the scope of this paper. What I am interested in is relating the debate on epistemic injustice to an analysis of the impact that this form of injustice might have on the normative requirement of equally respecting each citizen as a fully functional member of the constituency of co-authors of public choices. Naturally, the very same injustice can and probably does have a deeper effect on the process of identity formations and on the development of specific attributes of personhood (Fricker 2007: 52–59). However, in this work I specifically focus on the constitutive epistemic dimension of political agency and analyse the impact that systemic forms of epistemic injustice have on the possibility for some members of the constituency to behave and be publicly acknowledged as functioning members of the polity. I take this attribute to be an essential characteristic of human beings living in collective settings. Furthermore, epistemic forms of injustice, where not properly addressed, cause a secondary, institutional harm, namely, putting pressure on the legitimacy of the democratic system overall. In other words, in structurally unjust social

<sup>10</sup> Recently, a very interesting literature has been spurred by Miranda Fricker's book *Epistemic Injustice* (2007) concerning distinctively epistemic forms of injustice suffered by subjects specifically in their capacity as knowers. Fricker (2007: 1) introduces two distinctively epistemic forms of injustice: i. *testimonial injustice*, that "occurs when prejudice causes a hearer to give a deflated level of credibility to a speaker's word" and ii. *hermeneutical injustice* that "occurs when a gap in collective interpretive resources puts someone at an unfair disadvantage when it comes to making sense of their social experiences."

contexts the powerless and the most vulnerable are less heard and they often tend to internalize the misrecognition of their own worth. This means that the ideal of co-authorship fails under non-ideal circumstances.

In order to fully grasp why very often the ideal of co-authorship fails under non-ideal circumstances, it is important to focus on the structural aspects that affect the implementation of the ideal of political equality in actual circumstances. Since social structures are often hidden, a critique of social structures and the impact they have on agents requires a normative analysis (Cudd 2006; Haslanger 2012, 2016). Structural (unequal) circumstances very often provoke a disempowerment of members of disadvantaged groups and cause public questioning regarding their ability to meet the (moral and epistemic) standards necessary to be ascribed the status of fully autonomous agents.<sup>11</sup> Regarding the structural unequal circumstances that characterizes contemporary democracies, I want to highlight two aspects. First, I want to concentrate on *power*. Power is a socially situated capacity to control – directly or indirectly – others' actions. In non-ideal political contexts, access to political resources is distributed unequally among political actors. This means that some members of the polity have a wider influence on political processes, endangering the ideal of political equality that is one of the tenets of democratic systems. In relation to the theme of this paper, it is important to highlight that the positional power for establishing and revising social norms and standards is often a monopoly of members of historically established majorities or members of extremely powerful minorities (Galeotti 2002). If we look at the concept of public space, for example, it is quite intuitive to understand the role played by power asymmetries in shaping it. Public space, within liberal theory literature, has been traditionally defined as a neutral and impartial space, where every identity can feel included and expect to be treated fairly, since such space, by definition, should not be partisan or hostage to one party. However, the so-called neutrality of the public space is actually compromised by the fact that groups that historically have held a near-totality of power have shaped the public space in their image, unfairly favoring specific social standards and norms (Galeotti 2017). It follows that members of disadvantaged minorities have suffered unfair treatments that involve, among others, forms of epistemic wrongs. Also, any public attempt to silence opinions or any instance in which disadvantaged citizens' perspectives are misrecognized threatens a fundamental democratic value, namely that any individual should be afforded opportunities to express and defend their views in public forums, and to have those views heard respectfully.<sup>12</sup> Second, a structural account provides us with sound reasons to claim that agents are *relationally vulnerable*. This means that the development of our agential capacities and identity, as well as the social roots of self-respect, are shaped and affected by the social relationships of which we are part. In social contexts, each and all of us are vulnerable to others. As Donna Haraway (1988) famously claimed, we, as agents, are *socially situated*. The focus of this paper is to specify what it means to be socially situated in a democratic political context where the development of our reflexive

<sup>11</sup> Structural explanations can be distinguished from aggregative explanations. Structural explanations describe a phenomenon as part of a larger phenomenon that sets constraints on the behavior of agents, in this regard providing an account of structuring causes that are not coincident with incidental-triggering causes.

<sup>12</sup> Allen Buchanan (2004) develops an interesting argument according to which functioning liberal institutions tend to impose a significant constraint on epistemic deference, providing citizens with the context to develop an entitlement to expound and defend their own personal opinions, rather than refer to socially imposed epistemic authorities. I do agree that liberal institutions, in theory, are more suited than other collective models to avoiding epistemic forms of injustice, exactly because the ideal of co-authorship is engrained in the historical development of this model. However, in this paper my goal is to analyze why the model does not pay off as ideally envisioned and to provide a brief sketch of possible remedies.



agency is partly dependent upon the possibility of sharing practical and epistemic authority together with fellow citizens while jointly deliberating about public matters. I claim that being publicly perceived as a legitimate member of the polity is an essential characteristic of personhood for human beings living in political community. From this, it follows that historically powerless or disadvantaged groups and minorities, which often suffer from a lack of recognition as credible reflexive political agents, tend to internalize the power asymmetries as constitutive of their identities (Alcoff 2010; Code 1991; McNay 2014; Medina 2013). Social structures, thus, are causally efficacious and can be a significant source of injustice in the everyday life of real-world democracies. Because of this, in order to cast light on the political dimension of such injustices, it is important to include agents' constitutive vulnerability to others as a specific feature of political agency in non-ideal circumstances. Since our vulnerability to others is a normal aspect of our collective life, we have to account for it when discussing democratic legitimacy.

Iris Marion Young (1990) investigates five forms of oppression that "some people suffer not because a tyrannical power coerces them, but because of the everyday practices of a well-intentioned liberal society" (p. 41). These are the kinds of disadvantages and injustices that are relevant here, since I am putting in question the legitimacy of the democratic model at large, wondering whether in non-ideal circumstances this model is actually able to deliver the promise that each member of society would be treated – and would be able to see herself – as a co-author of collective decisions. Oppression in the political domain means that some subjects of public laws are not treated as full members of the constituency that takes decisions and elects representatives (and in some political contexts take part in the judicial system as well). At the end of the day, this political oppression means that some citizens are powerless, in at least two important ways. First, powerless citizens lack the positional power and the visibility to confront and challenge historically established standards and social norms and are confined to harsh struggles always finding themselves on the less powerful side. Second, some citizens, given some aspects of their identity or membership in a specific social group, are socially associated with attributes that tend to put in question either their epistemic competence or their sincerity – or both. The consequence of these forms of oppression is that the community of epistemic trust is reduced to a *membership club* to which some citizens have access by birth right, whereas others have their membership constantly questioned and investigated. This result runs afoul of the normative requirement of treating citizens as equal and *opaque*, ascribing them the status of putative practical and epistemic authorities.

The notion of *powerlessness* as a facet of oppression that Young describes perfectly captures the kind of political injustice I seek to address. Young refers (1990: 56–58) to the oppression that derives from non-participation in decision-making processes that affect the conditions of our lives and actions.<sup>13</sup> It seems to me that in real-world democracies, where the asymmetries of power are historically entrenched in the institutional structures and where non-neutral and often biased social meanings characterize the public space, some citizens are perceived as lacking three fundamental features of full membership:

<sup>13</sup> "The powerless are those who lack authority or power even in this mediated sense, those over whom power is exercised without their exercising it; the powerless are situated so that they must take orders and rarely have the right to give them," Young 1990: 56.

- i. *Authority*: members of disadvantaged groups are discounted as putative authorities, both practically and epistemically.
- ii. *Status*: their status as trustworthy sources of knowledge and of legitimate claims is deflated by default.
- iii. *Sense of self*: since our social positioning impacts our identity -building processes, asymmetries of power end up preventing an equal distribution of the social bases of self-respect (Liveriero 2019; Rawls 1971; Schemmel 2019).

