

Enacting democracy: Deliberation, agonism, and the empty place of political action

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Abstract

Despite the celebrated place of political action – and in particular, the kinds of contentious collective action characterized by protest – in the history of modern democracy, it is notably absent in recent deliberative and agonist theorizing. In the midst of a debate centered on the dynamics of conflict, consensus, disagreement, diversity, and popular sovereignty in a democracy, a curiously empty place has opened up between the two sides: while the political action of social movements and collectivities operates as an important referent for both deliberative democrats and their agonist critics, both have tended to stop short of theorizing the ways social movements act to provoke, promote, and protest particular forms and modes of our shared public and democratic life. This paper argues that contentious, collective political action, though involving both deliberative and agonistic elements, is not well-captured by either theory. A better understanding of the dynamics of political action -- both descriptively and normatively -- is crucial to any understanding of the kinds of social and democratic changes valued by both deliberative democrats and agonists.

Introduction

In some ways, the most potent image of the history of democracy is that of the people, filling the streets or the public square, engaged in the contentious, collective act of protest. From a bloody, revolutionary baptism at the Bastille to more recent events – revolutionary, reformist, or somewhere in between – in Tahrir Square, Gezi Park, and dozens of “Occupy” sites across the U.S., the particular forms of political action undertaken by citizens in assembly, organized dissent, and collective demonstration have proven a vital part not only of foundings (and re-foundings), but have served as incomparable mechanisms for the maintenance, reform, revitalization, disruption and transformation of political practices and institutions. The history of the twentieth century – the dawn of the age of mass democracy – perhaps bears the most powerful witness to this reality; the first years of the twenty-first century seem no less poised to teach us how we of the digital age still require the flesh-and-blood assembly of citizens and the real-life upheaval of the commons. Little wonder, then, that such actions and events occupy so central a space in our democratic imaginaries; they are an integral part of the story we tell ourselves about ourselves.

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It would be difficult to tell that this was so, however, by paging through the annals of some recent debates within contemporary democratic theory. Ironically, it is within that area of democratic theory most concerned with the descriptive and normative questions raised by contentious political action – with identifying the means of building consensus and solidarity, outlining the proper role of conflict and disagreement in democratic life, specifying the available mechanisms of social and political change, and re-locating spaces of popular sovereignty and legitimacy for a post-foundational age – that action itself is most studiously avoided. I speak, of course, of the now decades-long debate between deliberative democrats and their agonist critics.²

Over the course of several decades, deliberative democrats have held that rational consensus is, in principle possible, and that democratic legitimacy in fact depends on its possibility – even if its reality is never quite reached. Originally articulated as a critique of – and alternative to – understandings of democracy as “preference aggregation,” the ideal of deliberative democracy requires that collective decisions be the product of the free, uncoerced public reasoning of equals, in which arguments are justified not with reference to individual, private preferences, but in general terms oriented toward the common good. Decisions, therefore, are legitimate only to the extent that they meet (or could meet) with the rational assent of all affected by them. This means that any decisions made must be at least capable of a process of public justification – a process in which (ideally) all are equally able to participate, offer reasons and critique, and contest arguments and assumptions made by others. The ideal procedures posited by the deliberative model thus offer both a counterfactual standard for assessing (and criticizing) the legitimacy of laws, decisions, procedures, and so on, but also a model for how democratic, public institutions ought to function if they are to respect and reflect the freedom, equality, and rational autonomy of citizens.³

The concept of democratic legitimacy offered in deliberative terms is a demanding one – so much so that some critics have remarked that the preconditions of rational deliberation (the features of the so-called “ideal speech situation” – that is, equality, reciprocity, openness, and publicity) seem not to be a

² I no doubt paint with too broad a brush, and exceptions can certainly be found. I aim in this paper to outline the contours of a particular debate, not characterize each and every deliberative democrat and agonist.

³ See e.g. S. Benhabib, “Toward a Deliberative Model of Democratic Legitimacy,” in *Democracy and Difference: Contesting the Boundaries of the Political*, edited by S. Benhabib (Princeton, NJ: Princeton University Press, 1996); J. Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, translated by W. Rehg (Cambridge, MA: MIT Press, 1996); A. Gutmann and D. Thompson, *Democracy and Disagreement* (Cambridge, MA: Belknap Press, 1996); J. Cohen, “Deliberation and Democratic Legitimacy,” in *Deliberative Democracy: Essays on Reason and Politics*, edited by J. Bohman and W. Rehg (Cambridge, MA: MIT Press, 1997); Bohman and Rehg, eds. *Deliberative Democracy*; J. Rawls, “The idea of public reason revisited,” *University of Chicago Law Review* 64, no. 3 (Summer 1997): pp. 765-807; S. Macedo ed., *Deliberative Politics: Essays on Democracy and Disagreement* (New York: Oxford University Press, 1999); Bohman, *Public Deliberation: Pluralism, Complexity and Democracy* (Cambridge, MA: MIT Press, 2000); J. Dryzek, *Deliberative Democracy and Beyond: Liberals, Critics, Contestations* (New York: Oxford University Press, 2002).

starting point for a discussion of political issues, but rather the substantive and contested demands of ongoing political struggles. In the real world of structured power imbalances, systematic inequalities, and institutionalized exclusions of various kinds, the standards of deliberative theory may indeed appear too utopian.⁴ But on this point, deliberative democrats have been careful to clarify that the “ideal speech situation” offers not a starting point or preconditions, but a “regulative” and “counterfactual” ideal for democratic decision-making, such that those excluded from particular decisions or adversely affected by them can raise a challenge, and thus reopen the deliberation. The debate, as such, is never closed, and the decisions reached are always fallible.⁵

Even so, the idea that consensus on matters of common concern can provide even a “regulative ideal” for democratic life has, in recent years, been vociferously denied by theorists of “agonistic democracy.” In contrast to deliberative theorists, agonists tend to point not toward consensus but toward conflict. Arguing in a variety of registers – and drawing from theorists as diverse as Carl Schmitt, Jacques Derrida, Hannah Arendt, and Friedrich Nietzsche – agonists affirm the place of conflict and contestation in democratic life, and view the concepts of rationality, reasonableness and consensus with suspicion. Though there are considerable differences between the theories and methods of agonistic democrats, they share the presumption that rational consensus is not only a potentially oppressive idea – ready to be used by those in power to brand outsiders as “irrational” or “unreasonable,” and eager to provide their own decisions the veneer of universality – but also, more crucially, a conceptual impossibility. As such, political agreements are always only reflective of hegemonic articulations of entrenched power dynamics, and are thus unstable, partial, and provocative of new contestation.

The response of deliberative democrats to the agonist’s challenge has been two-fold: First, many have revised or clarified initial positions staked out earlier to leave more room for ongoing moral disagreement, particular forms of ethical life, and more passionate, emotional, and varied forms of communication. Second, they have argued that, in various ways, the concerns of agonistic theory can be accommodated or subsumed within deliberative theory, in particular by showing how agonism itself relies on forms of consensus and reasoned dialogue. Thus, they have attempted to acknowledge and appreciate both the reality and importance of unsettled conflict within democracies, but have done so in such a way

⁴ I. Shapiro, “Enough of deliberation: Politics is about power and interests,” in *Deliberative Politics*.

⁵ Habermas, *Between Facts and Norms*, p. 95; but see Benhabib, “Toward a Deliberative Model.” Benhabib argues that the “ideal speech situation” is *not* meant counterfactually, but rather as a description of those values and norms that are always already present and embedded within communication oriented toward understanding and within democratic life. Nevertheless this does not mean that for Benhabib perfect rational consensus is ever achieved; we may (and usually do) fall short of reaching the ideals implicit (*in nuce*) within our utterances and practices. Moreover because of her more Hegelian reinterpretation of Habermasian discourse ethics, the universal is always mediated and reinterpreted by the particular. See Benhabib, *The Rights of Others: Aliens, Residents, and Citizens* (New York: Cambridge University Press, 2005); Benhabib, *Another Cosmopolitanism*, edited by Robert Post (Oxford: Oxford University Press, 2006).

that reaffirms the primacy of a deliberative theory oriented toward consensus. To which the agonist – and in particular Chantal Mouffe – has responded with a refrain about the conceptual impossibility of complete and rational agreement. And so on.

In the midst of this debate, a curiously empty space has opened up between deliberative democrats and their agonistic interlocutors: while the political of social groups, movements, and collectivities operates as an important referent for both sides, both have tended to stop short of theorizing the ways that these groups act to provoke, promote, and protest particular forms and modes of our shared public and democratic life. In the service of a debate over the relative conceptual primacy of consensus or conflict, political action – beyond speech – has rarely been addressed. My claim, here, is that the philosophical impasse separating theorists of deliberation from those of agonism has been structured around a void, the empty place of political action. This oversight, moreover, is not incidental; it has the power to reveal, I think, both the virtues and the limitations of both deliberative and agonistic theories. In particular, it reveals a strong bias within deliberative theory toward modes of civility, and an inattention to the various modes of disruption and disorderliness that are provocative of social change – even under political conditions free from the power imbalances and structural inequalities modern democracies face. On the other hand, a closer look at political action reveal the limitations of conceptualizing conflict in terms of a *clash of identities* or an enigmatic and fleeting *moment of action* in concert, as agonists do. This paper thus argues that contentious, collective political action – those “creative oppositional practices of citizens who, either by choice or (much more commonly) by forced exclusion from the institutionalized means of opposition, contest current arrangements or power from the margins of the polity”⁶ – though involving both deliberative and agonistic moments, is not well-captured by either theory. A careful consideration of the dynamics of political action – both descriptively and normatively – is crucial to any understanding of the kinds of social and democratic changes valued by both deliberative democrats and agonists.

Within the scope of this paper, I can only provide the beginnings of such an account. The first half of the paper reviews and attempts to structure the nature of the debate between deliberative democrats and agonists. I do so not only to take stock, but to demonstrate the way in which recent turns have brought the two sides closer together, narrowing the philosophical distance between them. Despite this apparent convergence, however, political action is still largely absent – assumed rather than approached directly, as an important site of democratic theorizing on its own merits. First, I briefly discuss the critique of deliberation leveled by agonistic democrats, with particular attention to Chantal

⁶ H. Sparks, “Dissident citizenship: Democratic theory, political courage, and activist women,” *Hypatia* 12, no. 4 (Fall 1997): p. 75.

Mouffe as both the most cited and most strident critic (Section 1), before turning to some responses by deliberative theorists (Section 2). Next, I try to draw attention to the surprising silence of both sides on most (extra-linguistic) forms of political action, using this silence to point to some insufficiencies of deliberative and agonistic theories alike. In so doing I consider some features of the contentious collective action of groups and social movements that fall outside of deliberative and agonistic models, or that defy explanation in the terms offered by them (Section 3). I conclude by considering the value of approaching democratic theory from the standpoint of political action by outlining how such an approach dissolves or recasts two key questions that have brought the deliberation-versus-agonism debate to something of a theoretical stalemate: that of the ontological primacy of consensus or conflict, and that of the power of ideal versus non-ideal theory.

1 The agonist's critique

The agonist's critique is one that, at least within the bounds of contemporary political theory, is now well-established. Over the course of the past two decades, in response to the growing number of theorists espousing a deliberative theory of democracy, an array of "agonistic democrats" – notably, Chantal Mouffe, Bonnie Honig, William Connolly, and Sheldon Wolin – have insisted that the "rationalist" and "consensus" theories of deliberative democrats such as Jürgen Habermas are not only deeply mistaken, but do considerable damage to the fundamental pluralism of modern democracy.⁷ While there are important differences between the various agonistic theories on offer – Honig, for example, rejects Mouffe's deployment of Carl Schmitt, while Mouffe critiques Honig for her inattention to the antagonism that Schmitt theorizes – we can here lay out the core arguments that are more or less shared among them. However, because it represents the most unequivocal rejection of the premises of deliberation (as well as the most often cited representation of agonism), I will pay particular attention to Mouffe's theory of "agonistic pluralism."

The central claim of agonism begins with a premise shared by Habermasian deliberative democrats— that modern democracy is constituted by the "contingent historical articulation" (to borrow Mouffe's phrase) of two distinct traditions or conceptual logics: on the one hand, that of liberalism, which emphasizes individual liberty, the rule of law, universal human rights, and constitutionalism; and on the

⁷ C. Mouffe, *The Return of the Political* (London and New York: Verso, 1993); W. Connolly, *Ethos of Pluralization* (Minneapolis: University of Minnesota Press, 1995); S. Wolin, "Fugitive democracy," in *Democracy and Difference*, pp. 31-45; Mouffe, *The Democratic Paradox* (London and New York: Verso, 2000); Connolly, *Identity/Difference: Democratic Negotiations of Political Paradox*, Revised edition (Minneapolis: University of Minnesota Press, 2002); Mouffe, *On the Political* (London and New York: Routledge, 2005); Connolly, *Pluralism* (Durham, NC: University of North Carolina Press, 2005); B. Honig, *Emergency Politics: Paradox, Law, Democracy*, Reprint edition (Princeton, NJ: Princeton University Press, 2011); Mouffe, *Agonistics: Thinking the World Politically* (London and New York: Verso, 2013).

other hand, that of democracy, which is animated by core values of popular sovereignty, participation, equality amongst members of the *demos*, and the action of citizens. For Habermas, the two principles of human rights and popular sovereignty are “co-original” and mutually interpret one another: individual rights enable legitimate lawmaking free from arbitrary coercion, while legitimate lawmaking is generative of individual rights.⁸ For agonists, however, the relationship between the two is neither so productive nor so simple. In fact, it is riddled with paradox.

Indeed, for agonists the institutional framework of constitutionalism and the rule of law operates not so much as a necessary partner to popular sovereignty as a boundary-maker – a way to both *delimit and limit* the *demos*; to quite literally domesticate its power.⁹ In the name of universality, then, the logic of liberalism is a means of smoothing out the particularities and difference that is bound up with the meaning of democracy. It is for this reason that agonists, and Mouffe in particular, claims that they are not co-constitutive but “incompatible logics.” The relationship is one of a paradox in which claims to universal human rights limit the terms of popular sovereignty, while the exclusion required for the exercise of democracy limits the ability to realize truly universal human rights. The tension between the two is fundamental, and “can only be temporarily stabilized through pragmatic negotiations between political forces which always establish the hegemony of one of them.”¹⁰

The impossibility of reconciling the two “logics” thus implies, for agonists, the impossibility of rational consensus. Under conditions of modernity in which a radical clash of values defines the open public sphere, there is no neutral ground, no impartial procedure, capable of mediating between opposed interests, identities, value systems, and forms of life. To think otherwise, as Mouffe alleges that deliberative democrats do, is to “miss the specificity” of the political, to deny the deep value pluralism that constitutes our world, and to accept one hegemonic articulation as truth, as the indisputable product of a supposedly “rational” procedure. The pretension to rationality, in fact, serves as a convenient cover for power and arbitrariness (masked as universality) to impose its will. Consensus, then, is nothing other than the suppression of conflict and the erasure of difference. As Honig argues, “[t]o take difference...seriously in democratic theory is to affirm the inescapability of conflict and the ineradicability of resistance to the political and moral projects of ordering subjects, institutions, and values. ...It is to give up on the dream of a place called home, a place free from power, conflict, and struggle, a place – an identity, a form of life, a group vision – unmarked and unruined by difference and

⁸ See Habermas, *Between Facts and Norms*, chapter 3.

⁹ Wolin, “Fugitive Democracy.”

¹⁰ Mouffe, *Democratic Paradox*, p. 5.

untouched by the power brought to bear upon it by the identities that strive to ground themselves in its place.”¹¹

Here it might be useful to examine the alternative theory of democracy offered by Mouffe in particular, as she – more than the others – fixes on this critique of suppression, and aims explicitly to create a place not just for difference and pluralism but for forms of democratic conflict. Moreover, as we will see below, it is Mouffe’s work more than any other that is cited as the representative of the agonistic paradigm; more often than not, it is to her theory that deliberative democrats directly respond.¹² Mouffe follows Carl Schmitt in locating the “political” within an ineradicable conflict between self and other, us and them, friend and enemy. Thus, while “politics” is understood as “the set of practices and institutions through which order is created,” the “political” is the organization of “human co-existence in the context of conflictuality,” in which the threat of violence and antagonism is never far off.¹³ Yet unlike Schmitt, who celebrates the “real possibility of physical killing” and the “existential negation of the enemy” as the height of the political,¹⁴ irrepressible and undeniable, Mouffe searches for a means to transform antagonism into agonism, the enemy into the adversary. Like the long tradition of classical pluralists before her, she sees democracy as a way of “domesticating hostility” and “[diffusing] the potential antagonism that exists in human relations.”¹⁵

Mouffe suggests that we approach liberal democracy in terms of an “agonistic pluralism” in which citizens meet one another not in an antagonistic conflict between enemies, but in an agonistic relation between critical adversaries who exchange a “vibrant clash of political positions.” Such exchanges are guided not by rational principles or the force of the better argument, but a shared ethos – a “shared symbolic space” in which citizens hold allegiances to a shared ethical system, and thus recognize and respect the other as someone with legitimate concerns and the right to articulate a different perspective.¹⁶ This requires, then a “conflictual consensus,” in which citizens agree on “the institutions constitutive of democracy and on the ethico-political values informing the political association – liberty and equality for all,” but continually and continuously dispute and disagree over the interpretation of

¹¹ Honig, “Difference, Dilemmas, and the Politics of Home,” in *Democracy and Difference*, p. 258.

¹² See e.g., E. Erman, “What’s wrong with agonistic pluralism? Reflections on conflict in democratic theory,” *Philosophy & Social Criticism* 35, no. 9 (2009): pp. 1039-1062; Dryzek, “Deliberation in divided societies: Alternatives to agonism and analgesia,” *Political Theory* 33, no. 2 (2005): pp. 218-242; A. Knops, “Debate: Agonism as deliberation -- On Mouffe’s theory of democracy,” *Journal of Political Philosophy* 15, no. 1 (2007): pp. 115-126; F. Gursozlu, “Debate: Agonism and deliberation – Recognizing the difference,” *Journal of Political Philosophy* 17, no. 3 (2009): pp. 356-368.

¹³ Mouffe, *On the Political*, p. 9.

¹⁴ Schmitt, *The Concept of the Political*, trans. George Schwab (Chicago and London: University of Chicago Press, 1996 [1927]), pp. 31-32.

¹⁵ Mouffe, *Democratic Paradox*, p. 101.

¹⁶ *Ibid*, p. 104

those principles.¹⁷ Mouffe's notion of agonistic pluralism, though operating with a different conceptual lineage, thus appears to share a great deal with Connolly's "agonistic respect," in which "each constituency absorbs the discomfort posed by an alter-identity that challenges some of its own commitments, as it actively contests some assumptions and priorities of the other."¹⁸ Importantly, for Mouffe (as well as for Connolly, though perhaps less insistently), this is a clash not of reasons but of passions and of identities -- properly channeled, and against the backdrop of a liberal-democratic institutional space.

Out of this contest between adversaries emerges not a consensus, but perhaps a tenuous, unstable agreement, which necessarily represents a crystallization of particular power dynamics that will, in the end, need to be questioned, criticized, and contested -- that will become the site of new agonistic confrontations. Agonism can never fully escape its shadowy other: the possibility of antagonism. Violence and conflict are ineradicable, tied as they are to the impulses of human nature and the reality of value conflict in the modern world. But violence can be contained within the ethical bounds of liberal democracy, properly conceptualized as mutually "contaminating" relations between popular sovereignty and human rights -- each of which are necessary, but threatening, to the other.

