

Don't cut off difference to spite deliberation: or rehabilitating deliberative models of democracy

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Abstract

Since the deliberative turn in democratic theory, critics have raised significant concerns regarding deliberative models' inability to accommodate the deep differences and disagreements that exist in politics. Such critics take issue with the argumentative means, consensual ends, and unequal conditions of deliberation. In this paper I argue that deliberative theories of democracy can be rehabilitated and strengthened in light of these criticisms only once we address the deficiency of "dialogical openness" in both theory and practice. By dialogical openness, I refer to a disposition of citizens who are humble, generous, and receptive to others. This disposition allows for a more searching and multidimensional consideration of political questions. In order to make the means, ends, and conditions of deliberation more hospitable to difference, we must take into account the importance of listening and the extra-procedural obstacles to as well as facilitators of improved listening. Without an account of dialogical openness, including both its nature and potential sources, theories of deliberation will remain unable to accommodate deep difference. If unaddressed, the deficit of dialogical openness runs the risk of derailing even the most inclusive and democratic procedures.

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In deliberative democratic theory, the openness that deliberation requires is assumed rather than solicited or adequately theorized. This assumption is deeply problematic in part because it distances deliberative theory from a political reality where people often resist listening to alternative viewpoints and remain closed off to those who are different from them.

Deliberation among citizens who are closed off to each other fails to achieve the “promise inherent in democracy,” namely that “before a society makes decisions that it will use its collective power to enforce, it will give equal consideration to everyone in the community” (Morrell 2010, 1). As a result, this closure has the potential to threaten the justificatory power of those decisions. Dialogical openness is what I interpret to be the disposition required of citizens engaging in democratic discourse. People who are dialogically open are those citizen-listeners who show a significant degree of humility, receptivity, and generosity when engaging with others.

1.1 What is at Stake with Dialogical Openness?

Promoters and detractors alike have pointed to the ways in which models of democratic deliberation fall short in both theory and practice. One of the main criticisms leveled against democratic theory since its deliberative turn relates to its inability to accommodate the deep differences and disagreements that exist in politics. Those who offer this kind of criticism of democratic deliberation can be broadly referred to as “difference democrats.” According to John Dryzek, “Difference democrats are those who stress the need for democratic politics to concern itself first and foremost with the recognition of the legitimacy and validity of the particular perspectives of historically-oppressed segments of the population” (2002, 57). Sharing this commitment, difference democrats take issue (to varying degrees) with democratic deliberation.

I understand the category of “difference democrat” to transcend the typical categories of agonistic or deliberative democrats. Although all agonistic democrats are probably rightly understood as difference democrats, not all difference democrats are agonistic democrats. Some difference democrats, such as William Connolly or Chantal Mouffe dispense with the deliberative ideal altogether, endorsing a more agonistic understanding of democracy. Others, including Iris Marion Young, aim to make deliberative practices more accommodating of deep difference.

In general, the criticisms and concerns regarding deliberative democracy that are offered by difference democrats can be grouped into three main categories. Though they often appear side by side, I offer the following categories for analytical purposes.

The first category is made up of those who take issue with the *means* of deliberation, which most often include a narrow understanding of rational argumentation. These critics argue that rational argument can be “coercive and exclusive” (Dryzek 2002, 57). By permitting only certain kinds of reasons and restricting the types of communication in public discourse, models of democratic deliberation run the risk of excluding certain groups and individuals while privileging others. For example, Iris Young and Lynn Sanders both contend that permitting only rational argumentation undermines the goal of neutrality in deliberation and actually favors those in power, including white men, while excluding groups that use other means of communicating such as emotional speech or rhetoric (Sanders 1997, Young 2000).

Similarly, those who take issue with the consensual *ends* of deliberation argue that the single-minded drive toward consensus and agreement creates “remainders” who are ultimately ignored and excluded from discussion. According to these critics, the deliberative ideal of

consensus, even when pursued with the best of means, crowds out difference and disagreement (Connolly 1995, Mouffe 2000, Sanders 1997).

In the third category are those who take issue with the *conditions* of deliberation, or what critics identify to be inherent power asymmetries present in society at the time of deliberation. Until the unequal social and political conditions of citizens are ameliorated, deliberation will fail to produce the legitimate outcomes many of its advocates believe it should. