
The representative claim of deliberative planning: the case of Isawiyah in East Jerusalem

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Abstract. Both advocates and critics of deliberative planning often study deliberative planning processes as if they are real-life approximations of an ideal situation where the only force is the force of the better argument. However, in the course of the last decade democratic theorists came to develop a complex systemic understanding of the role of deliberation in policy making. In this view, legitimate decision making is not a one-time process but an ongoing pattern of interaction between organized institutions and the public sphere. This paper builds on recent work on political representation to develop a framework for studying deliberative planning as a type of representative claim made within a complex ecology of representative institutions and applies this framework to the case of a deliberative planning initiative in East Jerusalem. We examine the weaknesses and strengths of deliberative planning processes in a political environment that is not hospitable to public participation in planning.

1 Introduction

Both advocates and critics of deliberative planning—processes of planning that involve collective learning, discussion, and reflection by members of the community (eg Forester, 1999, page 1)—often study deliberative planning processes as if they are real-life approximations of an ideal situation where the only force is the force of the better argument. In this understanding, the setting that allows wide participation and open discussion is understood as a procedure, or a method, of decision making.

Advocates argue that the product of such a process is legitimate, not only because it allows the interest of all stakeholders to be represented (fair elections or benign experts can do that as well), but also because it is the only procedure that allows participants to reflect on their own understanding of their interests. Critics point to the unavoidable gaps between ideal and real participatory processes. This conventional framework for understanding deliberative planning pushes those who study real-life processes into taking a stand that is both overly normative and static. Deliberative planning processes are studied as one-shot initiatives, and much of the scholarship tends to focus on a thumbs-up/thumbs-down evaluation of whether the process was successful as a tool for policy making.

It is noteworthy, however, that in the course of the last decade democratic theorists came to develop a more complex understanding of the role of deliberation in policy making. In this view, legitimate decision making is not a one-time process of debate until dawn, but an ongoing pattern of interaction between organized institutions and the public sphere. In this understanding, local initiatives of deliberative planning are important not because they reach a correct answer but because they provide an opportunity for a deliberative opinion and interest formation. However, to assess the legitimacy of the outcome and of the process itself, we need to situate it

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within the broader context of interest formation. It would be naïve to expect that a single deliberative process would provide legitimate decision making, let alone when such a process takes place in a society not hospitable to deliberations (Bohman, 1998; Chambers, 2009; Goodin and Dryzek, 2006; Habermas, 1996; Hendriks, 2006).

The complex approach seeks to retain the core insight that motivates deliberative planning: that a process of wide public deliberation is indispensable for the legitimacy of planning. Without any site for collective reflection on the community's interests and priorities, even the best and noblest experts cannot design a legitimate plan. However, the collective reflection and formation of interests is not a 'moment' but an ongoing process. Deliberative planning processes are attempts to generate a local process of reflective interest formation and decision making. The legitimacy of the decisions has to be understood in the context of the dynamic relationship between the deliberative process of decision making and other social processes.

In sections 2 and 3 we follow the complex understanding of deliberative democracy and propose a framework for understanding deliberative planning in its social context. We use the framework to understand the social dynamics that are set in motion once a process of deliberative opinion formation is introduced. In this framework, the product of deliberative planning is understood as a claim to represent the interests of the community, which interacts with competing representative claims within an ecology of representative institutions. The normative strength of the deliberative claim to represent the interest of the community depends on both the quality of the deliberative process and the strength of competing representative claims.

To study the framework we propose, in sections 4 and 5 we present and discuss a case of deliberative and participatory planning that took place during 2004 and 2005 in the Palestinian neighborhood of Isawiyah. We believe the unique character of political representation in Jerusalem makes this case suited to a study of the nature of deliberative representative claims. In many cases, deliberative planning processes take place in an environment of functioning planning and representative institutions. The outcome of the deliberative process has to compete with other more-or-less plausible claims to plan in the name of the community. In such contexts, the post-deliberation planning and implementation processes might involve bargaining with other stakeholders who work with plausible alternative claims. What distinguishes the case we study is that the process took place in a planning vacuum where no other plan or planning process exists. This case allows us to isolate the contribution of a deliberative planning process to the overall planning environment.

We understand our case study to be an academic journey to the boundary zone between the 'dark' and 'bright' sides of planning. We borrow the understanding of the 'dark' side of planning from Oren Yiftachel's (1998) groundbreaking paper in which he attempts to "shed light on the darker side of planning by exploring its links to state mechanisms of social control and oppression" (page 395). In alluding to the 'bright' side, Yiftachel refers to a series of academic publications that address the communicative turn in planning and present collaborative planning as a viable progressive and normatively appealing standard for the planning profession (pages 403–404; eg Healey, 1992; Innes, 1995; see also Fisher, 2005; Margerum, 2002). On the other hand, the 'dark' emphasizes the structural conditions which restrict planning processes and the ways in which these conditions limit the desired outcomes even of well-intentioned processes (Flyvbjerg, 1998; Yiftachel and Huxley, 2000). Yiftachel warns against the tendency of planning scholars to frame planning as a progressive, reformist, idealist, and benign social activity. The problem with this approach to planning is that it ignores the structures of domination in which even well-meaning planning activities can be subverted into forms of control.

As Yiftachel observes (1998, pages 400–401),

“The conceptualization of planning as an apparatus of social control gives rise to a paradox: the very same tools ostensibly introduced to assist social reform and improve people’s quality of life can be used to control and repress peripheral groups. This is most obvious in ethnically divided societies where a dominant ethnic group rules the state and often uses the power of public institutions to impose control over other ethnic groups.”

“Urban and regional planning is a central tool in imposing control because land and territory are critically important to ethnic identity and politics...The careful examination and generalization of policy consequences—however messy and ugly—must become an integral part of planning theory. ... A realistic understanding of planning acknowledges the possibility of spatial control policies trigger resistance, compliance, or any combination of these, depending on spatial and temporal consequences.”

We follow Yiftachel in trying to study planning processes not as discrete events but in the context of the political environment in which they are situated, and the main contribution of this study is in the theoretical conceptualization of deliberative planning as a claim for representation. We are reluctant to establish a clear demarcation between the ‘bright’ and the ‘dark’ side and to form a judgment about the side to which the planning process that we study belongs. Such a judgment must be made against a counterfactual history of the planning situation in Isawiyah had the planning process not taken place, a process that would require an account of the ‘messy and ugly’ political situation that is far beyond the scope of the present discussion.

Yiftachel concludes his paper with an exhortation for more “empirical case studies” that explore planning in its wider social context: “the philosophical, political, economic, and spatial circumstances in which planning emerges as an oppressive activity” (page 404). Such empirical studies are important not only for their “advancement of theoretical and empirical knowledge” but also in that they “assist practitioners by enabling them to learn from example and analyses of planning’s negative aspects” (page 404). We see our case as a contribution to the kind of theoretically informed empirical case studies that Yiftachel envisions.

2 Planning and the deliberative conception of interests

In order to elaborate our main thesis, that deliberative planning should be understood as a type of representation, we need to discuss the meaning of deliberation and the meaning of representation. To begin with deliberation, we believe that the process of deliberation can be best understood in relation to the kind of interest it creates. Broadly speaking, it is possible to distinguish between three ways in which the notion of interests is used in planning theory. The first way, now outmoded among philosophers but alive and well with practitioners, is to understand planning as a disinterested endeavor best conducted by experts. In this view, problems of planning are similar to mathematical problems in that they have an objective solution.

As Altshuler (1965) demonstrated decades ago, this view cannot be sustained. Urban planning is a political process and as such the interests of the different players must take part in the process. Paul Davidoff made this claim in his seminal essay, written in 1965. There, he argued that “[a]ppropriate planning action cannot be prescribed from a position of value neutrality, for prescriptions are based on desired objectives” (page 331). Studies of urban planning need to account for the way in which the interests at stake are represented in the process.

Davidoff's view is typical of the second way of understanding the role of interests in planning. This is a bottom-up view, in which the interests of players provide the foundations on top of which the planning process takes place. In this view, groups of people who share similar interests get together and select an expert to advocate on their behalf in the planning process. The planning process is the site in which the representatives of the different groups bargain over the shape of the plan.

As we explain later, we believe that this view is simplistic because it understands representation as a unidirectional relationship in which the representative stands for the interests of the group. Real planning processes are more complex. John Forester's (1994, page 154) account captures the dynamic relationship of power and interests in the planning process:

"In day-to-day work, notions of interest and community are politically shaped —not only by planners' imagination but by who speaks and who does not, who attends meetings and who does not, which interests have articulate and effective advocates and which do not. Suggestions of 'interests' and 'community' are constantly put forward and interpreted, constructed and reconstructed; they are politically up for grabs, even though some can usually grab more than others. So even when some groups are more organized, when some have more access, information, and expertise than others, sense of 'interests' and 'community' alike will often be multiple, internally conflicting, ambiguous, and evolving—a messy and fluid situation which presents planners not just with potential confusion, but with many opportunities too."

Recent developments in planning theory, and particularly the introduction of deliberative planning, provide a third, and richer, understanding of the meaning of interests in the planning process. In this understanding, people are not understood as having fixed interests that they try to advance through the planning process. Rather, people can misunderstand their own interests or not be fully aware of them. There can be several reasons why the process of deliberations can lead people to reconsider their understanding of their own interests. Deliberations can provide participants with a chance to reflect on their different interests and to see how they stand in relation to each other. Participants can come to understand how the pursuit of their interests will affect others and thus the community in which they reside. In some instances, participants can come to realize that their understanding of their self-interest is based on incorrect background information. We can therefore distinguish deliberative planning processes as those that facilitate collective reflection about individual and communal interests regarding the proposed plans.

Within this conception, deliberation is a vehicle for legitimacy. The only way that people can know their interests is by discussing them with others. To the extent that the collective reflection meets ideal conditions (open, genuine, free), the outcome is preferable to the outcome reached by any other method of decision making.

It is important to distinguish between two different ways in which we can understand the import, or applicability, of the deliberative conception of interests for urban planning. The first is to argue that planning processes should try to approximate the ideal by designing public forums that will allow free discussion and reflection. Advocates of deliberative planning argue that this process yields a more genuine and authentic of the public interest than any alternative (Innes, 2004; Innes and Booher, 1999). Numerous sociological studies describe ways in which powerful players can use their material, cultural, and symbolic resources to marginalize or exclude dissent and get their way, even in settings that allow for deliberations (Hayward, 2004; Young, 2000). As we explained in section 1, political theorists move towards a systemic understanding in which deliberation can (and should) take in multiple loci.

Yet, the vast majority of critical scholarly discussion about deliberative planning treats it as if it is an autonomous and self-contained process. These studies assess the legitimacy of deliberative planning independently of the political environment in which it is situated and identify theoretical and practical deficiencies (eg Baum, 1998; Carr and Halvorsen, 2001; Cook and Kothari, 2004; Feinstein, 2000; Irvin and Stansbury, 2004; Shirlow and Murtagh, 2004). We believe that this view is problematic. From a normative perspective, it sets an unnecessary and unrealistic standard against which to measure the legitimacy of deliberative instances of planning. But such a view also fails as an explanation. To understand the social dynamics that are generated by the deliberative process, we need to examine the interaction between the deliberative process and other social processes. Therefore, we propose a framework that allows an understanding of deliberative planning in the context of its dynamic relationship with other social processes. We do so by understanding deliberation as a form of political representation that competes with other forms of representation.

3 Deliberation as the source of representative claims

To see how deliberations can be understood as a form of representation, we need to look at the relationship between democratic deliberation and democratic representation. Representation is commonly understood as a relationship between an agent and a representative, which takes the form of either a 'mandate' or a 'trustee'. As a mandate, representation is a formal legal relationship characterized by the authorization of the agent and the accountability of the representative. In this understanding, the representative is assumed to act in the name of the agent. When she does not do that, she is not really acting as a representative. The 'trustee' view of representation, famously articulated by Edmund Burke, sees the role of the representative as a trustee who has the capacity to judge the best interests of her constituency. However, recent works on the notion of representation suggests that representation should be understood as a multidimensional and complex relationship. These theories move from a local to a systemic evaluation of representation. In the systemic view, as Hannah Pitkin asserts, "representation is not any single action by any one participant, but the over-all structure and functioning of the system, the patterns emerging from the multiple activities of many people" (1967, pages 221–222; cited in Brown, 2006, page 206). The advantage of the systemic view is that it allows a study of relationships that are not based on authorization and accountability as relations of representation. For example, only under the systemic view of representation is it possible to understand how an NGO can claim to represent the poor even though the organization does not have their formal authorization.

For our purpose, the systemic view of representation allows us to conceptualize deliberative initiatives as a form of representation. Deliberative initiatives seek to create a microcosm of the entire community. Such initiatives claim to represent the interests that members of the community would have reached had they had the opportunity to deliberate (Fishkin, 1995). Such artificial microcosms are needed because representative institutions that are based on elections can make it difficult for both the representatives and the constituency to reexamine their interests. The agents elect representatives to represent what they take to be their interests (their 'raw' pre-deliberative interests) and in turn hold the representative accountable against their existing conception of interests.

Thus, we seek to develop a theoretical framework that would allow the study of deliberation as a kind of democratic representation. The framework we propose is built upon two theoretical moves. First, we follow Michael Saward (2006) in making a distinction between representation and 'representative claims'. We are not interested in evaluating the question of whether deliberative planning or any other institution are

truly deliberative or truly representative (cf Rehfeld, 2006). Instead we analyze the claims that various players make for representing other players or issues (we focus on the claim of the NGO we study). The advantage of this approach is that it allows us to examine the burdens of justification that players take upon themselves in claiming to represent others.

Claims for representation are open to evaluation by other political players who can find them more or less plausible (Saward, 2006, page 303). Thus, an NGO can make a claim to represent a community by virtue of a deliberative process it has organized. However, if the process is perceived to be flawed, the representative stance of the NGO will be weakened.

Second, to understand the dynamics of claim-making, we situate the individual ‘representative claims’ within what Mark Warren describes as “ecology of representative institutions” (2008, pages 67–68). The perceived strength of any representative claim should be evaluated based on the perceived strength of the competing claims of other players.

These two theoretical moves allow us to study the representative claim that emerges from a deliberative process as an ideal-type. A carefully designed deliberative process can create a persuasive claim to speak in the name of the community. The strength of the representative claim is influenced by two factors. The first is the quality of the deliberative process. All things being equal, a flawed process would not create a strong representative claim because participants and observers can point at flaws in the process. At the same time, a representative claim that emerges from deliberation will be stronger, and likely to have more impact, the more it operates within an ecology that does not provide other sites for deliberation. As we shall see in our case study, the process that we study was far from truly deliberative—in intention and in practice. However, in the ecology in which it emerged, it was persuasive enough to give the NGO an official and unofficial right of standing as representative of the community.

Yet, at the same time, a deliberative process generates a claim that emerges from outside the ongoing political process. Its strength is tied to the deliberative process from which it originated. The more time passes from the original process, or circumstances change, the weaker the claim becomes. Once the deliberative process comes to an end, the entity that makes the representative claim begins to operate as a trustee of those who deliberated. However, in the context of negotiations or when circumstances change, the situation is different from the one that was discussed in the deliberative process and the representatives have to interpret the mandate that they claim on behalf of the process. This interpretation can be challenged both by participants in the process and by other players. It might be the case that those who make the representative claim have other sources of bargaining power. Nonetheless, the power that comes from the deliberative process is stronger, the more it is tied to the actual process of deliberation.

4 The Kaminker project: a new plan for Isawiyah⁽¹⁾

In this section we offer a brief description of the Kaminker project and in section 5 we discuss the process using our theoretical setting of ecology of representation.

⁽¹⁾ With the initiation of the Isawiyah project, the donors allocated a budget for external researchers to observe the process and raise theoretical and practical research questions. One of the authors of this paper served as the external researcher. We had independent as well as direct access to meetings, documents, and protocols; participated in a vast majority of the meetings; were on the mailing list of the project and received all meeting protocols. Eighteen months after the project was launched, the research team carried out semistructured in-depth interviews with three main groups: a small group of key participants from Isawiyah (eighteen interviewees); the NGO, Bimkom’s managers and Bimkom activists who played an active role in the social team; and key actors of the professional team.

The municipal area of Jerusalem increased dramatically after the 1967 war in which Israel came to occupy the West Bank. Immediately after the end of the war, the Israeli government decided to impose Israeli law on some of the neighborhoods and villages to the east of Jerusalem and de facto to annex these territories to Israel. Thus, to the 38 000 dunams⁽²⁾ of pre-1967 West Jerusalem, another 70 000 dunams were added to the municipality of Jerusalem. With the annexation of the area, 69 000 Palestinians (who were formerly under Jordanian control) joined the population of Jerusalem, reducing the relative share of the Jewish population in Jerusalem from 97% before annexation to 74% afterwards.⁽³⁾

In 1973 the Israeli government took a decision to freeze the relative share of the Jewish and Palestinian populations in Jerusalem at the 1972 level—namely, 73.5% Jews and 25.5% Palestinians—which has become known as the principle of “demographic balance”.⁽⁴⁾ The motivation for the decision was to ensure that a Jewish mayor would be elected in a democratic process. Since then, much of Jerusalem’s planning policy has been driven by this principle, aiming to maintain the Jewish majority in the city in the face of the fast natural growth rate of Jerusalem’s Palestinian population⁽⁵⁾ in what Bollens termed “municipal partisan strategy” (Bollens, 2000) and Yiftachel and Yacobi called “urban ethnocracy” (Yiftachel and Yacobi, 2003). Alongside the formal policy which emphasized efforts to attract a Jewish population to Jerusalem (by adding new neighborhoods and annexing further territories to Jerusalem), a more subtle policy tried to restrain the development of Palestinian neighborhoods. One of the major consequences of the planning situation in East Jerusalem is that a limited number of building licenses are granted to Eastern neighborhoods. Residents of East Jerusalem have limited options in terms of choosing where to reside. It is difficult, for a number of reasons, to move to the western parts of the city and to settle in predominantly Jewish neighborhoods. If residents move outside Jerusalem to other locations in the West Bank, they can lose their residency status and the ability to move (or even travel) back to Jerusalem, as well as some other important privileges.

Currently, the vast majority of building in East Jerusalem is illegal and takes place outside the planning system. There is general agreement that the current situation is one of crisis. For political reasons, the municipality is reluctant to offer a comprehensive plan that allows for the expansion of East Jerusalem neighborhoods. Yet, the municipality is unable to cope with the massive amount of illegal building that takes place and resorts to the controversial and mostly ineffective policy of sporadic demolition.

Isawiyah, once a village, is a Muslim neighborhood in the northern part of the Jerusalem municipality with an estimated population of 12 000. Between 1948 and 1967, most of Isawiyah was within the Israeli enclave territory around Mount Scopus, which was demilitarized and under United Nations supervision.

⁽²⁾ 1 dunam = 1000 m² or 0.25 acres.

⁽³⁾ Most of the Palestinians living in East Jerusalem do not have Israeli citizenship but residency status. Therefore, they cannot participate in national elections but can participate in municipal elections. However, the vast majority of East Jerusalem Palestinians choose not to participate in municipal elections, as a political protest against the Israeli occupation. While the general participation rate at the 2008 municipal election was 42.2%, participation of East Jerusalem residents was less than 2% (*Statistical Yearbook of 2009/10* table 19).

⁽⁴⁾ In 2008 there were 763 600 inhabitants in Jerusalem, 64.8% of them are Jewish (and other) and 35.2% are defined as ‘Arabs’ (*Statistical Yearbook 2009/10* table 4).

⁽⁵⁾ Between 1967 and 2002 the Palestinian population grew 1.7 times faster than the Jewish population in Jerusalem, with the gap in growth rate widening since the 1990s (*Statistical Yearbook 2004/05*).

As in many East Jerusalem neighborhoods, the existing plan for Isawiyah (prepared by the municipal planning division) does not respond to the current and future needs of the population and it suffers from a severe shortage of public buildings and educational institutions, and from an inadequate road infrastructure. As in other neighborhoods, this leads to unauthorized building by the residents and ongoing threats and implementation of house demolition by the authorities.