While Mouffe is perhaps the most strident of the agonists -- in part due to the polemical edge that Schmitt brings to her theory -- the broad strokes of both the critique of deliberation and the theoretical alternative offered are to some degree shared by Wolin, Connolly, and Honig. The main moves consist in articulating the conceptual -- not just empirical -- impossibility of consensus in order to assert the primacy of conflict and discord; and then, displacing a notion of democracy as institution, regime, constitution, or form of government, in favor of a concept of democracy as ethos, as symbolic space, and as the open-ended playing out of identity and difference. This may take the form of Mouffe's agonistic pluralism, Wolin's fugitive democracy, Connolly's ethos of pluralization, or Honig's emergent politics -- but the conceptual arc remains the same.

However, it is on these fronts that agonism appears particularly vulnerable -- a fact which has not gone unnoticed by deliberative theorists of various stripes. First, it is not entirely clear what the political implications of the argument from "conceptual impossibility" might be -- particularly as deliberative democrats do not claim that perfect rational consensus is every really achieved. Second, unleashing the democratic power of the sovereign public, free from institutional structures and some principle of public reason, will not necessarily have particularly democratic outcomes. The public is not always wise; the

¹⁷ Ibid., p. 103

¹⁸ M. Wenman, "Agonism, pluralism, and contemporary capitalism: An interview with William E. Connolly," *Contemporary Political Theory* 7 (2008): p. 209.

public is not always democratic. Finally, in its reliance on “shared symbolic space” and a democratic “ethos,” agonism appears to be itself reliant on forms of consensus and a notion of shared principles. What, then, really distinguishes it from deliberation? We will see, in the next section, how deliberative democrats have responded to the agonist’s critique, and in particular how these rejoinders have been deployed in order to accommodate the agonistic insistence on conflict and pluralism within the bounds of deliberative theory.

2 The deliberative democrat’s rejoinder

As a result of the exchange with agonistic democrats – as well as (and perhaps more directly) those of feminist critics of deliberation and “difference democrats” such as Iris Marion Young, Lynn Sanders, Hallway Sparks, and Jane Mansbridge – deliberative democrats have usefully clarified and revised some of their positions.¹⁹ More recently, however, they have also engaged directly with various strands of agonistic theory, arguing that agonism represents not an alternative to deliberation, but a variant thereof. I review some of these moves in brief below.

First, by way of clarification, some deliberative democrats have usefully re-articulated the place of disagreement within their theories, demonstrating that – perhaps contrary to the agonist’s claim – deep and persistent moral disagreement is precisely the operating assumption of deliberative theory rather than a feature of the political world it ignores or denies. This is precisely the central point, for example, of Amy Gutmann and Dennis Thompson’s *Democracy and Disagreement*. In James Bohman’s recapitulation, “[p]ersistent moral disagreement, [Gutmann and Thompson] argue, is hardly an argument against deliberative democracy, but its *raison d’être*: deliberation is indeed superior to other methods and principles in resolving conflicts. ... Like Rawls, they see fundamental moral disagreements as endemic to modern society; but unlike Rawls or Ackerman, they do not proscribe a ‘method of avoidance’ or a ‘conversational constraint’ as a liberal precommitment.”²⁰ Moreover, when disagreements persist despite deliberative processes which adhere to the principles of “reciprocity, publicity and accountability,” they

¹⁹ At first glance the critique of agonists appears to share a lot of common ground with that of feminist and “difference democrat” critics: primarily, all share the claim that consensus and rationality are all too easily made to serve the goals of power and the status quo, effectively silencing opposition as “irrational” and thus “illegitimate.” The key difference, however, is that unlike agonists, difference democrats do not tend to articulate their critique in the mode of “conceptual impossibility.” Their concern appears to be directed toward the real condition of politics and political practice in the world as it is – and not toward an ontology of conflict or consensus. Thus Young’s concern for a broadening of forms of argument to include narrative, storytelling, greeting, and so on operates within a general acceptance of a model of communication aimed at “solving collective problems,” while Jane Mansbridge’s work is self-defined as a mode of deliberative theory. See I.M. Young, “Communication and the Other: Beyond deliberative democracy,” in *Democracy and Difference*, pp. 120-136; Young, “Activist challenges to deliberative democracy,” *Political Theory* 29, no. 5 (2001): pp. 670-690; J. Mansbridge, “Using power/Fighting power: The polity,” in *Democracy and Difference*, pp. 46-66. See also Sparks, “Dissident citizenship.”

²⁰ Bohman, *Public Deliberation*, p. 408.

suggest forms of accommodation meant to ensure mutual respect in the midst of ongoing, and irreconcilable, disagreement. Thus, on this account, “for Gutmann and Thompson, accommodating moral disagreement on a basis of mutual respect is at least as important as resolving it.”²¹

Beyond clarification, many deliberative democrats have self-consciously moved to make deliberation more open to disagreement and the irreducibility of pluralism by interrogating what, precisely, is meant by consensus. This is evident in recent work, particularly on the “epistemic” side of deliberative theory, that reconsiders when and where consensus might be a valuable goal worth retaining, and where disagreement and “positive dissensus” should instead be the ideal. For example, John Dryzek and John Niemeyer (building on Jon Elster’s work) have attempted to distinguish between various types of consensus – normative consensus over which values ought to predominate; epistemic consensus on the effects of particular policies; and preference consensus over which policies are the right ones. They argue that distinguishing these different types allows us to reconcile consensus with pluralism and persistent disagreement, in that normative, epistemic, and preference disagreements may continue alongside and within a broader “meta-consensus” on the need to recognize “the legitimacy of disputed values,” to accept the “credibility of disputed beliefs,” or to agree “on the nature of disputed choices.”²² They retain the allegiance to some forms of consensus, including normative consensus, while acknowledging and incorporating a more robust commitment to pluralism. Most recently, in a related vein, deliberative democrats such as Jane Mansbridge, James Bohman, and Archon Fung (among others) have devised a “systemic” approach to deliberation, according to which individual deliberative arenas – from legislative bodies to informal publics – are viewed not merely in terms of their own deliberative strengths or shortcomings, but in terms of what they contribute at a systemic level. Thus, “a single part, which in itself may have low or even negative deliberative quality with respect to one of several deliberative ideals, may nevertheless make an important contribution to an overall deliberative system.”²³

Additionally, across various deliberative theories, there has been a greater emphasis in the intervening years on the fallibilistic nature of public reason (and the decisions that issue from it), as well as a reconsideration of the bounds of argumentation and deliberative rationality. In particular, the overly-rationalistic language of the Habermasian and Rawlsian theories of the 1970s and 80s has been altered in order to accommodate different modes of address (including, in some cases, emotion, passion,

²¹ S. Freeman, “Deliberative democracy: A sympathetic comment,” *Philosophy & Public Affairs* 29, no. 4 (2000): n. 74. See also Gutmann & Thompson, *Democracy and Disagreement*, pp. 79-85.

²² J. Dryzek & S. Niemeyer, “Reconciling pluralism and consensus as political ideals,” *American Journal of Political Science* 50, no. 3 (July 2006): p. 638.

²³ J. Mansbridge, J. Bohman, S. Chambers, T. Christiano, J. Parkinson, A. Fung, D. Thompson, M. Warren, “A systemic approach to deliberative democracy,” in *Deliberative Systems: Deliberative Democracy at the Large Scale*, edited by J. Mansbridge & J. Parkinson (New York: Cambridge University Press, 2013): pp. 2-3.

storytelling, narrative, and reasons cast in religious terms), as well as to better articulate the complex mediations between universal ideal and particular interpretation that occur in real deliberative contexts. The first strand, provoked by Young's early critique, embraces a newly expansive concept of argumentation, while maintaining that there is a "reasoned" core to these diverse modes. Dryzek, in particular, has argued that deliberation can open itself up to many different forms of communication, so long as three key tests are met: the utterances must be "capable of inducing reflection," they must be "noncoercive," and they must be "capable of linking the particular experience of an individual or group with some more general point or principle."²⁴ The second strand, most evident in Benhabib's Hegelian-inflected "democratic iterations," attempts to challenge the liberal separation of the right from the good, the moral from the ethical, with normative presumption always slanted toward the former.²⁵

Finally, in a more direct engagement with agonism, some deliberative democrats have attempted to show not only that deliberative democracy can be expanded to accommodate the agonist's key concerns for disagreement and dissensus, but that agonism itself fails to articulate a conceptual position distinct from this enlarged deliberative one. The main issue at stake here is that at the same moment that the agonist offers a critique of the depoliticizing nature of liberal institutions and deliberative principles, she simultaneously assumes a liberal-democratic institutional background and adopts familiar ideas of respect, critical distance, reciprocity and openness as necessary to the functioning of agonist democracy. Mouffe has been particularly vulnerable here, though to some extent the criticism is leveled as if it applied to agonism *tout court*.²⁶ On the first front, Mouffe is notoriously vague about her posited "ethico-political principles," specifying only that "liberty" and "equality" are primary among them, and implying (through her description of the "shared symbolic space" of agonistic democracy) a need for reciprocity and mutual respect.²⁷ Such a stance appears to take as a given a liberal-democratic setting, and posits but does not justify or unpack the ideals that animate it. In her brief references to the idea of a form of "consensus" over these basic principles, Mouffe is quick to argue that it will be "conflictual" rather than rational because it will always be subject to challenge and dissent, and because different groups will always interpret and reinterpret what the meaning of shared institutions and values are. Yet, deliberative theorists interject, it is unclear "how there can be such a consensus in the first place, why it should be privileged over other versions of the political – for example, oligarchy, or dictatorship – and how this might be justified without recourse to some form of rational argument akin to that deployed by

²⁴ Dryzek, "Deliberation in divided societies," p. 224.

²⁵ See, generally, Benhabib, *Situating the Self and Another Cosmopolitanism*.

²⁶ See n. 12, above.

²⁷ Knops, "Agonism as deliberation," p. 116; Erman, "What's wrong with agonistic pluralism," p. 1044.

deliberative democrats.”²⁸ This is particularly true since deliberative democrats do not argue that agreements have any finality, but often seek to emphasize the way in which deliberative procedure is left open, and decisions fallible and subject to critique.²⁹ Finally, the institutional basis of the production of such democratic and agonistic values is left unsaid.