According to this analysis, citizens belonging to disempowered groups need to prove they deserve a fair hearing, and their claims, preferences and requests have a less than equal opportunity to impact political decisions. It follows from this that powerless citizens are jeopardized in their ability to develop part of their personal identity, at least because they are constantly subjected to political disrespect, as they are not perceived as epistemically trustworthy members of the community. Furthermore, lacking a proper sense of self-worth – at least with regard to their political positioning – implies that often members of powerless groups have a hard time challenging the very same social structures that allow the power asymmetries in the first place.

### 3 Gerrymandering as a Secondary Epistemic Harm

In the previous section, I introduced Young's notion of political powerlessness and analysed structural circumstances of the political domain that endanger the possibility for real-world democracies to fully fulfill the normative ideal of procedural legitimacy, since members of powerless groups are often subjected to political disrespect, as they are not perceived as epistemically trustworthy members of the community. If my analysis is correct, it follows that establishing fair procedures of voting, of collective deliberation (leaving aside reasonable concerns about the possibility of actually being able to do so) and of political contestation is not enough. Since our subjective identity is inescapably related to the perception of our agency in the social world, I claimed that, among other things, suffering political disempowerment has a deep impact on citizens' ability to perceive their worth (Cudd 2006; Pateman and Mills 2007). And citizens do suffer political disempowerment even in contexts in which, allegedly, they are members of functioning democracies. One striking example is *gerrymandering*. The complex process of setting district boundaries is often manipulated in order to establish a political advantage for a particular party or social group.<sup>14</sup> Consistently with the democratic legitimacy paradigm I outlined in the first section, we can claim that unrestrained gerrymandering represents a procedural version of the *tyranny of the majority* (Dawood 2004; Guinier 1994). It is procedural in the sense that the power employed by powerful groups does not impact directly the outcome of democratic processes, rather it affects the democratic procedures themselves, manipulating district borders in order to favour powerful categories of the polity. The point of oppression here depends not so much on the fact that minorities members are subjected to unfair and partisan decisions by the majority, but rather that they are

<sup>14</sup> It is worth mentioning that there are different versions of gerrymandering that relate to specific categories that tend to be politically disenfranchised by the manipulation of district borders. For example, we can talk of racial gerrymandering; partisan gerrymandering; ethnic gerrymandering. For the scope of this paper I do not need to specify differences among these kinds, since I believe that the general argument I lay out applies in all these cases.



mistreated as practical and epistemic authorities. Gerrymandering is an institutionalized way to maintain and foster an unequal distribution of political resources and this practice involves a structural lack of empowerment that affects the development of citizens' political agency. Here the epistemic harm is derived from a procedural one: citizens that have less opportunities for impacting political decisions are also disempowered in their epistemic power of contributing to public debates and informal deliberative settings. In fact, politicians and representatives have fewer incentives to listen to their requests, interests and complaints, as they are aware of vote dilution (Ross 2018). It follows that epistemic injustice here is suffered in the sense that some citizens are not granted the status of putative epistemic authorities for prejudicial reasons as well as for strategic power-maintaining reasons. In my opinion, this kind of procedural tyranny is more subtle, but almost more problematic from the normative standpoint.<sup>15</sup>

Gerrymandering, in a way, legitimates a systemic oppression of some members of the constituency that are prevented from equally participating in the practice through which the demos makes decisions and social meanings and standards are generated and kept alive. Therefore, these citizens are prejudicially and a priori excluded from the community of epistemic trust for no reason other than their groups of belonging or for specific features constitutive of their identities. The political disenfranchisement due to pervasive processes of gerrymandering produces a procedural harm concerning the infringement of the ideal of political equality. In fact, gerrymandering endangers political equality and the actual chances to respect the outward dignity of every agent *qua* citizen (Ottonelli 2012). Furthermore, the political-procedural harm provoked by systemic gerrymandering ignites an epistemic harm that consists in the fact that specific members of the polity are publicly treated as not epistemically trustworthy members of the political community.<sup>16</sup> This epistemic misrecognition can also cause a practical harm, that is, inhibiting the ability of these members of the polity to properly develop aspects of their personal identity. In fact, citizens' *reflexive agency* tends to develop more consistently in deliberative settings and when agents are allowed (with a reasonable expectation of being able to impact the final outcome) to fight for their interests and ideals. Indeed, the perception of political ineffectiveness, along with the likely undermining effects of redistricting on electoral competitiveness and wide welfare and social inequalities, tend to depress political participation and voter turnout especially among members of disadvantaged social groups (Cancela and Geys 2016; Ross 2018).

Ultimately, this example, while not related to a distinctively epistemic form of oppression, provides our analysis with a unique perspective for proving that procedural and epistemic

<sup>15</sup> Very recently, the US Supreme Court declined to set limits on gerrymandering (see Rucho et al. 2019 v. *Common Cause* et al. No. 18–422, 588 U.S., 2019). With a 5–4 vote, the justices ruled that the federal government does not have the constitutional authority to regulate election maps. Along with a widespread debate concerning the questions to include in the US 2020 census, this decision by the Supreme Court could seriously increase partisan redistricting.

<sup>16</sup> Fricker (2007: 44–51) distinguishes between primary and secondary aspects of harm. However, she specifically focuses on instances in which the epistemic harm – the harm done to the knower *qua* knower – is the primary harm, whereas secondary harms involve many practical aspects, such as imperilment of professional advancement. Correctly, Fricker notes that secondary harms are often overlooked, while they have broad and deep effects of people's life. Here, I am focusing on structural and institutional circumstances of real-world democracies, such as gerrymandering, in which the primary harm is political-procedural, and the epistemic harm is secondary, namely, the treatment of specific members of the polity as not epistemically trustworthy members of the political community. I maintain that exposing the consequences of unfair procedures as gerrymandering both in their political and epistemic dimension is important, in order to fully grasp the wide-ranging negative impacts on people lives of these forms of political disenfranchisement. I am grateful to an anonymous referee for pressing me on this point.

harms are very often intertwined in the non-ideal circumstances of politics. Gerrymandering, in fact, limiting the political effectiveness of some members of the constituency, deflates both their practical and epistemic authority, producing a severe epistemic deficit in the perspectives and preferences that get access to the political arena to be debated and to which political representatives ought to be responsive. Any instance of prejudicial gerrymandering jeopardizes the legitimacy of the democratic system, breaking the co-authorship pact among fellow citizens. Moreover, when a set of citizens are systematically pushed to think of themselves as less than fully functional members of the polity, this can have a deep and irredeemable effect on the perception of their own worth.

To sum up, unrestrained attempts to draw electoral districts in order to prejudicially maintain the circle of public trust as a selective membership club is fundamentally wrong for both moral and epistemic reasons. Given the striking effects that gerrymandering can have on the development of political agency – I refer here to the unwarranted potentiating effect on members of powerful groups as well as the diminishing effect on members of discriminated groups – it is important to illustrate and analytically distinguish between the moral and the epistemic harms that stem from this political process. Specifically referring to the epistemological harm, I claimed in this section that citizens suffering political disenfranchisement due to attempts to manipulate district boundaries are prejudicially excluded from the community of epistemic trust, as their opinions, preferences and – literally – their votes are made irrelevant.