Against this background in 2004, the NGO Bimkom and a few local residents from Isawiyah decided to initiate a deliberative process of planning and prepare a new land-use plan. It had a clear message: confronting the planning authorities in Jerusalem with the claim that the interests of East Jerusalem Palestinians are not represented in current plans. Bimkom is a left-leaning NGO that is working to promote civil rights through planning. The organization encourages and assists powerless stakeholders to get involved in the planning of their neighborhoods and uses its members' professional expertise as an advocacy tool (Yacobi, 2007). Most of its activity focuses on minority communities in Israel, mainly Palestinian and Bedouin.⁽⁶⁾ The working assumption of the organization is that the root cause of the planning crisis in Isawiyah and other neighborhoods in East Jerusalem is political: it is the Israeli occupation and the interest of state institutions in preserving a favorable Jewish demographic balance. They understand planning to be a site of political struggle, and they believe that they can make limited gains and real improvements in the life of the residents if they employ the professional language and toolkits of urban planning.

We want to be clear. The planners of the organization cannot be portrayed as naïve well-meaning elite professionals who want to 'assist' minorities. Bimkom's understanding of the planning situation in Israel is political all the way down and the organization went into the project braced for an uphill struggle with the planning authorities. They understood the process as a form of social activism that seizes upon appeals to the values of inclusion and participation that are part of the official discourse of planning.

Bimkom initiated the process with two parallel goals: to prepare a responsive and need-based new land-use plan, and to organize an authentic and honest process of community participation in the planning process. Bimkom set in motion two interactive processes spearheaded by two teams: a professional planning team and a social team. The first team prepared the plan in accordance with the professional requirements mandated by the planning authorities. All team members were selected by tender according to their professional qualifications as planners and were paid for the job. In addition, two leading members of Isawiyah (who were also the initiators of the project) were part of the professional team and were invited to all their meetings. The second team, the social team, was in charge of the community participation process. In addition to the community coordinator, the group consisted of a core of six members who led the participation process as volunteers. While the community coordinator was an Israeli Palestinian (not from the village) all the other members were Israeli Jews. Table 1 presents the main participatory activities in the process (for more details see Cohen-Blankshtain and Gadot-Perez, 2009).

There were numerous challenges that made the participation process far from ideal. Participants were mostly male and landowners. Some women participated in separate meetings, and the participation of renters was minimal. Moreover, given the limited availability of land, landowners pressed for expansion of the plan area in a way that would allow them to build on their family land. For similar reasons, families were not interested in allocating part of their own land for public purposes. Indeed, when Bimkom published the plan draft, a leading member of a large extended family

⁽⁶⁾ Further details about Bimkom may be found on their website: <http://www.bimkom.org>

Table 1. Main components of the participatory process in Isawiyah.

Stage	Content	Participation	Methodology/ rationale	Output
1 March–May 2004	Understanding Isawiyah community	Various Isawiyah residents and local leaders.	Random talks in the street, meetings at private homes.	Short text describing in general terms the socioeconomic structure of Isawiyah
2 May 2004	Kick-off meeting with people in Isawiyah	All village invited via the local mosque.	Presenting the project and the main managing planner; newspaper coverage.	Eighty people from Isawiyah attended.
3 June 2004– February 2006	Sixteen workshops with the community	Between eleven and twenty-five participants. The first two meetings were announced publicly by megaphone. Invitations to the rest of the meetings were made personally, to the existing group.	Lectures; discussions; brainstorming; group work; and imagination activities.	Explanations about the planning process and the nature of the master plan; local knowledge about the state of the village; discussion about the village vision; possible alternatives for future development; planning of roads as they are the primary reason for taking private lands for public use.
4	Steering committee	Two residents from Isawiyah; Palestinian activists; Bimkom's members and management; academia; and the donor.	Three meetings during the project and updates about the process and the problems.	
5 September 2004	Meeting of the residents' representative body	Eleven people from all eleven extended families (Hamula) were invited by one of the local project initiators.	Creating a forum to take responsibility for the process and represent the community.	Since the members were not chosen by their Hamula, they refused to take decisions. After a meeting the group activity came to a stop.
6 July 2005	Distribution of the draft plan map	Distributed to workshop participants.	Copy of the plan map.	
7 March 2006	'Planning store'	All community invited to visit the store during its opening hours.	Invitations to the planning store were distributed at the buses of the local bus company. The store was located in Isawiyah, and people were invited to see the plan, ask questions and make requests.	Twenty-two files with special requests for changes to the plan were submitted.
8 September 2007	Signing the plan	Three residents from Isawiyah who formed an NGO.	The new NGO, based on a letter signed by the twenty-three residents, formally signed the proposed plan.	The plan was submitted to the planning authority with a signature that represents people from Isawiyah.
9 May 2009	Consulting with residents about negotiations with the planning authorities	Meeting with a few residents.	Sharing the frustration from the negotiation with the planning authorities and asking for clear guidance for future negotiations.	No clear guidance for future negotiations was produced.

(*Hamula*) in Isawiyah who believed that the plan rendered their family ‘losers’ hired a lawyer to challenge the legitimacy of Bimkom and the planning process, or what we described as their representative claim (although some family members took an active part in the process). Moreover, a few families who realized that part of their land was allocated for public use (roads or public buildings) immediately began to build houses (illegally) on that land in order to block the plan by creating ‘facts on the ground’ that would make implementation of the plan more difficult. The intention of such actions was to erode the representative claim of Bimkom (and the legitimacy of the entire process) by making the outcome of the deliberative process futile.

