

Pluralism, Preferences, and Deliberation: A Critique of Sen's Constructive Argument for Democracy

Carlo Argenton and Enzo Rossi

The world is incapable of curing itself; it is so impatient of the weight that oppresses it that it only aims at getting rid of it, without considering the cost.

(Montaigne)

Introduction

The combination of a broadly procedural understanding of autonomy with the idea of deliberative democracy represents the prevalent response to the fact of pluralism in contemporary (i.e., post-Rawls) liberalism. Amartya Sen is a leading exponent of this approach. In his latest book, *The Idea of Justice* (2009), he brings to fruition the interdisciplinary work that he has undertaken over the course of decades.

As Sen acknowledges (and as the title *The Idea of Justice* reminds us), to a large extent his philosophical work on justice can be seen as a dialogue with John Rawls's. One may think of it as a way to take more seriously than Rawls the latter's belief that, in the context of contemporary liberal democracy, we ought to "take pluralism seriously." Pluralism is indeed a central concern in Sen's work. It is in the name of pluralism that, for instance, he rejects utilitarianism and equates development with freedom rather than mere material well-being in his influential book, *Development as Freedom* (1999, henceforth *DF*). In *The Idea of Justice* (henceforth *IJ*), we once again find reiterated this commitment, which leads him to question what he calls "transcendental" approaches to justice *à la* Rawls, and develop his own "comparative" approach.

In this paper, we put forward a critique of an element of that approach that was first formulated conceptually in *DF* and has emerged as central in *IJ*: the key role of public reasoning and democratic deliberation in Sen's account of justice and freedom.

Although in Sen's view, as we shall see, the defense of democratic deliberation rests on a concern for pluralism, we will try to show that Sen's solution fails to take pluralism as seriously as he seems to maintain it should be taken. More specifically, we argue that Sen's commitment to pluralism is not matched by his account of how to individuate the preferences that ought to be included in the process of democratic deliberation. In other words, we maintain that there are

serious internal difficulties in Sen's argument as a result of his prioritization of the liberal normative commitments that inform his account of democratic deliberation. More generally, the difficulties with pluralism we identify can be traced back to the particular version of Kantian deontology prevalent in contemporary liberalism, and to the equally prevalent aspiration to ground political legitimacy in a moralized consensus.

The structure of the paper is as follows. In the first section, we provide a reconstruction of Sen's position, tracing its development from *DF* through *IJ*. This reconstructive effort is particularly important in trying to understand what *IJ* is proposing, since the arguments there are complex and often not specified fully. That will set the stage for the second section, which contains our critique of Sen's position. By situating Sen's defense of liberal democracy more clearly within the family of theories of deliberative democracy, we also offer a more general challenge to a certain (arguably, prevailing) form of the theory. The third and last section summarizes the paper's main argument and briefly elaborates on its general relevance.

1. Sen on "Real" Freedom, Pluralism, and Democracy

The primary objective of *DF*, a work intended first and foremost for the development studies community, is to provoke a paradigm shift in our understanding of the nature of development and human well-being, as well as of the institutional foundations most capable of bringing these about. To the "narrower views" of development that place growth of gross national product or individual incomes at the core of developmental concerns, he opposes in this work his own vision of development as "a process of expanding the real freedoms that people enjoy" (3). And, crucially, Sen maintains that this focus on freedom is not a form of Western ethnocentrism, but is compatible with a genuinely pluralistic understanding of human flourishing—a central concern in the field of development studies that has gained increased relevance in mainstream political theory with the growth of the debate on global justice.

By "*real freedoms*" (or "*substantive freedoms*") Sen means those (a) actually available to the individual, and (b) that "*really*" matter to her. Both intrinsically depend on the institutional structure of society, and hence we find Sen referring to them as objects of social concern from the perspective of development (*DF*, 94). As far as (a) is concerned, Sen's intuition is that income need not necessarily imply an expansion of an individual's ability to pursue her conception of the good. And neither does an improvement in the distribution of the items on a fixed list of primary goods (including income) such as Rawls's. What needs to be looked at, rather than mere income levels or distributions of primary goods, is the "translatability" of goods into "doings"—which he refers to as "functionings"—what the individual wants to do (Sen 1992, 39). This is the insight Sen's fundamental concept of "capabilities" is meant to capture. Once the argument is restructured in this way, we see that a whole set of variables—such as income, health, and

education, for instance—previously seen as *ends* of development are refashioned by Sen as simply *means* of development, the ultimate end being that of expanding an individual's capabilities to pursue her conception of the good life. An important implication of this perspective is that it legitimizes the state's intervention in society as provider of, for instance, health and education services to the population (DF, 129).

The second point, (b), is what endows Sen's argument of its liberal dimension. Options must not be viewed from a collectivist perspective, or transcendently *sub specie aeternitatis*, but rather need to be grounded in the first-person perspective of the individual agent. Liberal democratic institutions, Sen thinks, are most effective at guaranteeing this. He identifies three sources of value in this type of political arrangements:

- ⤴ An "intrinsic" value: sociopolitical participation and freedoms are "*constitutive* elements of human freedom" (DF, 17, emphasis added), and therefore have value independent of their consequences and outcomes. They are instances of "basic capabilities" that all human beings should be in the position of enjoying.
- ⤴ An "instrumental" value: socioeconomic openness and accountability of government officials creates a set of political and economic incentives (e.g., responsiveness to popular demands, freer markets and greater competition, and so on) that enable citizens' desires to be more comprehensively met.
- ⤴ A "constructive" value: it is only by engaging in open discussion, debate, criticism, and dissent that an individual can transcend the parochialism of her "socialized" views and reach an understanding of what she truly values in life. It is also in this way that a society constructs the values it cherishes and devises the institutional structure that enables the realization of these values.

Though compressed in the space of relatively few pages, it is clear how the intrinsic, instrumental, and constructive arguments work together with the aim of generating a strong case for liberal democracy. Our main focus here is on the interplay between the constructive and the instrumental argument, whereby liberal democracy should allow us to gain a more reasoned appreciation of our individual conception of the good while embedding this within an institutional framework instrumental to enable us to achieve our aims and fulfill our desires.

Why is it so important for Sen to emphasize the centrality of the intersubjective "construction" of values and preferences, and the related notion of "reasoned agency"? The answer is in the emphasis Sen places on the concept of "adaptive preferences," a theory whose popularity is largely attributable to his own work. In questioning the validity of the utilitarian conception of welfare *qua* preference satisfaction, Sen argues that the "mental metric of pleasure or desire is just too malleable to be a firm guide to deprivation and disadvantage," as people are shown to "adapt" their desires and preferences in congruence with the oppressive environments in which they are embedded, adjusting expectations to what is seen as

feasible and learning to take pleasure in the “small mercies” available (*DF*, 62–63). This argument echoes Marxian theories of false consciousness, as Sen himself has explicitly acknowledged (Sen 2002, 471).

Problematizing individual preference formation along the lines of theories of false consciousness has a clear bearing on questions of freedom and justice. The first-person perspective, we now see, is untrustworthy because of the problem of adaptive preferences, and has to be transcended by means of a more “objective” standard. Preferences should not be treated as fixed givens, but rather have to be subjected to the critical scrutiny of practical reason and rationally shown to be of value to the autonomous agent herself. A free agent, in other words, is an individual who is capable of accomplishing the “beings and doings” (Sen 1992, 39) she has understood to be of value to herself through the exercise of practical reasoning (Sen 1992, 49).

But transcending the perspective of the individual (no doubt biased and parochial) agent through an account of the constitutive elements of human “flourishing” and an emphasis on the autonomous exercise of practical reasoning raises problems once it is combined, as it seeks to be in Sen, with a commitment to the “fact of pluralism.” Sen does not significantly engage in metaethical theorizing about the plurality of values or about the pragmatic requirements of the exercise of political power under conditions of persistent diversity; rather, his commitment to pluralism is best understood as (primarily) an attempt to reject the charges of Western ethnocentrism often leveled against liberal democracy (*IJ*, 327–32). Those charges have most often been pressed against perfectionist and autonomy-based accounts of freedom and justice. Sen does not use explicitly anti-perfectionist language, yet makes room for pluralism in the capability approach at three levels. These might be referred to as the foundational level, the dialogical level, and the individual-choice level:

- ⤴ At the *foundational level*, Sen claims that his idea of “flourishing” or “perfection” does not derive from any one metaphysical position but is rather the product of a cross-cultural extension of Rawlsian reflective equilibrium (Crocker, 2008, 110–11). The ideal is therefore not independent of individuals’ considered judgments but rather founded on them.
- ⤴ At the *intersubjective level*, he acknowledges that knowledge of the availability and value of options, as well as of the possibilities of practical reasoning themselves, clearly depends on reasoned deliberative interaction with other agents. “Individual freedom,” he indeed writes, “is quintessentially a social product” (*DF*, 31), and thus inevitably open-ended, context-sensitive, and “experimental” in a Millian sense.
- ⤴ Finally, at the *individual-choice level*, Sen’s evaluative concern is not with predetermined valuable achieved functionings but rather with the *availability of opportunities* and the *process* through which autonomous agency is exercised. This is the state Sen defines as “open conditionality” (Sen 1985, 203): “open” because it is all-inclusive and open-ended, and “conditional” because

it only specifies the procedural, formal parameters of choice rather than any substantive outcome. All that matters is that we are able to decide—thanks to adequate information and autonomous agency—what we have reason to value; whether, at the end of the process, we discover we value being a classical music composer or a subdued housewife in a sexist culture is a matter of irrelevance for Sen. In more formal language, what Sen thus seems to be advocating is an ideal of freedom founded on “procedural independence.”

Freedom of choice and respect for pluralism thus coexist in intimate conceptual connection in Sen’s theory, allowing him to argue that it fulfils the demands of liberal neutrality while avoiding the paternalism and ethnocentrism traps. Because individuals are free to choose the capabilities and functionings they have reason to value, whatever these may be, Sen argues that his capability approach is faithful to the (Rawlsian) liberal value of ethical neutrality (again, a way of rejecting perfectionism and restating his commitment to pluralism). Moreover, functionings and capabilities vary in culture-specific and context-dependent ways, so Sen’s theory yields no single account of human flourishing, but rather provides the means to assess how given social structures fulfill a variety of human needs and aspirations. Even more profoundly, if the ideals themselves are constructed dialogically, the discovery of what human “perfection” amounts to necessarily depends on exploring the possibility of human plurality, on maximizing what Mill would have called “experiments in living.” Agency and pluralism thus mutually reinforce one another: pluralism stimulates agency by presenting to the agent ideas and options previously unthought-of, and agency stimulates pluralism by inventively contributing to it. In sum: distrusting subjective preferences, according to Sen, need not amount to illiberal paternalism or ethnocentrism. Reasoned agency via a neutral decision process can solve the problem though still respecting pluralism.