#### 4 Democratic Legitimacy and Epistemic Privilege: Some Concerns

In the previous section I proposed a different theoretical angle to look at how deeply problematic gerrymandering can be for the overall legitimacy of democratic systems. In more general terms, I believe that it is important to stress that in political settings, very often discriminated groups are both politically disenfranchised and epistemically mistreated. On similar lines, Amandine Catala (2015) has developed an interesting argument about a form of *epistemic domination*<sup>17</sup> that characterizes real-world democracies in which we encounter a deliberative impasse, due to the unwarranted epistemic power that the majority holds in shaping collective understandings and social standards. Catala makes a claim for a reverse of this dynamic in which public discourse is mainly, if not entirely, shaped by the majority members. Her argument, taking insights from standpoint theorists (Haraway 1988; Harding 1993; Jaggar 2007; Wylie 2003), is that members of a minority should be recognized as epistemically privileged authorities, given their specific experiences of unjust social power relations. Catala claims that epistemic privilege, when warranted, is always contextual and therefore contingent, rather than necessary and universally valid. For this reason, a contextual analysis is always required to establish whether and to whom this special epistemic privilege can be granted. I find Catala's argument compelling, as this proposal demands not just a revision of the ascribing-epistemic-trust-public-processes toward equality; it actually requires that to members of disadvantaged groups is granted an epistemic privilege on matters of social justice and political inequality – about which they are deemed to be especially competent. However, I envision two problems with this proposal that are partly related to the account of democratic legitimacy I defended in the first section.

<sup>17</sup> Catala develops the interesting notion of epistemic domination drawing upon the republican notion of non-domination (Pettit 1997) and extending this analysis to the epistemic realm.

In line with the deliberative paradigm, many authors have recognized the value that storytelling and personal experiences might have for the epistemic quality of deliberative processes (Black 2008; Boswell 2013; Higgins and Brush 2006). Catala herself relates the epistemic value that such personal experiences can provide to the public sphere with a requirement to speak up and be treated as an expert on such matters. I agree that very often first-person narratives are a powerful deliberative tool to bridge the informational and motivational gap between groups that experience a *deliberative impasse*, as Catala calls it. There are indeed many historical examples in which social progress has been pushed forward thanks to victims' testimony. However, I am concerned that the deliberative requirement to speak up in the first person might produce a sense of further disrespect for members of disadvantaged minorities upon whom this request is cast. First, it seems to me that trying to address structural injustices by referring to the privileged expertise that minorities have gained through their suffering might impose on them a burdensome request to expose their personal experiences publicly. My concern here is morally grounded and questions the kind of respect paid to members of a minority when they are publicly recognized as privileged authorities on matters of social injustice. For example, there is always the risk of tokenism, namely that through personal experience narratives other agents will take the experience of one agent as representative of an entire group or ascriptive category (Berenstein 2016; Davis 2016). When this happens, it is clear that the epistemic resources are still mostly in the hands of the powerful members of society, and they tend to homogenize the experiences of groups whose perspectives are not mainstream.<sup>18</sup> On similar lines, Kristie Dotson (2011, 2014) has criticized Fricker's account of hermeneutical injustice, stressing that very often disadvantaged groups have hermeneutical resources to express their experiences, but such resources are not shared with members of the majority, therefore deepening the deliberative impasse. It seems to me, then, that the request for disadvantaged subjects to tell their personal stories to a wider audience might bring about the unwelcome (and often implicit) request to adjust their experiences in order to fit the mainstream hermeneutical paradigm (Dryzek 2000; Gring-Pemble 2001).<sup>19</sup>

An even more troubling concern is raised by Valeria Ottonelli (2017). Ottonelli analyses the fundamental epistemic role that some theorists cast on personal storytelling from the perspective of deliberative democracy. According to this analysis, even if we take the inclusion of personal storytelling as a welcome enrichment of the deliberative model, both for respecting the inclusivity requirement and for enhancing epistemic quality, we ought, however, to recognize that the normative relationship we have with other citizens in the political domain is one in which "respecting others implies recognizing their unreachable alterity" (Ottonelli 2017: 607). Coherently with the requirement of opacity respect introduced earlier, the kind of ascription of epistemic authority we ought to grant fellow citizens should be independent from their personal experiences, social standpoints and biographies, as much as it should not derive from an actual assessment of their intellectual capacities. I understand the need to highlight the epistemic relevance of the experiences endured by disadvantaged groups, experiences very

<sup>18</sup> Correctly, speaking of cultural imperialism as a form of oppression, Young (1990: 59) states: "The culturally dominated undergo a paradoxical oppression, in that they are both marked out by stereotypes and at the same time rendered invisible. As remarkable, deviant beings, the culturally imperialized are stamped with an essence. [...] White males, on the other hand, insofar as they escape group marking, can be individuals."