Bimkom decided to suppress internal conflict between the stakeholders in Isawiyah and push forward with the plan. They opened a ‘planning store’ in the village, where the residents could come in, see the proposed plan, ask questions, and suggest revisions. The planning store enabled people to see the map and the plan and encouraged those who were not involved in the process to ask questions about it and comment on the plan. As a result, the land-use plan was adapted to accommodate the special needs of families affected by the plan.

During the various stages of the deliberative process and the plan preparation that followed the planning authorities were informed about the process. In fact, various planning requirements which they made were embedded in the plan. However, the further the plan moved ahead, the more tense the relationship became. When the plan’s draft started to materialize, against all odds, in the middle of 2005, the planning authorities—especially the city planning department and the Nature and National Parks Authority (NNPA)—began to actively challenge the plan. As we point out in section 5, the challenge was not directed at the right of Bimkom to represent the residents of Isawiyah. No other player claimed to provide a more authentic representation of Isawiyah than Bimkom or argued that the process was not deliberative enough. Formally, the challenge was mounted on professional grounds. It was claimed that the plan had overestimated the population, did not maximize use of the existing neighborhood area, and as a result inflated the need to expand the plan area. Moreover, the NNPA claimed that the request to expand the planning area to the north conflicts with their intention to preserve that area as a national park. They argued that the requested expansion overlaps an area with unique natural and symbolic qualities (it is in fact one of only a few remaining areas offering an open view to the Jehuda Desert from Mount Scopus). When discussions with NNPA were unsuccessful, Bimkom took the story to a newspaper, whose coverage portrayed NNPA personnel as gangsters brutally blocking the only area that Isawiyah could develop, and forced NNPA to return to negotiations (Rapaport, 2006).

The last stage of the participation process was a crucial one: according to Israeli planning law, the land-use plan must be signed by the planning authorities as the initiators of the plan, or if it is not planned by the formal planning authorities, by another body that has a stake in the land. Bimkom expected that the residents of Isawiyah would sign as the initiators of the plan. After lengthy debate, twenty-three residents from all the extended families signed a document describing the project, its goals, and its outcome. In doing so, they indicated that the residents claimed the plan as their own and authorized Bimkom to advocate on behalf of their plan. On the basis of this document, three residents of Isawiyah established a nonprofit organization and that organization signed the proposed plan.

When the plan was submitted to the local planning committee, it was challenged on both professional and political grounds. The challenges to the plan reflect its opponents: the southwestern line of the plan marks the conflict with the NNPA over the planned national park. The northwest line of the plan marks the border with the very

close Jewish neighborhood of Zameret Habira (the proposed plan leave a few hundred meters between the two neighborhoods). The northeast line of the plan was challenged by the committee itself who felt that the expansion went too close to an existing highway. In addition, the Hebrew University expressed concerns about further expansion of Isawiyah towards its property: there had been a few incidents of shooting and the throwing of Molotov cocktails towards the campus and hospital; and such an expansion could restrict the university's own plans for future development.⁽⁷⁾

Although the committee formally blessed the initiative, they demanded significant reduction of the planned area and concentration of the plan in order to accommodate housing with a smaller expansion of the neighborhood. The committee decided to conditionally approve the plan but with some significant changes requested (as described above) which dramatically reduced the plan area. As a result, Bimkom refused to continue with the approval process. Currently, the plan has not been processed through the planning system since Bimkom is seeking more acceptable compromises in the plan and the city planner refuses to approve the plan without the requested changes. Bimkom anticipates that the negotiations will move to the courts and to the political arena where there is increasing international political pressure for comprehensive planning for East Jerusalem.

5 Situating the deliberative process in the political environment

In this section we offer an examination of the participatory – deliberative process in the light of the ecology of representative institutions in Jerusalem. The question we ask is whether and how the deliberative character of the planning process mattered. Or, to put the question in counterfactual form, we ask whether Bimkom could have pursued a planning process without the participatory – deliberative component. To address this question, we first examine the role of the deliberative process in preparing the plan (could Bimkom have made acceptable plans without a deliberative process?). Then, we examine how the fact that the plan Bimkom presented to the authorities was a product of deliberation affected Bimkom's ability to negotiate with the planning authorities and other stakeholders.

The Israeli planning process is centralistic, hierarchical, and statutory, offering little place for public involvement in the process (Benvenisti and Sagi, 2005; Shmueli, 2005; Vraneski and Alterman, 1994). Public participation is limited to the formal right to object to plans when they are presented at the deposit stage. Since 1995, an amendment to the Planning and Building Law allows people who have an interest in an area of land to initiate a local plan. This amendment opens another route for public involvement in the planning process, not just by objecting to published plans, but by initiating plans and aiming at desired outcomes. In part as a result, in the last decade there has been a growing bottom-up demand for participation in local and regional planning initiatives, mainly by NGOs.

The formal planning process does not offer ways for meaningful public involvement. Instead, most of the input from the public (if any) comes through the political process. The local and regional planning committees are composed of appointees from the relevant ministries and elected officials from local councils. This administrative structure encourages a process of (often shadowy) bargaining that is based on the political power of the different members.

⁽⁷⁾In March 2002 the Israeli authorities arrested a terror group from Isawiyah that was blamed for these attacks, among other changes. The announcement of their arrest can be found at <http://www.pmo.gov.il/PMO/Archive/Spokesman/2002/%D7%9E%D7%A8%D7%A5/Spokesman6042.htm> (in Hebrew).