In *IJ*, we find a more rigorous conceptual systematization of all these insights and a more explicit specification of their contribution to debates on justice in contemporary political philosophy. The (relative) underdetermination of Sen’s propositions in favor of liberal democratic and political rights in *DF* is overcome in *IJ*, where the notion of “democracy as public reason” makes its way to the fore of his argument. In presenting this argument, he draws on John Rawls and Jurgen Habermas primarily, but also on other important theorists of “deliberative democracy,” such as Ackerman, Benhabib, Cohen, and Dworkin, whose work can in a sense be seen as a theoretical specification of what Sen would call the constructive argument for democracy and particularly its procedural dimension.¹

What these theorists have shown, according to Sen, is that democracy is about much more than just balloting and elections: it is first and foremost about “political participation, dialogue, and public interaction” (*IJ*, 326). To the “aggregative” model of democracy these theorists have opposed a “deliberative” model of democracy. According to the former, democracy consists in majority rule, and therefore the stress is on the institution of voting. The deliberative model, on the

other hand, sees democracy as government by discussion among equals, with a stress therefore on the institutions that sustain and promote public deliberation. What is particularly important for our purposes is the diametrically opposed approach to the question of subjective preferences these two approaches embody. While the former treats preferences as a “given,” and thus focuses exclusively on mechanisms of preference aggregation, the latter sees intersubjective deliberation as a dynamic mechanism geared to the *transformation* of preferences themselves through the exercise of practical reason (Young 2000, 18–25). In line with this mode of reasoning, Sen writes that “informed and unregimented *formation of values* requires openness of communication and argument” (*IJ*, 336). Openness, intersubjective engagement between citizens allows them to overcome the limits of their partisan views, of their parochialism, enabling them to both (a) get a better grip on what conception of the good they have “reason to value,” as well as (b) establish a regime of toleration that is more and more respectful of minorities (*IJ*, 337).

To deliberate publicly and intersubjectively is inevitably to offer reasons to others for what we value and what we want our society to ethically achieve; this exercise enables us to both rectify mistakes in our partial reasoning and, most importantly, familiarize ourselves with the reality that others also have reasons for holding the discordant views they hold. Echoes of a Kantian “kingdom of ends” emerge in this vision of this transformative, pedagogical exercise of deliberation. Pluralism, democratic deliberation, and reasoned agency all stand in tight conceptual relation with each other: no trade-offs of one for the other is necessary. “If the demands of justice,” Sen writes, “can be assessed only with the help of public reasoning, and if public reasoning is constitutively related to the idea of democracy, then there is an intimate connection between justice and democracy” (*IJ*, 326). Democracy *qua* public reasoning thus allows agents to “construct”—at both the individual and collective level—their true needs, desires and values, in a way that allows these to be justified/justifiable to all and endorsed by all reasonable citizens.² Thus in *IJ* we find, in other words, a conceptual elaboration of *DF*’s “constructive” understanding of liberal-democratic institutions, couched now more explicitly and formally in the language of deliberative democracy.

2. The Limits of “Constructive Impatience”: Pluralism, Preferences, and Deliberation

In *IJ* Sen relies substantively upon the theoretical tradition of deliberative democracy initiated by Rawls and Habermas in arguing for his conception of “democracy as public reason.” Before embarking upon an examination of his arguments, it is therefore indispensable to unpack the connections between Sen’s framework and the deliberative democracy paradigm. As is the case in the study of any political-theoretic tradition or family of theories, it is important to take into account the internal differentiation within these, especially if the study is a critical

one. It is indeed now more accurate to speak of *theories* of deliberative democracy, and attend carefully to the pluralism that has come to characterize this field of normative inquiry. Different theorists have put forward their own versions of democratic deliberation, and pointing out the differences between, say, Seyla Benhabib's (2002) more agonistic version and the more moralized version of Gutmann and Thompson (2004) is just as important as highlighting their similarities. As will be shown over the course of this section, however, there are nonetheless good reasons to think that by problematizing some fundamental, generally shared features of the deliberative democratic ideal, our critique of Sen's version speaks to a large portion of deliberative democracy family members.

It seems that Sen's own version of deliberative democracy aligns him with the versions of the theory that prioritize the following three key commitments:

- ⤴ *Preference endogeneity.* As mentioned above, most deliberative democrats do not take preferences as a given, but rather treat them as fluid entities that the process of public deliberation is meant to transform. We have seen that Sen speaks of this transformative power of democracy as its "constructive role" (*DF*, 148). Dryzek has gone as far as to argue that "preference change through deliberation" is the "defining feature" of the deliberative democracy model (Dryzek 2000, 32; see also Cohen 1989 and Sunstein 1994).
- ⤴ *Autonomy.* The fundamental value for most deliberative democrats is that of personal autonomy. What deliberation is meant to achieve is the expunction of "external" determinations of values and choices (Cohen 1989, 25–26). "The reflective aspect is critical," according to Dryzek, "because preferences can be transformed in the process of deliberation" (Dryzek 2000, 1). It is clear how such a perspective is congruent with the Senian one described in Section 1. Rights that guarantee "open discussion, debate, criticism and dissent, are central to the processes of generating informed and reflected choices" on the part of agents, and these processes, Sen continues, "are crucial to the formation of values and priorities," so that "we cannot, in general, take preferences given independently of public discussion, that is, irrespective of whether open debates and interchanges are permitted or not" (*DF*, 153).
- ⤴ *Procedural perspective.* As liberal pluralists, theorists of deliberative democracy generally want to accommodate the fact of pluralism and avoid charges of paternalism. Rather than impose any one conception of the good, they focus at the theoretical level on what Cohen calls an "ideal deliberative procedure" (Cohen 1989). Deliberative democracy focuses on identifying a purely "formal" process, which is formal in the sense of being independent of individual conceptions of the good (though reflective of the value of autonomous agency).