These criticisms apply, but to a lesser extent, to Connolly’s “agonistic respect” and “critical responsiveness” as well, which – though much more developed – have unclear origins. Citizens are meant to assume the posture of “*careful listening and presumptive generosity*” toward one another and in particular toward “constituencies struggling to move from an obscure or degraded subsistence below the field of recognition, justice, obligation, rights, or legitimacy to a place on one or more of those registers.” But the elaboration of such civic virtues, however compelling, seems notably distant from a discussion of their institutional possibility and justification, particularly since such virtues are absent in the matrix of the “politics of pluralism” which Connolly identifies in liberalism.³⁰ Far from challenging a presumptive liberal hegemony, then, it appears (to the deliberative critic) that agonists have simply presumed liberalism as a starting point, without need for justification. They have attempted to design a theory of identities instead of institutions, but have done so in a way that appears parasitic upon the standard liberal versions of the latter. As Monique Deveaux has argued, “proponents of agonistic democracy typically fail to acknowledge the key role played by *institutions* in *making* citizens *agree*, or in finding solutions to common problems.”³¹

Thus, some deliberative democrats have argued that agonism ultimately collapses into some variant of deliberative democracy. On the one hand, as we have seen, the *empirical challenge* shared between difference democrats and agonists – the feasibility of actual consensus in a world of divided polities, social and political inequalities, and entrenched power imbalances; the persistence of deep moral disagreement and social conflict – has been taken seriously and to some extent addressed within

²⁸ Knops, “Agonism as deliberation,” p. 116.

²⁹ Habermas, *Between Facts and Norms*, pp. 95, 309.

³⁰ Connolly, *Pluralism*, p. 126. This is not to say that it’s neo-Kantian morality or nothing, merely that Connolly does not spend much time telling us what the primary resources for such respect might be. He simply says that we ought to adopt it. See Wenman, “Agonism, pluralism, and contemporary capitalism,” p. 209; and generally, Connolly, *Ethos of Pluralization*.

³¹ M. Deveaux, “Agonism and pluralism,” *Philosophy & Social Criticism* 25, no. 1 (1999): p. 16. While Deveaux does not espouse a classical deliberative view which holds rational consensus as its ideal, she argues in favor of a principle of “mediation” which seems broadly consonant with more recent deliberative approaches. She writes, “mediation is a response to breakdowns within existing discursive processes and institutions – an attempt to make conflicting parties address the question of how to proceed in the face of these differences. It is a form of conflict resolution, but one that allows opposing parties to admit that the dispute facing them is very possibly intractable without the participation of a third party able to extract concessions and compromise. In culturally plural states, citizens need institutions to facilitate and secure agreements – either by reformulating their position in response to one another’s positions, or by agreeing to strategic compromises” (p. 17). Thus, though she places herself as an “agonistic liberal,” her views align with those like Dryzek who attempt to amend deliberative models to the circumstances of “divided” societies.

deliberative theory. On the other hand, the idea that agonism offers an alternative to deliberation (rather than an imminent critique of it) has been rejected. As such, agonism's *conceptual critique* -- stemming from the ontological primacy of conflict as well as its political (and normative?) value -- has been waved away. The agonist's response to this move, of course, is to reaffirm the ontological divide between the deliberative and agonistic worldviews -- to stress again the conceptual impossibility of consensus, the ontology of the radically plural world "in its strong Nietzschean or Weberian version."³² Agonists like Mouffe and Honig, moreover, see in the attempt to subsume agonism within deliberative theory just the latest instance of the hegemonic tendencies of liberal discourse, in which all real difference and conflict is denied and then neutralized.³³

Thus, we appear to be at an impasse. We might see this moment as an inevitable result of the incommensurability of the agonistic and deliberative positions, and either leave it at that or board, once again, the merry-go-round. I think there is an alternative, however, which requires examining the silences in the midst of the debate. From my perspective, what is most notable about the debate in its broad strokes is the automatic reference of both sides to really existing groups and social movements without very much direct engagement with them -- to a presumed ideal of political action without serious consideration of what it entails. In fact, as I hope to show, deliberative democrats and agonists alike have tended to assume rather than demonstrate that the actions of such groups -- collective, contentious -- is accord with and affirms their preferred theory.³⁴ In both models, a wide array of political action is sometimes so abstracted as to bear little upon the dynamics of action beyond rational dialogue, on the one hand, and a clash of worldviews or identities, on the other. Both write with social movements in mind, but ironically, their theories often obscure them from view.

3 The empty place of political action

Over the course of the now-decades-long debate between various proponents of deliberative democracy and agonistic democracy, the main locus of disagreement has been on the issue of whether or not ethical disagreements are *in principle* reconcilable or not -- and hence, on the ontological status of consensus and conflict. This is not a trivial, meaningless, or merely academic question. As Maeve Cooke has argued, the way we answer this question has real implications for the sort of institutional and social arrangements that

³² Mouffe, *Democratic Paradox*, p. 133.

³³ See also Gursesozlu, "Agonism and deliberation."

³⁴ But see D. Estlund, "Deliberation down and dirty: Must political expression be civil?" in *The Boundaries of Freedom of Expression & Order in American Democracy*, edited by T. Hensley (Kent, OH: Kent State University Press, 2001): pp. 49-67; A. Fung, "Deliberation before the revolution: Toward an ethics of deliberative democracy in an unjust world," *Political Theory* 33, no. 2 (2005): pp. 397-419.

are appropriate to democracies under conditions of deep value pluralism.³⁵ However, the intensive focus on this narrowly-construed conceptual question – the possibility or impossibility of consensus – has also tended to engender a certain caricaturing of each side, in which deliberative democrats appear as naïve liberals imagining a world of perfect agreement and rationality while running roughshod over the real terrain of conflict, disagreement, and power, and agonists appear as Derridean nay-sayers, whose reclamations of conflict leads to an outright denial of any possibility for agreement, reconciliation, or even shared politics as such. As we have seen, however, this image vastly over-dramatizes the actual space between deliberation and agonism (even if we admit the central conceptual disagreement remains).³⁶ But more important for my purposes here, the course of the debate has also tended to divert attention from the matter of how the political action of conflict and agreement, opposition and reconciliation, really operates. On my reading, amongst the central stakes of the debate should be the reading and theorization of those forms of collective, contentious action that appear as regular features of democratic life, and seem crucial for forms of social and political change valued by agonists and deliberative democrats alike. But it is just such a reading that seems largely absent.³⁷

Social movements provide a shared point of reference for deliberative democrats as well as agonists. Indeed, it is out of the context of the emergence of the “new social movements” that much deliberative and agonistic theory comes. Allusions to various social movements, forms of activism and protest, or to movements as such are commonplace within the deliberation-agonism debate, they are only rarely the subject of sustained discussion.³⁸ Consequently, it is never entirely clear the extent to which the activities of social movements and protest groups are meant to operate within, as complementary to, or entirely outside of the proposed deliberative or agonistic theory. Sometimes, social movements are invoked as one association amongst many that comprise the vibrant and plural democratic public sphere, with loose but unclear associations to the relevant deliberative or agonistic part. Thus, Benhabib writes, “the procedural specifications of this [deliberative] model privilege a *plurality of modes of association* in which all affected have the right to articulate their point of view. These can range from political parties, to citizens’ initiatives, to social movements, to voluntary associations, to consciousness-raising groups, and the like. *It is through the interlocking net of these multiple forms of associations, networks, or*

³⁵ M. Cooke, “Are ethical conflicts irreconcilable?” *Philosophy & Social Criticism* 23, no. 1 (1997): p. 3.

³⁶ See A. Schaap, “Political theory and the agony of politics,” *Political Studies Review* 5 (2007): pp. 56-74.

³⁷ This is not to say that the actions of social movements and oppositional groups constitute the whole of democratic political action. Rather, it is an important part of the story – one that appears all the more crucial because of the way in which deliberative democrats and agonists attempt to call up these movements in support of their theories.

³⁸ Notable exceptions include Young, “Activist Challenges,” and Sparks, “Dissident Citizenship.” More recently William Smith has put forward a justification of civil disobedience as “deliberative contestation,” and Bohman spends a good amount of time on the matter in *Public Deliberation*. See W. Smith, “Democracy, deliberation and disobedience,” *Res Publica* 10 (2004): pp.353-377; Bohman, *Public Deliberation*, chapters 3 and 5.

organizations that an anonymous 'public conversation' results. It is central to the model of deliberative democracy that it privileges such a public sphere of mutually interlocking and overlapping networks of associations of deliberation, contestation, and argumentation."³⁹ It is unclear here if "social movements," "citizens' initiatives," and "consciousness-raising groups" are meant to be deliberative (is contestation an alternative mode to deliberation, or a synonym for it?), but they are certainly meant to exist *within* the model of deliberative democracy. How this works, exactly, goes unsaid.

More obliquely, Mouffe seems to gesture at political action when she argues, against deliberative democrats, that pluralist democracy requires an "emphasis on the types of *practices* and not on the forms of *argumentation*."⁴⁰ Reading her work, one simply gets the sense that she intends to call up an idea of politics that moves beyond *talking*, involving diverse forms of action, mobilization, and collective claim-making – particularly, in her insistence on conflict, dissent, and the non-deliberative mode of passionate, agonistic adversaries. It is hard to imagine that she intends the politics of passion and affect she describes to travel only as far as spirited debate. Certainly, Wolin means to call up the politics of extra-institutional collective action in his assessment of "fugitive democracy." For him, the political is precisely that spontaneous and brief flare up of people in the streets, acting together for common cause. But again, the relationship between "the political" and the everyday politics of institutions, laws, representation, and policies is hazy at best – except that there seems to be the tendency of the latter to conquer and domesticate the former.

This sort of ambiguity is perhaps not surprising, nesting (as it does) within the broader ambiguity over whether deliberation (or agonism) is meant as *a* democratic activity, or *the* democratic activity – the core concept of what democracy really means.⁴¹ The literatures skew more and more toward the latter reading, in which case we need to be able to clarify the relationship between the activities of social movements, protest groups, and organized dissent – which have gained a vaunted and honored place in the histories of democracies, often amongst the forces that *made them democracies in the first place* – and a theory of democracy *as* deliberation, democracy *as* agonism.

When particular social movements become the subject of more direct (albeit brief) attention, the ambiguities simply multiply. Usually, it is presumed, that the behavior and activities of such groups go some distance to prove the validity of the theory in question. Gutmann and Thompson, for example, simply assert that Martin Luther King Jr. functioned as a deliberative representative, able to "articulate [the] interests and ideals" of a larger, disenfranchised constituency within the political deliberations over

³⁹ Benhabib, "Toward a deliberative model," pp. 73-74.

⁴⁰ Mouffe, *Democratic Paradox*, p. 96

⁴¹ See Walzer, "Deliberation, and what else?" in *Deliberative Politics*, pp. 58-69.

civil rights, while Dryzek celebrates King's rhetorical power.⁴² Rawls, too, claims King, and by proxy the broader civil rights movement, for public reason and deliberation – as well as the abolitionists.⁴³ Similarly, Connolly makes use of the gay rights movement as an example of the “politics of enactment,” while Honig discusses the Slow Food movement as an illustration of “emergent politics” – of the cultural and contingent constitution of a “reasonable” demand for rights or recognition, broken open by new issues, new identities, and new movements.⁴⁴ For reasons that will become more clear below, these movements, called in as illustrations of abstract conceptual points, are sometimes helpful, often evocative, but almost always too momentary and brief to provide any level of assuredness that the theory fits the case or vice versa. In fact, it is not obvious to me that much of what I am calling contentious political action – those “creative oppositional practices of citizens who, either by choice or (much more commonly) by forced exclusion from the institutionalized means of opposition, contest current arrangements or power from the margins of the polity” – is suitably accommodated by either deliberative or agonistic theory.⁴⁵ In what follows, I consider each in turn.

Is contentious political action deliberative?

In the small handful of lengthier treatments of the contentious political action within deliberative theory suggest that protests – and particularly civil disobedience – are operative around the edges of deliberation, as forms of correction when deliberative processes fail or when conditions are insufficiently equal to get legitimate deliberation going in the first place.⁴⁶ Bohman theorizes the necessity of oppositional social movements under conditions of “deliberative inequalities: power asymmetries (which affect access to the public sphere), communicative inequalities (which affect the ability to participate and to make effective use of available opportunities to deliberate in the public sphere), and ‘political poverty,’ or the lack of developed public capacities (which makes it less likely that politically impoverished citizens can participate in the public sphere at all.”⁴⁷ Similarly, Habermas argues that civil disobedience “takes place at the margins of contemporary affairs,” offering a “last chance to correct errors in the process of

⁴² Gutmann & Thompson, *Democracy and Difference*, p. 133; Dryzek, *Deliberation and Beyond*, p. 18. See also Gutmann & Thompson, “Reply to the Critics,” in *Deliberative Politics*, p. 254.

⁴³ Rawls, *Political Liberalism*, pp. 249-251; Rawls, “The Idea of Public Reason Revisited,” pp. 785-786.

⁴⁴ Connolly, *Ethos of Pluralization*, chapters 2 and 4; Honig, *Emergency Politics*, chapter 2.

⁴⁵ H. Sparks, “Dissident citizenship,” p. 75.

⁴⁶ Rawls, “The justification of civil disobedience,” in *Civil Disobedience: Theory and Practice*, edited by H. Bedau (New York: Pegasus Books, 1969): pp. 240-255; Habermas, “Civil disobedience: Litmus test for the democratic constitutional state,” *Berkeley Journal of Sociology* 30 (1985): pp. 95-116; Bohman, *Public Deliberation*, chapters. 3 and 5; Smith, “Civil Disobedience.”

⁴⁷ J Bohman, *Public Deliberation*, p. 110.

realization of a legal order or to set innovations in motion.”⁴⁸ This is occurs in the face of the breakdown of the “functioning and validity” of ordinary procedures – majority rule and deliberation.⁴⁹

Here, however, the same ambiguity arises over the extent to which protest should itself be treated as a deliberative activity – whether, in the ideal sense, the entire sphere of democratic activity needs to be deliberative (or at least conducive to future deliberation) to be legitimate. The predominant answer appears to be yes: civil disobedience and protest must be subject to at least the main rules of deliberation itself, and are thus cast as more-or-less deliberative. In Smith’s most recent formulation, civil disobedience is defined as “deliberative contestation.” This means that civil disobedience and social protest must act “in such a way that they respect the principles of public deliberation, in particular that deliberation is geared in the first instance towards reason-giving and persuasion, only in the final instance towards strategic compromise, and never towards coercion.”⁵⁰ Social movements, protest groups, and the civilly disobedient are thus understood as communicative collective actors, whose primary purpose is to publicize grievances and persuade “the state to engage in deliberative uptake.”⁵¹ Civil disobedience and protest are, in Rawls’ terms, understood as a “*mode of address*.”⁵² Protest, in essence, is itself deliberative, as well as being intended to restore the conditions of broader deliberation.

As always, however, the devil makes himself known in the details. The insistence, first, that social movements operate non-coercively bears questionable relation to any historical case of successful collective action. Coercion, understood as action which compels not by the “forceless force” of reason but by force and threat, stands firmly outside deliberation; reason persuades while threat coerces. But different forms of coercion are essential to the functioning of protest tactics like occupying and “sitting-in,” picketing, marching, and boycotting. They are stagings and enactments of collective power, and as such force decisions that might not be taken otherwise, concessions from those previously unwilling to give them.⁵³ They do so even when officials, or broader publics, fail to share the reasons behind the action. Protest movements threaten disorder in the face of an order perceived as false, immoral, undemocratic, or unjust. The show of numbers can be a powerful incentive to act, but may or may not persuade. It was, after all, Martin Luther King who wrote that “[n]onviolent direct action seeks to create such a crisis and establish such creative tension that a community that has constantly refused to negotiate

⁴⁸ Habermas, “Litmus test,” pp. 104, 105.

⁴⁹ Ibid p. 111. See also Smith, “Civil disobedience”; Rawls, “Civil disobedience.”

⁵⁰ Smith, “Civil disobedience,” p. 375. See also Dryzek, “Deliberation in divided societies,” p. 224.

⁵¹ Smith, “Civil disobedience,” p. 363. See also Bohman, *Public Deliberation*, pp. 208-210.

⁵² Rawls, *A Theory of Justice* (Cambridge, MA: Belknap Press, 1979): p. 366. See also Habermas, “Litmus test.”

⁵³ On the concept of “nonviolent coercion,” see G. Sharp, *The Politics of Nonviolent Action, Part 3: Dynamics of Nonviolent Action* (Boston: Porter Sargent, 1973): Chapter 13.

is forced to confront the issue.”⁵⁴ I do not think that his use of the words “crisis” and “force” are accidental, or out of place. As early as 1955, if not earlier, King recognized that not just the “tools of persuasion,” but also the “tools of coercion” would be necessary to “break the backbone of [American] power.”⁵⁵ More stridently still, contemplating the crises confronting the Northern ghetto and the imperative of civil disobedience, King wrote in 1967, “To dislocate the functioning of a city without destroying it can be more effective than a riot because it can be longer-lasting, costly to the society but not wantonly destructive. Moreover, it is more difficult for government to quell it by superior force. ... [It can] forcefully cripple the operations of an oppressive society.”⁵⁶ (Indeed, it is precisely because of the coercion implicit within many forms of mass political action – especially civil disobedience, but also mass protest, boycott, and hunger strike – that Gandhi was circumspect, cautious, and restrained in his willingness to engage in these forms, particularly outside of a very small cadre of well-trained activists.)⁵⁷

In reality, it seems, protest groups often have to *force* what they see as the better argument. There are limits, I suggest, to what an appeal to conscience can do, which stand in inverse proportion to the outsized emphasis of such appeals within democratic theory and treatments of civil disobedience (the civil rights movement particularly). To be sure, there are communicative elements in what movements do, and an appeal to reason or conscience can be a part of that. But activists tend also to be tough-minded realists, and when the activists in question operate from a position of structural injustice, historical discrimination, and systematic exclusion, they tend to be suspicious of the majority’s moral resources and capacity for empathy – particularly the kind of empathy that is quickly followed by meaningful redress or change.⁵⁸ Power does not yield without demand; this much, an activist knows.

As John Medearis has recently argued, many such forms of protest also operate by prompting particular confrontations and engagements with coercion, and even violence. Medearis writes: “Civil rights protestors took over the streets of southern cities and made them the focus of intense international

⁵⁴ M.L. King Jr., “Letter from a Birmingham Jail,” in *Civil Disobedience*, p. 78.

⁵⁵ King, Address at MIA Mass Meeting at Holt Street Baptist Church, Montgomery, Ala., 5 December 1955. Accessed at http://www.stanford.edu/group/King/papers/vol3/551205.004-MIA_Mass_Meeting_at_Holt_Street_Baptist_Church.htm. I follow recent work on King’s intellectual development which suggests a persistent radicalism in King’s thought, rather than a late and sudden shift from a moderate stance toward radical critique and oppositional tactics in the mid- or late-1960s. See, e.g. T. Jackson, *From Civil Rights to Human Rights: Martin Luther King, Jr. and the Struggle for Economic Justice* (Philadelphia: University of Pennsylvania Press, 2009).

⁵⁶ King, “The Crisis in America’s Cities: An analysis of social disorder and a plan of action against poverty, discrimination, and racism in urban America,” presented to Southern Christian Leadership Conference, 15 August 1967: p. 5. Accessed at <http://www.thekingcenter.org/archive/document/crisis-americas-cities>.

⁵⁷ Civil disobedience, Gandhi argued, should be used only as a “last resort by a select few.” See Gandhi, *Gandhi: Selected Political Writings*, edited by D. Dalton (Indianapolis, IN: Hackett, 1996): p. 51. On Gandhi’s delineation between productive and coercive forms of nonviolence, see Karuna Mantena, “Another Realism: The Politics of Gandhian Nonviolence,” *American Political Science Review* 106, no. 2 (2012): pp. 455-470.

⁵⁸ See Young, “Activist challenges.”

press coverage. The labour movement paralysed crucial plants and industrial sectors. In response, Kennedy was forced to rein in hardline southern politicians and to send high-level officials as negotiators. Roosevelt was similarly pushed to curb business' reactions to strikes and ultimately to enact labour-rights legislation. The coercion, then, was two-fold and by no means incidental to the movements' purposes. The federal government was coerced, not merely persuaded, into entering the struggles. And once involved, the federal government's role was itself coercive: inserting itself in previously-localized conflicts, thus forcibly altering, respectively, the political economies of race and labour."⁵⁹ I would add to this the way in which nonviolent protest often operates by instigating repression and violence – mass jailings, criminal or civil charges, or the reprisal of violent counter-demonstrators – as a means of dramatizing oppression at work, gaining sympathy of third-parties, or shaming state failure to act.⁶⁰ This “political jiu-jitsu” reveals the intertwining of coercion and persuasion, violence and nonviolence, disorder and order, in a way that I think is difficult for deliberative democrats to confront.⁶¹

Finally, I have reservations about viewing social protest as oriented toward restoring the conditions of deliberation, in part because it is not entirely clear what that might mean. Specifically, is the claim that protest *aims* to do this, or that, regardless of its aims, it has this effect? If the claim is meant as an indication of motive – of what properly democratic and deliberative movements ought to do – then I am not sure it is apt, or that we should restrict movement motivations in this way. In the first place, it seems clear that movements operate with a variety of motivations, the most immediate of which might be a policy outcome (negotiation, compromise, bargaining, or concession, all of which are non-deliberative modes), the garnering of media attention, or the enactment and exercise of collective power within a specific community (thus not oriented toward the larger public sphere, or to restored communication with society at large). Nor would it be wise to demean these goals as merely instrumental.

On the other hand, perhaps the claim is that protests and social movements can restore or help achieve the conditions for deliberation *whether they intend to or not*. In this case, the idea might have more tractability. To the extent that a movement succeeds in questioning the agenda or opening it to contestation, to the extent that it enables a more equal distribution of power or more equitable terms of cooperation, to the extent that it provokes policies, laws, or practices that are more fully the product of the participation, input, and interests of a larger share of the demos, then it seems clear that the movement has

⁵⁹ J. Medearis, “Social movements and deliberative democratic theory,” *British Journal of Political Science* 35, no. 1 (53-75): p. 67.

⁶⁰ King, from *Why We Can't Wait*: “Instead of submitting to surreptitious cruelty in thousands of dark jail cells and on countless street corners, he would (with acts of civil disobedience) force his oppressor to commit his brutality openly – in the light of day – with the rest of the world looking on” (p. 30). There is myriad evidence – from the early nonviolence training workshops onward – that violent reprisal was not only expected, but often strategically used to some effect.

⁶¹ Sharp, *Dynamics of Nonviolent Action*, chapter 12.

indeed moved society closer to the ideals central to the practice of deliberative democracy. But it seems important that the route to get there was predominantly, though not fully, non-deliberative. Additionally, because contentious political action often operates in conditions of crisis (sometimes of their own making), the forces of contingency are unusually great: in the complex interactions between movement, counter-movement, state, and society, it does not go without saying that it is deliberation, rather than entrenchment and social division, that is achieved. Making the justification for non-deliberative political action hinge on the “long-term” promotion of deliberative conditions, as Stears and Humphrey rightly note, places a huge epistemological burden on would-be protestors, as it would be “almost impossible for any individual or group to be certain that a particular form of non-deliberative action taken now will lead to increased opportunities for deliberative criticism and/or mutual respect between parties ‘in the long run.’”⁶² Nor does the recent “systemic” turn in deliberative theory, discussed in brief above, entirely resolve this problem: while it certainly leaves more room for non-deliberative actions in some arenas to play an ultimately deliberative role at the systemic level, it seems to only kick the can further down the road. How long is the long run, after all? How many degrees removed from the arena of protest can deliberative gains be identified and still plausibly be attributed to protestors’ actions? What level of causal certainty will suffice?

What this means for what a theory of deliberative democracy can do, or ought to include, is an open question. Likewise open is the matter of whether or not such non-deliberative means are necessary only because of the kind of world we inhabit – shot through with power, influence, structured inequality, and systematic injustice – or if there are reasons to believe that these forms would remain important for politics under more ideal conditions. I will return to this question in the concluding section.

Is contentious political action agonistic?

For those sympathetic to the “activist’s challenges to deliberative democracy,” as Young put it, it might first appear that agonism would provide a more apt theoretical apparatus for understanding the oppositional forms of political action undertaken by social movements. After all, if some of the trouble with deliberative theory was its insistence on civility, non-coercion, and reciprocal reason-giving, then perhaps an agonistic theory that makes conflict, affect, and the passions central can provide what was lacking (or specifically rejected). Regrettably, upon closer view, this does not appear to be the case. For one thing, Wolin, Mouffe, Connolly and Honig appear no less likely than their deliberative counterparts to allude to rather than confront social movements in context. Wolin in particular, in his descriptions of

⁶² M. Stears & M. Humphrey, “Animal rights protest and the challenge to deliberative democracy,” *Economy & Society* 35, no. 3 (2006): p. 410, in response to Gutmann & Thompson, *Why Deliberative Democracy?* (Princeton, NJ: Princeton University Press, 2004).

“fugitive democracy,” seems to abstract so far away from the complex interactions between movement, counter-movement, various publics, the police, state actors, and institutions, that we are left with a rather romantic –but for that reason elusive and vague – notion of Arendtian action in concert. Wolin’s “fugitive democracy” provides a glimpse of momentary, spontaneous, effervescent collective solidarity, which recedes back into the ether as quickly as it arose. These moments seem to recoil at the attempt to unpack them. Insisting on the “episodic,” “rare,” and non-institutional nature of the political, Wolin cannot do justice to the ways in which social movements inhabit a regular feature of democratic publics, that they transgress institutional and non-institutional divides, that they are organized, strategic, collective actors as well as spontaneous and decentralized ones, and that they are often as oriented toward action in the streets as they are a share of political power in institutions. The amalgam of movements that made up the civil rights movement – which at any time held within its coalition “institutionalized” organizations such as the Urban League and the NAACP as well as direct action groups like SNCC and CORE, all of which were at various points partly oriented to the electoral representation of blacks by black politicians – is particularly illustrative of this. But it is hardly unique to civil rights.

While more concrete, Honig’s brief engagement with Slow Food in *Emergency Politics*, Connolly’s references to gay rights in *The Ethos of Pluralization*, and most recently Mouffe’s epilogue on the Arab Spring and Occupy Wall Street in *Agonistics* are suggestive and gestural, but nothing more. The focus of agonism, in these works, is not on social and political conflict per se, but on the much more abstract plane of discursive indeterminacy. Perhaps, you might object, it is unfair to criticize these theorists for failing to attend to the sociological complexity of social movements in action, because they are not sociologists but political philosophers. But even granting a certain division of academic labor, I think there is reason to doubt the assumed or implied appropriateness of agonism, as stated and defended in these works, were it to be applied to the phenomena it is supposed (in part) to theoretically capture.⁶³ I question, specifically, whether the model of an irreconcilable *clash of identities and worldviews* is really what is at stake in the forms of social conflict enacted and navigated by social movements.

This concern is particularly acute if one adopts Mouffe’s Schmittian agonism, whose ontology of political conflict is strangely dichotomous and simplistic. Schmitt, I would argue, does real damage to Mouffe’s ability to capture and describe social movements because of the theoretical and conceptual baggage he brings to the table. In place of a concept of political action, Schmitt offers only an essentialized battle between national groups defined in opposition to one another; within the bounds of the substantively homogenous *demos*, he radically reduces the will of the people – complex, contentious,

⁶³ I would also say that because social movements appear in the background of these theories, as motivations for theorizing as well as empirical referents for what the theory is supposed to explain, it is not out of order to ask that some attention be paid to describing how their actions work.

contradictory, contested – to a singular, unified, and univocal acclamation of the sovereign-dictator who decides. Mouffe’s intention, against Schmitt, is to define and defend something much more raucous, interesting, and progressive than this image – a “vibrant clash of political positions,” an expression of “collective passions” within a public space animated by freedom, equality, and reciprocity.⁶⁴ But Schmitt’s conceptual tools are unsuited to accomplishing this task, and it seems Mouffe cannot quite escape him. In the end, she too reduces political conflict to a dichotomous clash of friend versus enemy, right versus left (conceived as *identities*) freed from any sort of institutional structure.⁶⁵ As Andrew Schaap has observed, “Mouffe’s hope to employ the Schmittian conception of the political in a way that is compatible with plurality appears problematic unless it can account for the emergence of more than two perspectives out of a conflict that is initially dichotomous. But this seems implausible to the extent that a relation of friendship is based on an identification formed in opposition to a hostile other.”⁶⁶ The clash between ‘us’ and ‘them’ takes center stage, but the stage itself recedes: it is unclear where left and right meet, what characterizes their shared world, and what forms of action are required for its (re)production or transformation. The result is a far more reductive, restrictive understanding of political life, the social world, and the public sphere than one would hope.⁶⁷ The turn to the Schmittian ‘political’ limits Mouffe’s ability to offer a robust account of the interrelationship between democracy, justice, and conflict, even as she critiques deliberative democrats for doing the same. Mouffe may well be correct that politics is not best understood as a cool-headed conversation that ends in reasoned agreement; but neither is it best conceived as a blood sport between left and right.

For one thing, as many critics have noted, the focus on the clash of identities seems to run the risk of reifying and entrenching group divisions, rather than productively challenging them and rendering the bounds of the demos more fluid. It also obscures the process through which diverse individuals and groups who make up various social movements come to see their needs and desires in collective and shared terms, and the process whereby they appeal and agitate for the broader public to *do something* about it.⁶⁸ Just as the invocation of King by Rawls or Gutmann and Thompson runs the risk of making

⁶⁴ Mouffe, *Democratic Paradox*, pp. 19-21; 100-105.