While this structure does not encourage public input, let alone a deliberative one, it allows weak political communities to have some voice in the process through their electoral representatives. Thus, for example, the planning situation in Arab municipalities within Israel is not one of complete crisis precisely because members of these communities have some voice in the local planning process. The representative institutions that governed the planning process in pre-1967 Israel allow, in a limited way, for a bargaining process that does not simply reflect the relative powers of the participants but also the needs of the weaker participants and the shared interests of the community as a whole.

The ecology of representative institutions is different in East Jerusalem. Since, for political reasons, Palestinian residents of East Jerusalem choose not to participate in municipal institutions, they have neither power nor voice in the planning process. In particular, right-wing politicians who vehemently oppose any workable planning dominate both the planning process and the public sphere (Margalit, 2009). As a consequence, the planning process in the Arab neighborhoods of East Jerusalem is one of permanent crisis. While some officials, at both the municipal and the national level, oppose any viable planning solution on ideological grounds, this is not the case across the board. In fact, the planning crisis is increasingly becoming a focus of international pressure on Israel. However, the ecology of representative institutions that regulate the planning process prevents the kind of reflective negotiations that are required for a solution.

Thus, the answer to our first question, how the deliberative character of the process shaped the process itself, is that Bimkom had to resort to a deliberative process because it did not come from inside the existing ecology of representative institutions. The *participatory* and *deliberative* aspect of the process, even though it was motivated by Bimkom's planning ideology, was crucial in giving the organization a right of standing in the planning process. The Israeli Planning and Building Law allows land-use plans to be submitted either by planning authorities or by stakeholders with direct interest in the land at stake. The land-use plan could not be submitted by Bimkom but had to be submitted by residents of Isawiyah. Technically, Bimkom could have formulated the plan with its own expert planners and found residents who would sign on it. However, such a plan would have faced two types of local objections. First, such a plan could have been regarded as an unwanted cooperation with the Israeli establishment. Here, the fact that Bimkom is not part of the planning authorities and not committed to their goals enabled the project to kick off. During the meetings with the residents, Bimkom kept distinguishing the organization from the planning authorities, stressing its commitment to planning rights and justice. It enabled the planners to (slowly) build a relationship of trust with the community and to focus on the expected benefits of the process. Throughout the deliberative process, the active residents became persuaded that initiating a new land-use would promote their interests.⁽⁸⁾ Second, the deliberative process was needed in dealing with objections by individual residents to specific aspects of the plan.

Thus, the deliberative process allowed Bimkom to make a representative claim to represent the interests of the residents of Isawiyah when negotiating with the planning authorities and other relevant actors. In fact, because of the unique ecology of planning in East Jerusalem, the claim was almost unchallenged. Other stakeholders challenged specific details of the plan, but no other player stood up to argue that they could better represent the interests of Isawiyah. Furthermore, the very claim of

⁽⁸⁾ We do not want to take a position here on the substance of the matter (whether the residents were right in their decision). Our point is that the deliberation allowed Bimkom to make a claim that the residents found convincing.

Bimkom to represent Isawiyah was challenged only in two relatively minor instances and by players who did not claim to speak in the name of the residents. The first challenge came from a family from Isawiyah who, after the plan draft was published, felt they were harmed by the plan. They hired a lawyer who questioned the legitimacy of Bimkom to prepare the plan and represent the community. In this case, additional negotiations succeeded in suppressing the objection by accommodating some of their demands. Second, when the plan was submitted to the Local Planning Authority, a member of the planning committee questioned the legitimacy of Bimkom to submit the plan (Municipality of Jerusalem, 2007). He challenged the legal standing of Bimkom (ignoring the deliberative process and the signature of a committee from Isawiyah), even though his essential objection was based on the 'strategic threat' posed by expansion of Arab neighborhoods (Municipality of Jerusalem, 2007, page 3). Here, the objection was entered on the protocol, but was not accepted by other members of the committee. In fact, in one instance Bimkom's representative claim was co-opted by the municipality that presented it as part of their own initiative. When an official from the municipality had to confront criticism about the planning situation in East Jerusalem, she presented Bimkom's plan as evidence of an ongoing effort by the municipality to develop a comprehensive plan for East Jerusalem.

Let us now turn to our second question of how the deliberative character of the process affected Bimkom's negotiation with other stakeholders and with the planning authorities. We argue that while the deliberative process allowed Bimkom to gain a 'right of standing', it also created a complex representative claim that weakened Bimkom's ability to negotiate. The weakness of the representative claim eroded Bimkom's already low bargaining power due to the fact that the organization is an outside player and does not have official or social power within the existing ecology of representative institutions.

On the one hand, the deliberative process with the community generated a 'mandate' representative claim. Bimkom served as the facilitator of the process, but the authors and the owners of the plan are the residents of Isawiyah, who in turn authorized Bimkom to take the plan to the proper authorities. However, once the deliberations ended, and from the perspective of the other stakeholders, Bimkom has had to take on the role of a 'trustee' and to be able to compromise in the name of its constituency.

The complex character of the representative claim affected the process of the deliberation itself. On the one hand, the deliberative process forced Bimkom to try to create a meaningful participation process that exposed conflicts within the community. On the other hand, Bimkom could not afford internal conflict that would destroy the process. Thus, Bimkom was confronted with two conflicting values: deliberative process on the one hand and strategic action (valid plan for Isawiyah) on the other (Montpetit et al, 2004, report a similar dilemma).