As the latter point illustrates, deliberative democracy is here seen as an ideal fully compatible with a society characterized by, in Rawlsian language, a plurality of "comprehensive doctrines." The logic of deliberative democracy actually *needs*

some degree of pluralism to be fully effective and also *promotes* pluralism. As a consequence, the outcome of deliberation is open-ended, albeit within some limits.³ All this is made possible by agents participating in the intersubjective, reason-giving ideal deliberative procedure.

But undergoing this procedure is not an end in itself: it is meant to determine the contents of justice (including the entitlements to certain freedoms, in the sense discussed above) and its incarnation in institutional structures. It relates, in other words, to political decision making. Sen, in fact, often speaks of the “*practice of democracy*” in *IJ*, hinting at the practical relevance of the notion of deliberative democracy. So the unavoidable question is: according to what *standard* are we to decide, when deliberating, what a “better” or “worse” argument is? There seem to be two possible solutions: one “neutral” and one “substantive.” The former solution would consist in saying that the best value is simply the “fittest” value, the one, that is, that emerges as the most reasonable once citizens undergo the deliberative reason-giving exercise. “No force except that of the better argument is exercised,” to use Habermas’s phrase. However, even if we assume that it is possible to devise a procedure that reliably selects the decisions best supported by rational arguments, the problem with this argument is clear. A tiny cultural minority may not be able to place certain ideas or values in the deliberative agora simply because of its modest size, for example, or intangible linguistic-cultural disadvantages. The possible influencing variables may be many, unrelated to the “force” of the argument *per se*, but not for this reason any less “publicly” relevant (from a liberal perspective), it seems. A neutral understanding of the validity of outcomes (one, that is, that only focuses on the survival of the “fittest” argument) could only be supported by (a) a theoretical exercise in abstraction from the frictional realities of the political world (relating to language, size of groups, power, and so on), or (b) intervention by the state to ensure equality of conditions and removal of all the frictions that could prejudice the deliberative exercise. The former would be so unrealistic as to lose any action-guiding value, while the latter would involve the radical negation of pluralism by a pervasive, perpetually interfering state.

The substantive option is precisely the one that a theorist committed to pluralism would wish to avoid. The theory of deliberative democracy is after all meant (at least by those authors Sen cites approvingly of) precisely to avoid the kind of “transcendentalism” that Rawls’s original approach to justice in *A Theory of Justice* embodies. Deliberative democrats are concerned with a more procedural understanding of justice, with most substantive normative questions left to this open-ended process of deliberation. That is to say, pluralism is not a sort of teleological ideal⁴ but a circumstance that requires accommodation in light of citizens’ entitlement to form and pursue their own conception of the good. But this argument can only function on the basis of the presupposition that liberal-democratic institutions of public “discussion and exchange” offer a sufficiently neutral blank slate for preference formation, one that is not tainted by the distortions of ideology or false consciousness. The presupposition, in other words, must

be that undergoing this ideal procedure is a fundamental *precondition* for having valuable, uncontaminated preferences. So, on this view, individual agency as reason giving and autonomous is taken to satisfy the desideratum of an account of agency that is sufficiently neutral toward competing conceptions of the good. However, this is clearly a substantive, *liberal* understanding of what it means to be a free agent. The *practice* of democracy as Sen intends it would thus ultimately amount on the part of the agent to one single mode of practice (or “functioning,” to use Sen’s language): reasoned introspection, individual autonomous deliberation, reason-giving debate. Certainly, the exercise of this single mode is compatible with the free choice of becoming, say, either a classical music composer or a housewife. But this would be a remarkably circumscribed understanding of pluralism, and certainly not the one that the liberal literature on pluralism (including Sen) endorses. It is in this sense that Sen’s constructive approach fails to take pluralism seriously. If pluralism is only accommodated in its more “reasonable”⁵ (i.e., reason giving) manifestations, then the constructive consensus produced by the deliberative model Sen envisages would amount to an essentially homogenous moralized consensus, based on the unwarranted silencing of some of the most challenging expressions of pluralism. To be sure, we are not claiming that any restriction of pluralism is *ipso facto* unwarranted; rather, the point is that the restrictions envisaged by Sen are not justified given his desideratum of accommodating pluralism in an “open,” non-parochial way.

To illustrate that point, let’s consider the case of religion in the public sphere. A religious person who, for the purposes of putting forward rationally intelligible arguments in public debate, asks herself to what extent she has reason to value her preferences for religious devotion may gain autonomy at the expense of religiosity itself. This is even more so in the case of the bigot, who, no matter how fundamentalist and despicable her beliefs might be, on Sen’s view has at least a *prima facie* entitlement to the freedom of being-and-doing what she—for whatever reasons—values. As Galston notes, “a standard liberal view (or hope) is that autonomy and diversity fit together and complement one another: the exercise of autonomy yields diversity, while the fact of diversity protects and nourishes autonomy” (Galston 2002, 21). Our focus on preferences allows us to see why this is an illusory hope: if I believe that my second-order preferences are, say, beyond the powers of my critical faculties because endowed to me by the magnanimity of the deity I believe in, to check whether they “survive investigation based on close reasoning (with adequate reflection and, when necessary, dialogue with others)” (*IJ*, 180) could condemn me to an afterlife in Dante’s Seventh Circle of Hell (that of the blasphemers). Sen’s theory doesn’t seem to escape the general problem, pointed out by Nagel, that “part of the problem is that liberals ask of everyone a certain restraint in calling for the use of state power to further specific, controversial moral or religious conceptions—but the results of that restraint appear with suspicious frequency to favour precisely the controversial moral conceptions that liberals usually hold” (Nagel 1987, 216).