<sup>19</sup> Dotson (2011: 244) speaks of epistemic smothering: "Testimonial smothering, ultimately, is the truncating of one's own testimony in order to ensure that the testimony contains only content for which one's audience demonstrates testimonial competence. Testimonial smothering exists in testimonial exchanges that are charged with complex social and epistemic concerns."

often completely overlooked in mainstream deliberative debates. And I agree with many theorists that deliberative settings necessitate a deep reform in order to address structural forms of epistemic injustice. However, my attempt to frame this debate within a larger paradigm concerning democratic legitimacy shows that the normative requirement of treating citizens as opaque, in order to properly respect their outward dignity as moral persons, is partly in tension with the thesis that some members of the constituency, given their personal experience, should be granted epistemic privileges.<sup>20</sup> Moreover, as I have said before, this privilege comes at a cost: namely, that of being required to make their own experience fully accessible to others, for the sake of social reform. It is obviously clear that some citizens are more than willing to do so, and this is both remarkable and normatively important. Yet, what I criticize is the attempt to make such an epistemic privilege a sort of institutionalized feature of deliberative settings. Add to this that recalling personal experiences of marginalization and domination can often involve humiliating effects as well as bringing about a social reification of the victims that tends to reinforce structural processes of group marking.<sup>21</sup>

There is a second qualm I want to mention regarding the opportunity of granting epistemic privileges on the ground of citizens' situated knowledge and experiences. This second concern is pragmatically oriented. If we look at informal instances of political deliberation in the public sphere, members of disadvantaged minorities have to struggle much harder to have their voice at least heard – and, of course, the possibility of actually impacting political decisions is even more strenuous. And very often, their requests and preferences are ignored or treated as not as relevant or epistemically grounded as the requests of members of powerful groups. Consequently, members of disadvantaged groups that endure epistemic injustice see their political reflexive agency constantly publicly questioned, as they end up lacking the standard entitlement to have their words heard and suffer from a lack of public responsiveness towards their disadvantages. In such a political context, providing reasons in favour of the epistemic expertise of particular disadvantaged groups might be normatively relevant, but pragmatically pointless. From a strategic perspective, we have seen, members of the majority have self-regarding reasons to maintain the circle of public trust as a selective membership club of which they decide all the admission rules.<sup>22</sup> Pointing to the specific expertise of disadvantaged groups in voicing the unfairness of some social practices or in highlighting that hermeneutical resources and social standards are partisan rather than neutral might not make a difference if there are no other factors at play that might incentive members of the majority to be sensitive to

<sup>20</sup> Refusing to grant epistemic privilege to situated agents does not mean to be oblivious of the ability of specific agents to conceptualize particular social experiences. For example, it is important to stress that women are better equipped for understanding and providing insights into and critical analyses of the phenomena of sexual harassment or that African Americans have more epistemic resources to discuss and characterize the impact of race on the lives of US citizens. Yet, I think it is possible to thematically distinguish between epistemic privilege and epistemic expertise, where the second can be publicly recognized in certain members of the constituencies without necessarily referring to their specific personal experiences and biographies.

<sup>21</sup> More powerfully, Nora Berenstain (2016) argues that requests by privileged persons to be educated on oppression by marginalized persons involves a specific form of epistemic exploitation. “Epistemic exploitation is a variety of epistemic oppression marked by unrecognized, uncompensated, emotionally taxing, coerced epistemic labor. It maintains structures of oppression by centering the needs and desires of dominant groups and exploiting the emotional and cognitive labor of members of marginalized groups who are required to do the unpaid and often unacknowledged work of providing information, resources, and evidence of oppression to privileged persons who demand it—and who benefit from those very oppressive systems about which they demand to be educated” (2016: 570).