⁶⁵ See e.g., Mouffe, *Return of the Political*, pp. 70-71; Mouffe, *Democratic Paradox*, pp. 102-105; Mouffe, *On the Political*, pp. 25-26.

⁶⁶ Schaap, “Political theory and the agony of politics,” p. 64. Schaap usefully distinguishes in this piece between Mouffe and other theorists of agonism who begin from Arendtian, rather than Schmittian, premises. Schaap’s distinction is useful in that it highlights the non-obviousness of Schmitt within an agonistic theory of democracy; unlike Schmitt, Arendt’s *starting point* is the fact of human diversity, conceptualizing politics as an intersubjective disclosure of commonality amidst radical difference.

⁶⁷ In her most recent works, the problem merely repeats itself. Even in sections that, thematically speaking, are aimed directly at the issue of political action and social movements, Mouffe arrives again at a restatement of her Schmittian agonist position, rather than a fuller exploration of political action per se. See, e.g., Mouffe, *Agonistics*, Chapter 4. The epilogue takes up the matter more directly, but in the form of an afterthought.

⁶⁸ Dryzek, “Deliberation in divided societies,” p. 221; Deveaux, “Agonism and pluralism,” p. 15

him, and in particular his written texts, the stand-in for a complex, varied, diverse, and often divided “movement of movements,” so does the agonist ontology leave to a strange, unexplored alchemy the union and alliance of diverse groups and individuals that is actually made possible by considerable organizing efforts and “broad-based” organizations which bridge more narrowly-construed interests.⁶⁹ If the deliberative democrat’s insistence on communication obscures strategy, the agonist’s recourse to identity has much the same effect. It directs attention away from the structural and material conditions of contentious political action – the concrete threat to particular interests, the concerted attempt to provoke targeted structural (not just identity) crises, the operation both within and against particular institutional arrangements, the forging and breaking of alliances and coalitions, and the mobilization of resources (money, manpower, creativity, leadership, and so on) that both open and close particular horizons of possibility.

The discursive move to see the relevant dimension of social and political conflict in terms of “identity\difference” (shared by many agonists) may have been timely with respect to “new social movements,” but one wonders if it doesn’t take the “identity” in “identity politics” too much at face value, leaving little room for the diverse amalgam of means and ends pursued by social movements – which include not just Connolly’s “politics of enactment” in which new ways of being and new modes of identity are lived, defined, and defended, but also the framing of unmet needs, the articulation of policy and legislative demands, the reconsideration and reinterpretation of constitutional, legal, or community principle, the critique of existing structures and the envisioning of new institutions. The gay rights movement, in Connolly’s work, operates to destabilize the majority’s sense of itself, to remind us of the contingency of our own constructed selves, and thus to provoke collective redefinition. But without a more detailed description, this destabilization seems as likely as not to provoke a politics of backlash, fear, entrenchment, and separatism than a reflective, critical renegotiation of identity and difference. In fact, Connolly seems aware of just this possibility when he worries that identities born of exclusion, inequality, and discrimination are least likely to instigate the kind of positive politics he envisions – but it is these movements, these ‘identities,’ that are most democratically urgent. The politics of difference thus threatens to collapse into a politics of identity, without discussion of what – beyond an “ethos” – might make this more or less likely.⁷⁰

⁶⁹ See, for example, J. Stout, *Blessed are the Organized: Grassroots Democracy in America* (Princeton, NJ: Princeton University Press, 2010).

⁷⁰ This seems particularly true with regard to the Schmittian ontology deployed by Mouffe, which – despite her pluralist and deconstructionist intentions – seems to slide too easily into the mix of “internal unity coupled with external borders” that inevitably threatens, in Iris Young’s assessment, “conflict and parochialism” rather than a shared space of vibrant democratic exchange. See Young, “Difference as a Resource,” in *Deliberative Democracy*, p. 387. See also A. Phillips, “The Politics of Presence,” in *Democracy and Difference*, pp. 139 ff.

Similarly, the focus on democracy or pluralism as *ethos* points away from the action of social movements, and toward ourselves – as citizen-spectators as well as academic critics. Mouffe’s brief discussion of the kind of reciprocity required of adversaries, Honig’s elaboration of “emergent” politics, and particularly Connolly’s work on “agonistic respect” direct our attention to a mode of democratic self-fashioning, a posture of critical openness that citizens ought to adopt, particularly with respect to “new” identities. This posture, as I take it, is required because the horizon of democratic politics is never closed, never completely legitimized by the stamp of the fully rational consensus. (Or, if you prefer more deliberative terms, the decisions remain fallible and contestable precisely because no one can predict the new interpretation of principles and needs that will be articulated by future democratic publics, as no one has a monopoly on truth.) I find this idea enormously compelling, and find Connolly’s work on this aspect of democratic judgment both useful and inspiring. But it is, in a post-Nietzschean mode, not about social and political conflict as such, but the proper ethos with which to respond to it once it has already made its appearance on the democratic stage.

The focus on a critical ethos appears to distance agonistic theory from contentious political action in the same way, surprisingly, as the deliberative democrat’s insistence on persuasion and appeals to conscience: while some movements may try to reason with the broader society, and may indeed provoke necessary confrontations and destabilizations of collective or majority identity, this hardly seems to capture the reasons that activists themselves have for engaging in contentious protest activity. Casting it in this light somehow misses the point, and is oddly depoliticizing. Nat Hentoff, reporting in 1964 on the civil rights movement, put the problem in the following terms: “Although ‘the movement’ has provided those whites who will hear [what they have to say] with this dangerous initial impulse to self-exploration, its function is not and cannot be to provide mass group therapy for whites. When [James] Baldwin speaks of the Negro’s possibly ‘saving’ the white man and when Martin Luther King talks of the power of ‘redemptive love,’ they obviously do not mean, as *The New York Times* and General Eisenhower used to harmonize, that a basic change in the conditions of the Negro in America will have to wait on change ‘in the hearts’ of whites. The core of their message, as Baldwin put it, is: ‘I don’t care if I live to be a thousand years old and you don’t love me. I just want you to let my people go!’”⁷¹

Should we perhaps understand such an ethos, then, as something appropriate not just for spectators or critics, but for the political actors themselves, caught up in the practice of mobilization and action? Connolly and Mouffe certainly indicate – at times – that we should understand “agonistic respect”

⁷¹ N. Hentoff, *The New Equality* (New York: Viking Press, 1965): p. 27

and the “democratic ethos” this way.⁷² Leaving aside the conditions of production and reproduction behind such an ethos, the openness to the constructed contingency of self is what should allow flexibility, innovation, inclusion, and transformation under radically plural and constantly shifting conditions. It should encourage not just toleration but perhaps – to use Mouffe’s term – “conversion,” enabling a constant redefinition of self and demos, allowing differentness while preventing polarization, entrenchment, segregation, and identitarian thinking. Yet as an ethic for political actors, I am uncertain how plausible or possible it is. The posture of openness to one’s own contingency is an unstable one, difficult to maintain even in contemplation and introspection. In the compressed time and heightened drama of political action, it may well be impossible to maintain. Is it really possible to remain simultaneously certain of a cause, dedicated to the risks of action in support of it, and yet tirelessly open to the idea that it is all contingent? That the cause may be a lost one, or a mistaken one? That those who oppose the ends we seek or deny the identity we claim should be encountered as a chance to reflect on the constructedness of both cause and identity? Certainly such an ethos supplies questionable motivational force for action, if not demanding an untenable psychological mix of epistemological assuredness (required for contentious action in the face of risk) and epistemological humility (required for an ethos of openness to contingency).

Even so, in the face of the problems with the agonistic notions of identity and ethos, the agonist’s insistence against any full closure – against the idea that legality could ever get close enough to legitimacy to make such unruly and disruptive politics obsolete – is one that seems important to tarry with. The promise of the agonist’s critique, in my view, is not just that it will provide a place for conflict and disagreement in a theory of democracy -- which, as we have seen, deliberative theory actually already does – but that it might give us the conceptual tools to defend some forms of conflict as a *normatively desirable* (not merely unavoidable or ineradicable) part of political life. It promises a descriptive and normative retrieval of the kinds of contentious collective action that have been, in the history of democracy, instrumental to social change and political innovation. It claims that justification through reasons cannot capture the whole – or perhaps even the most important part – of what we mean by political action. And it raises the question of what, beyond the non-ideal realities of power and injustice, constitute the gap between an ideal of consensus and its apparent non-rationality, made visible in the form of contestation. Yet it is just here that agonism stops short, leaving us either with elusive moments of true

⁷² I say “at times” because it is not always clear who this ethos is appropriate to – citizen-spectators, citizen-actors, critics, academics, state officials, or everyone. Connolly, like Honig, is at his most persuasive when he discusses the stance that we – as spectators – ought to take with regard to new “identities” or forms of life. But his discussion of the “politics of enactment,” as well as his concern that contingency and openness result from the agonistic exchange rather than polarization, closure, and entrenchment, seems to indicate that this ethos should be taken up by all individuals and groups acting within the pluralist space of democracy.

action that quickly dissipate, or with a dichotomous existential clash between identities that always threatens to devolve into violence. Or, alternatively, if identities are not simply frozen and divisions deepened in the agonistic clash – if antagonism is converted into agonism – then we seem to arrive again at a depiction of politics as that which occurs between “debating adversaries,” or within the mind of a citizen-spectator. And in this case, we have not moved sufficiently beyond the deliberative democrat’s tendency to view all relevant political action as forms of speech, and all conflict as either argumentative conversation or internalized moral reasoning. But move beyond it we must if we are to do justice – descriptively, normatively – to democratic processes as the messy *enacted* affairs our collective histories reveal them to be.

The confrontation between forms of activism and the theories of deliberation and agonism spelled out above provides an outline – brief, skeletal, necessarily incomplete – of some of the features that such an account might capture. The kinds of actions I have in mind are, for the most part, public, collective, and relatively sustained groupings of individuals and groups oriented toward a variety of political and social goals. They are communicative, but also strategic collective actors that are oriented not just to the persuasion of argument and reasons, but toward the use of collective power to achieve particular goals. They foster kinds of crises and disruptions in the material and structural conditions of everyday life in the polity, both for state officials, state institutions, and “innocent” bystanders and third-party publics. They employ the power of numbers as well as the coercion that entails, but operate in ways that entangle them in rather than cleanly separate them from the “normal” institutional setting of representative democracy. Finally, they express not just the contingency of constructed identities, but are subject to the contingency of political action under heightened circumstances, in which the interplay between forces will have much to do with what comes out of the struggle. Such forms of action do not sit readily, or easily, within either a framework of democracy as deliberation, or democracy as agonism. In fact, contentious political action – while invoked and alluded to by both sides – appears to press up against the limits of what either theory is able to explain.

I lack the necessary space here to provide a full account of this sort of political action. Such an endeavor would need to rely much more extensively on the enormous wealth of knowledge and theory available in the sociological and historical literatures on social movements, nonviolent resistance, civil disobedience, and the tactics and philosophy of direct action – an effort I am undertaking in my current research. Instead, and in the concluding section, I consider the problems and questions within contemporary democratic theory that might be resolved, addressed, or simply clarified by looking at them from the standpoint of political action.

4 Enacting democracy

At one level, the appeal of approaching the space between deliberation and agonism – and the problems of democratic theory more broadly – from within an investigation of forms of political action is, I hope, well-established by the foregoing discussion. I have argued that neither deliberation nor agonism provides a compelling account of the dynamics of collective, contentious action, and that this poses a particular problem for democratic theory because of the crucial role that the protest form has played in the history of democratic change and development. While this alone might be sufficient to motivate and defend an action-centric approach to democratic theory, in this concluding section I intend to pitch the argument at a slightly different level, toward the claim that beginning with action rather than deliberation or agonism *per se* – *enacting* democratic theory – also provides a new reading, a way around, or a resolution to some central conundrums of contemporary theorizing, chief among them the seeming impasse between deliberative democrats and agonists over the constitutive standing of consensus versus conflict.

Consensus and conflict

It is clear from the foregoing discussion that many deliberative theorists and agonists would agree, at the very least, that the realities of power asymmetries and political and social inequality necessitate or justify the contentious forms of political action present in protest, social movement activism, civil disobedience, and the like. But the extent to which social movement actions are a feature of our imperfect real world, and not a necessary feature of the concept of democracy remains an open question. This, of course, is yet another way of recasting the deliberative-agonistic divide: while deliberative democrats tend to write as if rational consensus – a closing of the gap between law and legitimacy – stands on just the other side of the empirical roadblocks of power, domination, and inequality, agonists argue that the gap is itself constitutive; the hope of closing it, even in some ideal realm, is just another liberal chimera. Posed in abstract terms as a fundamental ontological question, I confess I find it hard to get much traction on it. Posed, however, as a question about the forms of action that populate our democratic imaginaries, as a question about the practice of popular politics, I think we might have more luck.

In part, the question is dissolved by shifting the focus away from the ontological level and back onto the field of politics. Rather than asking if rational consensus is possible, or whether conflict is the fundamental, deep reality of social life, an action-centric approach begins with the tactics and strategies that political actors use to forge consensus amongst discrete publics, multiply and reinforce claims across audiences, engender conflict by disrupting unwanted institutional or ideational arrangements, and transform existing structures (or devise new ones). Within these dynamics, we might identify particular deliberative or agonistic “moments” – in which consensus-building and conflict-engendering mechanisms

are at the helm – while remaining open to the way in which these processes are interdependent, one collapsing into the other. Building consensus, as the agonist warns, is never a matter of pure persuasion and rationality, nor is it stable: whatever manner of political and cultural consensus was forged by the civil rights movement, it was not free from coercion or violence, nor was it ever complete. On the other hand, engendering conflict is neither an ephemeral rising of a phantom public nor a clear clash between friend and enemy, but a complex set of processes in which alliances, solidarities, and forms of consensus are forged along with rivalries and enmities. And in the midst of all of that, a process of moral reasoning and moral argument between protestors and officials, publics, and one another does indeed take place – one that sometimes approaches what deliberative democrats have in mind.

Taking action seriously, the consensus-or-conflict conundrum likewise recedes in importance because it becomes possible to separate necessary, intrinsic, or rather permanent features of human psychology and social institutions from the effects of power and inequalities. This, in turn, provides a different take from another deep divide in contemporary democratic theory, and in the debate over deliberation and agonism: that between ideal and non-ideal theory.

Politics before, during, and after the revolution

Under an idealized, but “realistic utopia” in John Rawls’ sense,⁷³ we might be able to dispense with deliberative and institutional failures that result from histories of discrimination, entrenched power imbalances, abuses of office, manipulation of the media, and the like. But this does not come close to exhausting the reasons why extra-institutional, contentious collective action might become necessary. In their article on animal rights activists, Matthew Humphrey and Marc Stears suggest that the “moral urgency (to at least some participants) of certain political questions and, second, the essential ‘stickiness’ of certain cognitive frames” provide good reasons for some forms of confrontational activism to remain necessary, justified (or at least justifiable), and regular features of even an idealized democratic life. The moral urgency of a given issue, particularly one not taken seriously by a majority, will inevitably contradict with the relative slowness of institutional change, necessitating more direct tactics. Similarly, even absent significant systematic imbalances that place money, influence, power, and education in the hands of a small group who remain committed to the political or social status quo, “common frames of reference for thinking about things like principles of justice” will no doubt settle, become entrenched, and

⁷³ Rawls, *The Law of Peoples* (Cambridge, MA: Harvard University Press, 1999): p. 11. Here, I read alongside Stears & Humphrey, “Animal rights protest,” pp. 415 ff.

come to define the limits of common sense.⁷⁴ Dislodging common sense, or significantly questioning it, will likely require actions of a dramatic, symbolic, and confrontational sort.

To Humphrey and Stears' list, I would also add institutional inertia and short time-horizons. Even in a "realistically ideal" democracy, whatever institutional arrangements come to prevail will have some staying power – they will be as "sticky," if not stickier, than the "cognitive frames" discussed above, and are in some sense part of what shapes and constitutes cognitive frames. It is the nature of institutions that they tend to persist beyond those who created them and surpass the reasons for their creation, always bleeding beyond their own narrowly-conceived purview. As Douglas North argued more than two decades ago, institutions – both formal and informal – structure expectations and order our lives, establishing patterns that, once set, become difficult to upset.⁷⁵ As such, they may require the directly confrontational methods of contentious political action to amend, reform, or disband when necessary. This is all the more true when we consider the complexity of representative institutions...democratic deficits.

Finally, politics is beset with the problem of short time-horizons. It will always be more pressing, more important, and more advantageous to act in favor of short-term interests and concerns. While in our political world this is often the case of money and powerful interests run amok, the core problem, I think, would still persist without those issues. The institutional machinery of an electoral republic produce incentives oriented toward the near-term; it is only in the near-term that the votes of citizens operate as effective means for either presenting a mandate to the elected, or sanctioning those who fail to serve the purposes of their constituencies. Yet this very feature – necessary to put some real democratic power in the hands of citizen-voters – also makes it inevitable that representatives will focus on near-term problems and near-term solutions. Perhaps there is an institutional fix to this particularly pervasive institutional problem; however it does not seem unreasonable to assume that part of the problem of short-time horizons is somehow rooted in the makeup of human psychology. And to that extent, it may be a problem that we have to live with – which means countenancing the necessity of contentious political action in the service of causes and concerns that are at a remove from short-term considerations. Environmental issues seem a particularly pertinent example here.

These considerations lead me to the view that it is likely as well as politically important that we retain an expansive, capacious understanding of political action in democracies, even well after "the revolution," to borrow (and invert) Archon Fung's phrase.⁷⁶ Change may not always require upheaval, but

⁷⁴ Stears & Humphrey, "Animal rights protest," p. 416.

⁷⁵ D. North, *Institutions, Institutional Change and Economic Performance* (New York: Cambridge University Press, 1990).

⁷⁶ Fung, "Deliberation before the revolution."

it often does. To quote Frederick Douglass once more, “If there is no struggle, there is no progress. Those who profess to favor freedom, and yet deprecate agitation, are men who want crops without plowing up the ground. They want rain without thunder and lightning. They want the ocean without the awful roar of its many waters.”⁷⁷ This may seem, in the last instance, to come down squarely on the agonist’s side, in the sense that conflict – taking here the form of contentious political action – appears as a necessary, permanent, and thus ineradicable feature of democracy, intrinsic to its functioning. I believe this to be true, but arguably for different reasons than the ones the agonist offers. It is not the conceptual impossibility of consensus, rational agreement, or complete closure that concerns me, nor a stake in defending or decrying ideal theory, but the encouragement of democratic innovation, social change, and institutions that remain responsive to the cries of the *demos*; it is a concern for our ability to retain and nurture a varied, creative, engaged, inclusive and vibrant democratic imaginary. Surely, these concerns are shared by the deliberative democrat and the agonist alike – in Habermas’s conceptualization of the unregulated public sphere as a “wild complex”; in Mouffe’s insistence on the place of affect and passion. But the terms of the debate between them have largely obscured this shared commitment and left its theoretical content underdeveloped – its contentious subjects stranded and strangely silent in the empty space left for political action.

As a perennial feature of our political and social worlds, contentious political action requires a more expansive place in the theories we craft to describe, analyze, and critique those worlds. Poised on the dividing line between institutional and extra-institutional politics, between revolution and election, and between deliberation and agonism, it can provide one fruitful avenue to explore key questions of democratic theory anew. But it can do precious little in abstract terms, far removed from the empirical and historical fields across which it operates. This paper has thus provided only a tentative start, the necessary groundwork before the real work of enacting democracy – or, more fittingly, democratic theory – begins.

⁷⁷ F. Douglass, “An Address on West India Emancipation (3 August 1857),” in *Frederick Douglass: Selected Speeches and Writings*, edited by P.S. Foner & Y. Taylor (Chicago: University of Chicago Press, 2000): p. 367.