To put that another way, being an autonomous agent is to “function” in a certain way, so promoting an ideal deliberative process based on the primacy of autonomous agency is far from being the neutral solution to the problems of preference formation mechanisms that Sen envisages. It is no doubt because of the self-reflective and dialogical exigencies of autonomous decision making that Sen speaks of democracy as a “demanding system” (*DF*, 9). But it is far from clear why individuals or groups—or indeed whole societies—that do not value agent-centered modes of social existence ought to submit to the demandingness of such a partial system. Beyond the minimalistic requirements of peaceful coexistence, the only reason why we might imagine them having to do so is “for their own good”—much as in the sort of liberal paternalism and individualistic ethnocentrism Sen seeks to avoid.

Deliberative democrats of the kind we’ve been describing may react to this challenge by arguing that participation is not compulsory in a deliberative-democratic regime (Dryzek 2000, 1). Deliberative democracy is a model that does not, after all, adhere exclusively to any one comprehensive doctrine (in this case, the “liberty of the ancients” ideal). It rather seeks, via a focus on process, to establish the preconditions for an “overlapping consensus” between different doctrines (Cohen 1996). Sen never explicitly says so, but considering the emphasis he places on ethical pluralism, we can be relatively sure that this is the type of argument he would make. But if what we are deliberating about is something as *elemental* as the nature of preferences and range of social opportunities, in what sense can it be meaningfully said that individuals are free to disengage from the deliberative process and still enjoy their basic liberal entitlements in the appropriate way? If something as *fundamental* as the foundations of a social order are at stake, if needs and desires are what deliberation is “constructing,” can it really be said that nonparticipatory comprehensive doctrines are being held on a par with participatory ones? If this is the case, to argue that individuals or communities are free to disengage from a deliberative process involved in consolidating fundamental questions about political order and freedom strikes us as an illusory auspice.

The basic problem of Sen’s framework, it seems, is related to the expansion of the evaluative space to the point of incorporating questions about the legitimacy of preference formation mechanisms. The nature of preferences in this way becomes a matter of social concern, something for which “state and society cannot escape responsibility” (*IJ*, 288). Institutions, if interested in the promotion of justice or “substantive” freedom, have thus to “deal” with matters as convoluted and ambiguous as the nature and origins of preferences and choices. No matter how pluralistic and deliberative the model might appear to be on paper, it turns out to be profoundly *centralizing and homogenizing* in nature. It is not clear why a community that does not value autonomous, individualist lifestyles or the idea of values being amenable to public “constructive” efforts should be placed in front of a tribunal adjudicating the legitimacy of its preferences, as it were. On Sen’s view, a being or doing such a community cherishes remains perpetually open to the charge of being proved nothing but an “unscrutinized conviction,” a “strong ‘gut’

feeling” (*IJ*, 180). Perhaps a more attractive position—which can only be mentioned in passing here—may be one that individuates the preferences that ought to be accommodated on the basis of their ability to coexist with others in a pluralistic arena rather than their ability to adhere to a consensus.⁶ The problematization of preference formation is a feature generally shared by most deliberative democratic accounts, and we therefore think that this form of critique and counterargument applies to a vast majority of them. It certainly applies to Gutmann and Thompson’s paradigmatic version, for example.⁷ We are now in a position to see why the “to list or not to list” diatribe between Sen and Martha Nussbaum—the two main proponents of the “capability approach” to justice and freedom—may be less substantial than usually assumed by commentators. Nussbaum, as is well known, has argued in favor of fixing a list of intrinsically valuable capabilities (Nussbaum 2000), a project Sen rejected in the name of pluralism.⁸ According to him, different societies ought to be able to build up, through democratic deliberation, their own idiosyncratic lists of valuable capabilities, and it would indeed be “absurd” to suggest otherwise (*IJ*, 242). But this appeal to pluralism is less genuine than it might seem at first. For, as Sugden has acutely noted, although Sen avoids specifying any particular list of universally valuable capabilities, he is committed to a political process that will generate some such list (Sugden 2006, 41). But then what about those forms of life that are excluded (or even voluntarily *reject*) the political process that will generate the all-encompassing list? Does it really matter for a minority culture lying—for whatever reason—outside the consensus, outside the constructive process which yields “objective” values, whether the list was chosen by an ivory-tower philosopher or a voting majority? In other words, Sen’s “open-ended” approach to capabilities may have an advantage over Nussbaum’s position insofar as it increases legitimation levels for the citizens who do participate; yet it still fails to take pluralism seriously enough, in the sense that it cannot justify on its own terms the exclusion of the remainder of the citizenry.

The question raised by our interpretation of Sugden’s observation seems to parallel Mill’s idea that what matters for individual freedom is not *who* holds power but the *reach* of power. The power embodied by the list of capabilities is that of defining what is objectively valuable, and thus legitimate. If this is what is at stake, then one can only conclude that a minority is confronted by two basic options: participation or “expulsion,” where by the latter we do not mean physical expulsion, but rather an exile from the domain of the “acceptable,” of the legitimate (as this comes to be “constructed” via deliberation). Participation, on the other hand, by entailing the absorption of norms of thought and behavior rooted in the primacy of reason-giving autonomy and individuality, would negate all forms of life that do not subscribe to these values. Neither of the two options reflects the realities and political requirements of ethical pluralism. In this respect, it is worthy of notice that Sen in *IJ* doesn’t speak of pluralism and respect of minorities in terms of institutional safeguards (e.g., decentralization of power, and the like), but rather in terms of openness and discussion, which somehow lead on his view to

greater impartiality and tolerance. Sen does introduce what might be called elements of “realism” in his analysis of democracy. He speaks positively, for example, of Habermas’s concern with questions of power and coercion (*IJ*, 325). But nowhere does this concern engage with the problematic centralizing implications of deliberative democracy as conceived by him and the authors he cites.