<sup>22</sup> Michael Fuerstein (2013) develops an interesting argument about the game-theoretical character of epistemic trust relations in social settings.

reasons of justice. In fact, a speaker has no direct way to force an audience to *hear* her. The deliberative reciprocity constraints, in non-ideal contexts, cannot be taken for granted. Furthermore, even when social processes provide the speaker the space to talk and be heard, still powerful members of the polity may prove to be unwilling or unable to reach the appropriate uptake of the publicly provided testimony (Dotson 2011; Langton 1993). Let alone instances in which the privileged actively dismiss the epistemic efforts of the marginalized, fuelling active ignorance and reinforcing the cycle of epistemic exploitation of the underprivileged (Berenstein 2016; Medina 2013).

Given the doubts I raised in this section about the viability of solving deliberative impasses generating epistemic injustice through personal testimony and attempts to educate the privileged about oppression and marginalization, in the next section I take another path. I briefly outline some proposals for large-scale structural remedies for systemic forms of epistemic injustice. These remedies can provide a suitable path toward a systemic reform in order to tackle epistemic injustice, at least structurally. Moreover, it is important to stress that structural remedies are not in competition with virtue-based remedies (Fricker 2007; Roberts and Wood 2007; Zagzebski 2012), since they can work along with each other. Actually, a functioning democratic system can provide further motivation to citizens in order for them to develop an interpersonal sensibility in reaching critical awareness about how deeply social positioning and group marking affect the epistemic stance of agents in collective decision-making processes.<sup>23</sup>

## 5 Structural Remedies in Non-ideal Circumstances

One of the most important themes of this work is that systematic instances of epistemic injustice put pressure on the legitimacy of the whole democratic system, because they endanger the possibility of fulfilling the ideal of co-authorship. Looking at gerrymandering for example, we have seen how the tendency of real-world political institutions to prevent some members of the constituency from enjoying the status of co-authors of political decisions involves both political and epistemic harm. In this section my goal is to show that epistemic forms of political injustice can be properly addressed only if we employ structural remedies. In contrast with some authors who have concentrated on individual practices of epistemic virtue (Daukas 2006, 2011; Fricker 2007; Frost-Arnold 2014) as the adequate remedy for epistemic wrongs, I want to focus on some proposals to reach a wide institutional reform for addressing structural forms of injustice that prevent many citizens from being treated (and recognize themselves) as first-class citizens and as warranted members of the political community of epistemic trust. In order to push for this reform, it is fundamental to enrich public debates with an adequate analysis of the epistemic dimension of political agency as well as raise awareness about how power asymmetries feed political and epistemic discrimination. In this regard, the analysis that I developed in the first section of this work is useful for raising collective awareness regarding the often-overlooked epistemic aspects of the normative notion of

<sup>23</sup> For example, I think that the notion of reasonableness, as a practical virtue of citizenship, can be extended in order to include a further feature, that is, *critical sensibility* toward epistemic misrecognition. This means that a political agent cannot be properly defined as politically reasonable if she proves to be unmindful of instances of epistemic oppression.

political agency. The analysis of gerrymandering had exactly the goal to show that some forms of epistemic harm are secondary harms dependent upon unfair political procedures. Once it is established that suffering structural misrecognition have deep effects on the development of (political) agency, institutional remedies are normatively required. Moreover, it is important to stress that structural instances of epistemic wrong put in question the overall legitimacy of the democratic institutions that allows these injustices to take place.

For contestations of systemic wrongs to be effective, though, I think that we have to be aware of both the deliberative impasse highlighted by Catala and of the lack of motivation of powerful groups to mitigate social injustices that often involve epistemic wrongs. In the non-ideal contexts of real-world democracies, we cannot expect powerful groups to be ready to let go of their positional power and of their unwarranted political advantages. Therefore, working on institutional reforms proves to be even more pressing in non-ideal circumstances. Political institutions, along with the judicial system, have resources for pressing powerful groups to abide by fairness constraints and to re-shape the public space in order for it to really become the neutral space where each identity is treated with respect.