Once the deliberation stage reached its conclusion, the tension between the two types of representative claims was accentuated. Bimkom tried to reconcile the two types of claims by setting up an additional meeting with the residents asking the community for guidance on further negotiation (see table 1, stage 9). However, at that meeting no clear decision was made, leaving Bimkom's team with the two roles unreconciled. Thus, both facets of the representative claim are gradually being eroded. First, changes of 'facts on the ground' and changes in the positions of the residents of Isawiyah make the original agreement less relevant as a policy document. Then, as time from the 'originating process' passes and as conditions change, the 'trustee' representative claim of Bimkom becomes weaker, and in fact Bimkom returns into being one more NGO with an interest in the process.

Another complication in the representative stance of Bimkom is evident. While Bimkom represents the community of Isawiyah before the planning authorities, it also seeks to represent the wider group of Palestinians in East Jerusalem. This wider group is a stakeholder in the process but was not partner to the deliberation. Bimkom viewed the Isawiyah planning process as a demonstration project to show that planning with the community, even a challenging one such as Isawiyah, can be successful. As a demonstration project, the interest of Bimkom is to successfully complete the process. As a representative of Isawiyah, completing the process is less important, as it may require compromise that could harm specific actors in the community.

6 Conclusions

Had we chosen to measure Bimkom's planning process against any ideal model of deliberative planning, we would have to deem it a failure. The moments of genuine free discussion among the residents were too sporadic and too constrained to meet any measure of ideal deliberation. Even more importantly, the topic of discussion was limited from the outset: residents were invited to discuss a land-use plan, not the overall set of relationships between East Jerusalem Palestinians and the Israeli authorities. One can imagine that a free and open discussion on the current conditions in Isawiyah and the ways to change it would not choose to focus on where to put a play park but would quickly drift to broader political questions.

Whether or not the Kaminker project was 'truly deliberative', we argue that it is best understood as a deliberative representative claim that was introduced in an ecology of representative institutions that previously lacked any such deliberative claims. Bimkom could not have gained any standing had it been perceived as just another interest group. To explain its relative success in engaging the planning authority, we must have a theoretical framework that accounts for the persuasive power of the deliberative nature of the representative claim. Furthermore, the deliberative claim of Bimkom affected the character of their interaction with the authorities. It forced the City Planner to engage in an exchange of reasons about the justification for the planning constraints and restrictions put upon East Jerusalem neighborhoods.

Although the plan is still not approved and—to the extent the existing political impasse will continue—most likely will not be approved in the foreseeable future, the plan enabled residents to articulate their interests and to translate them to the professional language of planning. Isawiyah is the only neighborhood in East Jerusalem for which an actual plan exists and it is one that the residents accept. Social activists were able to confront the planning authorities with an actual plan and not only with general demands for equitable planning policies. In the planning environment of East Jerusalem, this is more than a minor achievement. Furthermore, as we indicated above, the planning authorities attempted to co-opt the process and present it as evidence of progress in solving the planning crisis in East Jerusalem. The planning authorities must be advised to pursue this co-optation strategy at their own risk. In claiming ownership of the process, they not only open the door to similar processes elsewhere but also recognize the Palestinian residents of East Jerusalem as partners in a dialogue about the future of the city.

However, situating the process within the ecology of representative institutions also allows us to understand the shortcomings of a deliberative representative claim within a political environment that is not hospitable to deliberation. Bimkom's power within the planning arena emerged entirely from its exclusive ability to articulate a plan. No other institutional player had the motivation or the political capacity to propose a workable plan. At the same time, Bimkom did not have any other *de jure* or *de facto* source of political power. This, we argued in the previous section, led to a gradual erosion of the

organization's ability to engage in the bargaining process that is needed to implement the plan. The ecology of representative institutions is not designed to allow spaces for deliberative opinion-making and does not have a system for empowering the outcomes of such decision-making processes. Consequently, deliberative planning has to be organized by social activists and in this sense is similar to other forms of social activism. Hypothetically, a strike, a demonstration, or a dictat of the international community could have brought a plan to the attention of decision makers. However, as such, the power of Bimkom and its ability to push the plan stems from its ability to gain political power and not from the quality of the deliberative process itself. For a deliberative planning process to be successful qua a deliberative process, it has to be situated in an environment that is hospitable to deliberations [see Fung (2005) for a discussion of deliberation as a form of social activism].

As we stated in section 1, our goal—following Yifatchel—is to provide a theoretically informed case study that can “assist practitioners by enabling them to learn from example and analyses of planning's negative aspects” (1998, page 404). We believe the theoretical framework and case study allow practitioners to make a realistic assessment of the benefits and drawbacks of using deliberative practices as a strategy of social activism in the cause of meeting the planning needs of their communities. We argued that the relevant question should not be whether deliberative planning can produce a ‘good plan’ *tout court* but whether it can produce a representative claim which can gain legitimacy in the political environment in which it is situated. The understanding of the product of deliberative planning as a representative claim can allow practitioners to understand the relationship between the design of the deliberative process (which produces a more or less legitimate deliberative representative claim) and the analysis of the political environment.

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