To put it more concisely, Sen’s approach disciplines and restricts the space of pluralism (and thus ends up resembling the sort of ethnocentric approaches he rejects) in two main ways. First, the “message” exchanged by deliberators becomes valid only if structured in an agent-centered fashion (autonomous reason giving, public reasoning,). Thus, even if the capability approach were able to incorporate insights, such as Iris Young’s, concerning various forms of “inclusive political communication” as an antidote to hyperintellectualism (Young 2000, chap. 2), its emphasis on autonomous agency would substantially restrain difference at the level of the nature of the message anyway. Second, it disciplines the *substance* of deliberation by organizing its ends (construction of “reasoned” preferences, desires, values) and thus the way we think about the nature of political coexistence.

Could Sen’s perspective be salvaged by means of a laxer understanding of “discussion and exchange”? Some libertarian theorists such as Hayek or, more recently, Kukathas, have argued for a more “anarchic” understanding of public interaction, which sees linguistic, reason-giving exchange between individuals as simply one of the many modes (and most certainly not the ideal or compulsory one) according to which cogent intersubjective engagement can occur (Kukathas 2003; Pennington 2010). “Rather than conceive of the public realm as embodying an *established standpoint* of morality which reflects a desirable level of stability and social unity,” Kukathas writes, “we should think of the public realm as an area of convergence of different moral practices.” (Kukathas 2003, 131). Public deliberation could be one such “communicative” practice; disengagement from, rejection of the deliberative process or nondeliberative actions such as hunger strikes or marches.⁹ Such a pluralistic option however is not available to Sen, who champions what he calls, in *DF*, the politics of “constructive impatience.” A laxer understanding of “discussion and exchange” of the type Kukathas advocates would in fact not suit Sen’s objective of overcoming the influence of false consciousness and adaptive preferences. Overcoming “oppressive socialization,” as he calls it, requires the strictures of “open discussion, debate, criticism and dissent,” which alone can yield “informed and reflected choice” (*DF*, 153). Leaving aside the obvious problems with any form of argument that alleges that the practices of Western liberal democracies are exempt from the “problem” of ideology, we are now in a position to see that the problematization of preference formation cannot be achieved if not at the expense of pluralism itself. Unless we were to claim that there is only one legitimate way for an individual to stand in relation to her own desires and ends, the tension between pluralism and the problematization of preference formation is inescapable and irreducible. A

fundamental choice has to be made and justified, but Sen's unitary approach seems to gloss over the issue.

But Sen, it could be retorted, has frequently offered empirical corroboration of his arguments regarding adaptive preferences (Sen 2002, 471–74). Even from the empirical point of view, however, his thesis can be questioned. As James C. Scott has shown in works dealing with Marxist-Gramscian theories of false consciousness (Scott 1985; Scott 1990), the empirical evidence in support of the “naturalization” thesis—the idea that disadvantage reliably leads to false consciousness—is actually remarkably scarce. Reviewing the corpus of ethnographic evidence collected by historians, anthropologists and political scientists, Scott reaches three conclusions: (i) “there is no basis for supposing that subordinate classes equate the inevitable with the just,” (ii) “there is no basis for imagining that *any* of the common historical patterns of domination so completely control the social life of subordinate classes as to rule out the creation of partly autonomous and resistant subcultures,” and that (iii) “there is no reason to assume that the lower orders are so encompassed by an existing system of domination that they cannot either imagine its revolutionary negation or act on that negation” (Scott 1985, 335).¹⁰

Important corroboration of Scott's arguments can be found in the feminist literature. In her anthropological study of how Western soap operas are “consumed” by Egyptian women, Abu-Lughod concludes that, conversely to what the “cultural imperialism” thesis would have us believe, Egyptian women are shown by her to be “*active subjects*” in their consumption of Western media products, selectively and critically absorbing media messages through the prism of local interpretative filters (Abu-Lughod 1995). Echoes of these conclusions also appear in studies of women in Bedouin society who, though suffering from a variety of forms of coercion and inequality, are far from being victims of a life of passive submission (*cf.* Phillips 2007, 116). Reviewing, on the other hand, evidence on forced marriages, Phillips concludes that “none of the evidence indicates that people cannot imagine life in any other way or that they are unaware of being pressured into something against their will” (Phillips 2007, 148–49). These arguments are not presented by either Abu-Lughod or Phillips as a justification of the status quo. For the purposes of this paper, however, the main point emerging from their (and Scott's) conclusions is that the “captivated mind” thesis, upon which Sen's distrust of subjective preferences and entire capability theory is based, has largely been empirically exposed as an oversimplification, if not a myth or a stereotype. More precisely, what is shown to be “illusory” by the ethnographic record is not the matrix of desires and preferences of subordinated individuals, but rather the “victims without agency” theme that pervades many false-consciousness-based accounts of subjection, including Sen's. To be sure, the empirical evidence only shows that disadvantage is not a sufficient condition for preference distortion or false consciousness, and it is not clear whether Sen is committed to such a claim; but he does at times come very close to such a claim. At any rate, Sen does not provide a

conclusive argument to show that the lack of liberal-democratic institutions and practices amounts to preference-distorting disadvantage in any given context. Put another way, our argument shows that Sen's divided loyalty to both non-ethnocentric cultural pluralism and liberal democracy renders him unable to distinguish between preference-distorting disadvantage and ordinary cultural differences. The internal theoretical tensions in Sen's view do not therefore seem to find respite in external empirical corroboration of his theses.

3. Conclusion

In sum, we have argued that Sen's commitment to respecting pluralism is not matched by his account of how to individuate the sorts of preferences that ought to be included in democratic deliberation. A unitary, symbiotic account of the type Sen wants to construct of the fundamental values at the heart of his advocacy of the politics of "constructive impatience"—that is, autonomy, pluralism, and democracy—seems impossible to sustain, and the necessity of trading-off some values against others inescapable.