First and foremost, it is essential to work on updating the normative ideal of citizenship, stressing that citizens, in democratic settings, should recognize one another as agents that share both practical and epistemic authority regarding legitimate collective decisions. From this more nuanced description of political agency in democratic settings follows that the systems of check and balance, as well constitutional courts, have even less excuse to allow forms of political disenfranchisement such as systemic gerrymandering impacting disadvantaged groups.

Second, Anderson (2012) suggests that it is central to look at ways of granting equality in educational resources, providing marginalized groups with more epistemic capital to acquire the markers of credibility, therefore fostering the ascription of the status of epistemic authority to all subjects involved in political decisions. Better educational systems can also prove helpful in motivating members of powerful groups to develop a critical sensitivity to reasons of justice and in creating better social conditions for the identity formation processes of members of disadvantaged groups.

Third, developing deliberative processes at the local level can be helpful for enriching intergroup exchanges and increasing shared inquiries among citizens that belong to different social contexts. These deliberative processes, if rightly established, can increase familiarity among members of different social groups and reduce intergroup bias and consequently enhance epistemic trust. This suggestion comes with a caveat: in order to build up deliberative processes that do not mirror power asymmetries, it is necessary to loosen the standards of what kind of reasoning and communicative attitudes are adequate in deliberative contexts (Dieleman 2015).

Fourth, to fully correct the systemic biases that result in instances of testimonial injustices and that provide breeding grounds for pervasive hermeneutical injustice, it is important that political institutions be reformed in order to increase the ability of citizens to contest public processes. This proposal goes along with the requirement to ameliorate institutional settings that keep some citizens in a state of powerlessness. This remark is consistent with Fricker's (2013) claims that at the political level institutions should provide the right conditions for contestability to take place, namely the possibility for citizens to have the power of freely contesting wrongful treatment of various sorts. Contestation is meaningful if and only if the contestator's words are heard without prejudice or lack of trust. Epistemic justice, therefore, becomes a condition of political freedom.



Five, I think that political parties, if normatively reformed, can play an important mitigating role in preventing risks of disrespectful (or insensitive) public appraisal of personal experiences of disadvantaged citizens, meanwhile providing proper confrontational settings where such experiences can be shared in meaningful ways. Parties – along with social movements and grassroots activism – can provide organizational empowerment that aggregate the claims of individuals and exercise relevant and enduring influence on the decision-making process. Furthermore, by incentivising individuals and groups to be concerned with their interests and values, partisan fora and social movements can help them to become aware of being subjected to an unjust social and political system and to develop an alternative discourse to the dominant and unfair state of affairs.

Finally, looking at the public sphere, I want to add that social reform, more inclusive laws, the expansion of epistemically just deliberative fora can profoundly help in enhancing *familiarity* with disadvantaged identities that are suffering social invisibility, disrespectful public treatment or powerless political standing. Moreover, taking into consideration the informal public sphere, it is worth highlighting that individuals can have a deep impact through media interactions and the creation of cultural products, such as movies, novels and performing arts that involve a critical appraisal of social reality and a public showing and rebuke of processes of cultural domination.

It seems trivial to observe that we are still far from ensuring broadly inclusive political institutions that prove able to prevent the marginalization, oppression and epistemic injustice suffered by sections of the constituency. Yet, I maintain that there are multiple institutional paths to work on in order to get closer to the ideal of a “universal participation on terms of equality of all inquirers” (Anderson 2012: 172). This ideal, which I call the co-authorship model, connects democratic legitimacy with the normative requirements of ascribing full reflexive agency to every member of the constituency and to treat each citizen equally – both morally and epistemically. I hope to have shown that one relevant way in which this ideal is profoundly betrayed is through structural forms of epistemic injustice, as these injustices are detrimental to the very ideal of political equality as an essential feature of non-minimalist conceptions of procedural legitimacy.

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