Now, what is the broader significance of our argument? Let us conclude by noting how criticizing Sen's theory of democracy as public reason, particularly its agent-centered and constructive aspects, amounts to criticizing the two most common responses to the fact of pluralism in post-Rawls liberalism: a broadly procedural understanding of autonomy and the idea of deliberative democracy. That is to say, the difficulties with pluralism we identified can be traced back to the particular version of Kantian deontology prevalent in contemporary liberalism, and to the equally prevalent aspiration to ground political legitimacy in a moralized consensus. Sen is adamant about the Kantian roots of his approach: "much of the book [*JJ*] is driven by the basic Kantian insight (as Christine Korsgaard puts it): 'Bringing reason to the world becomes the enterprise of morality rather than metaphysics, and the work as well as the hope of humanity'" (*JJ*, xvii)—in other words, rational, autonomous public deliberation is the source of political authority, because the universal character of reason grounds the deliberative-democratic aim to rule by consensus rather than coercion.¹¹

Of course, as noted above, democratic-deliberative theory is an internally differentiated field of normative enquiry, and our critical focus has been more specifically concerned with the versions of the theory that are congruent with Sen's own version. Most forms of the theory, however, do emphasize the importance of preference transformation and some form of autonomy, and this, we think, makes the conclusions of the present study relevant beyond the confines of the Senian version. Moreover, another important point follows from our argument. If not even the relatively minimalistic version of deliberative democracy defended by authors such as Sen and Dryzek is capable of accommodating pluralism, it becomes very doubtful that accounts that place even more substantive emphasis on the importance of a moralized consensus would succeed in doing so.

Exploring the connections between those two lines of thought, let alone canvassing an alternative account of the foundations of liberal democracy, would be beyond the scope of this paper. We can, however, close by saying something about the paths our argument leaves open, as it were. First, the rejection of consensual politics could be seen as either a pragmatic-realist or a moralized-teleological move: one may hold that politics is by its very nature conflictual and fundamentally about pragmatic equilibrium rather than consensus, or one may maintain that the agreement of those subjected to political authority is neither necessary nor sufficient for legitimacy, which is rather a matter of realizing certain substantive goods and virtues.¹² Likewise, rejecting procedural autonomy appeals to those who wish to eradicate pre-political ethical commitments from the justification of political arrangements, or to those who wish to ground politics in a substantive understanding of the human good. In the light of our argument, one may even say that Sen's position contains elements of both approaches, despite also exhibiting some neo-Kantian sympathies. What we hope to have shown is that this tension cannot be accommodated within Sen's account of the foundations of democracy.

Versions of this paper were presented at John Skorupski's "Barbers" philosophy discussion group at the University of St Andrews, the ECPR Congress at the University of Iceland, Reykjavik, and at the LSE Political Theory Seminar. We are grateful to all audiences for their feedback. We would also like to thank Chandran Kukathas and two anonymous referees for their comments.

Notes

- ¹ Other theorists of deliberative democracy cited in *DF* are Fishkin, Dahrendorf, Sunstein, and Gutmann and Thompson (*DF*, 329, n. 9).
- ² Where, as in Rawls' political liberalism, reasonableness requires (among other things) a commitment to reciprocity in the exercise of public reason. For a detailed analysis of the points of converge and divergence between Rawls's political liberalism and theories of deliberative democracy, see Gaus (2003), 197–200. Rawls, as Gerald Gaus notes, described himself as a deliberative democrat.
- ³ On the problem of demarcating those limits see Ceva (2009) and, for a critical perspective, Rossi (2009).
- ⁴ George Kateb (1999) attributed an aesthetic defence of pluralism to Isaiah Berlin. For a critical discussion of Kateb's position see Riley (2002).
- ⁵ Similarly, Fabian Freyenhagen (2011) recently criticized from a realist standpoint the moralized and partial assumptions in Rawls's conception of reasonableness. For a similar critique of political liberalism see Rossi (forthcoming-b).
- ⁶ Our tentative suggestion can be seen as sympathetic toward the recent resurgence of "realist" critiques of the "moralism" of mainstream liberalism and deliberative democracy, insofar as we prioritize pragmatic arrangements over a moralized consensus. For an overview of that current see Galston 2010. On the issue of realism and consensus see Rossi (forthcoming-a). It is also worth noting that while our argument criticizes deliberative democracy, is not intended as a defence of aggregative democracy, though it is compatible with that approach.

- ⁷ This is what they have to say on this issue: “By taking existing or minimally corrected preferences as given, as the base line for collective decisions, the aggregative conception fundamentally accepts and may even reinforce existing distributions of power in society. These distributions may or may not be fair, but aggregative conceptions do not offer any principles by which we can decide. Even more important, they do not provide any process by which citizens’ views about those distributions might be changed” (Gutmann and Thompson 2004, 14).
- ⁸ For a detailed account of the dispute between Sen and Nussbaum on the question of how to go about reasoning about the “construction” of lists, see Claassen (2011).
- ⁹ We would like to thank an anonymous reviewer for inducing us to consider more thoroughly this point.
- ¹⁰ As an anonymous reviewer pointed out, however, Scott’s arguments do not show that advantage doesn’t minimize problematic adaptive preferences—which would be relevant even if disadvantage is shown not to have the impact that Sen attributes to it. However Sen’s focus is on disadvantage, so Scott’s arguments certainly do affect the tenability of Sen’s position.
- ¹¹ As noted earlier, our critique is centred of the procedural conception of autonomy that underpins this Kantian position. Now, while one does not have to be a Kantian to endorse such a view of autonomy, most deliberative democratic theorists are broadly Kantian, and therefore our argument remains on target. We are grateful to an anonymous referee for this journal for urging us to consider this point.
- ¹² A realist position similar to the one mentioned here can be found in Gray (2000), Horton (2010), and Mouffe (2005). The most prominent exponent of the substantive-teleological position is probably Joseph Raz (1986).

References

- Abu-Lughod, Lila. 1995. “The Objects of Soap Operas: Egyptian Television and the Cultural Politics of Modernity.” In *Worlds Apart: Modernity Through the Prism of the Local*, ed. Daniel Miller, 190–210. London: Routledge.
- Benhabib, Seyla. 2002. *The Claims of Culture: Equality and Diversity in the Global Era*. Princeton, NJ: Princeton University Press.
- Ceva, Emanuela. 2009. “Just Procedures with Controversial Outcomes: On the Grounds for Substantive Disputation within a Procedural Theory of Justice.” *Res Publica* 15, no. 3 (August): 219–35.
- Claassen, Rutger. 2011. “Making Capability Lists: Philosophy versus Democracy.” *Political Studies* 59, no. 3 (October): 491–508.
- Cohen, Joshua. 1989. “Deliberation and Democratic Legitimacy.” In *The Good Polity*, ed. Alan Hamlin and Philip Pettit, 17–34. Oxford: Basil Blackwell.
- . 1996. “Procedure and Substance in Deliberative Democracy.” In *Democracy and Difference: Contesting the Boundaries of the Political*, ed. Seyla Benhabib, 95–119. Princeton, NJ: Princeton University Press.
- Crocker, David. 2008. *Ethics of Global Development*. Cambridge: Cambridge University Press.
- Dryzek, John. 2000. *Deliberative Democracy and Beyond*. Oxford: Oxford University Press.
- Freyenhagen, Fabian. 2011. “Taking Reasonable Pluralism Seriously: An Internal Critique of Political Liberalism.” *Politics, Philosophy and Economics* 10, no. 3 (August): 323–42.
- Galston, William. 2002. *Liberal Pluralism*. Cambridge: Cambridge University Press.
- . 2010. “Realism in Political Theory.” *European Journal of Political Theory* 9, no. 4 (October): 385–411.
- Gaus, Gerald. 2003. *Contemporary Theories of Liberalism: Public Reason as a Post-Enlightenment Project*. London: Sage.
- Gray, John. 2000. *Two Faces of Liberalism*. Cambridge: Polity Press.
- Gutmann, Amy, and Thompson, Dennis. 2004. *Why Deliberative Democracy?* Princeton, NJ: Princeton University Press.

- Horton, John. 2010. "Realism, Liberal Moralism and a Political Theory of Modus Vivendi." *European Journal of Political Theory* 9, no. 4 (October): 431–48.
- Kateb, George. 1999. "Can Cultures Be Judged? Two Defenses of Cultural Pluralism in Isaiah Berlin's Work." *Social Research* 66, no. 4 (Spring): 1009–38.
- Kukathas, Chandran. 2003. *The Liberal Archipelago: A Theory of Diversity and Freedom*. Oxford: Oxford University Press.
- Mouffe, Chantal. 2005. *On the Political*. London: Routledge.
- Nagel, Thomas. 1987. "Moral Conflict and Political Legitimacy." *Philosophy and Public Affairs* 16, no. 3 (Summer): 215–40.
- Nussbaum, Martha. 2000. *Women and Human Development: The Capabilities Approach*. Cambridge: Cambridge University Press.
- Pennington, Mark. 2010. *Robust Political Economy*. Cheltenham, UK: Edward Elgar.
- Phillips, Anne. 2007. *Multiculturalism without Culture*. Princeton: Princeton University Press.
- Raz, Joseph. 1986. *The Morality of Freedom*. Oxford: Clarendon Press.
- Riley, Jonathan. 2002. "Defending Cultural Pluralism: Within Liberal Limits." *Political Theory* 30, no. 1 (February): 68–96.
- Rossi, Enzo. 2009. "The Exemption that Confirms the Rule: Reflections on Proceduralism and the UK Hybrid Embryos Controversy." *Res Publica* 15, no. 3 (August): 237–50.
- . Forthcoming-a. "Compromise, Consensus, Justice and Legitimacy." *Critical Review of International Social and Political Philosophy*.
- . Forthcoming-b. "Legitimacy, Democracy and Public Justification: Political vs. Justificatory Liberalism." *Res Publica*.
- Scott, James. 1985. *Weapons of the Weak: Everyday Forms of Peasant Resistance*. New Haven, CT: Yale University Press.
- . 1990. *Domination and the Arts of Resistance*. New Haven, CT: Yale University Press.
- Sen, Amartya K. 1985. "Well-Being, Agency and Freedom." *Journal of Philosophy* 82, no. 4 (April): 169–221.
- . 1992. *Inequality Reexamined*. Oxford: Clarendon Press.
- . 1999. *Development as Freedom*. Oxford: Oxford University Press.
- . 2002. *Rationality and Freedom*. Cambridge, MA: Harvard University Press.
- . 2009. *The Idea of Justice*. London: Allen Lane.
- Sugden, Robert. 2006. "What We Desire, What We Have Reason to Desire, Whatever We Might Desire: Mill and Sen on the Value of Opportunity." *Utilitas* 18, no. 1 (March): 33–51.
- Sunstein, Cass. 1994. *The Partial Constitution*. Cambridge, MA: Harvard University Press.
- Young, Iris Marion. 2000. *Inclusion and Democracy*. Oxford: Oxford University Press.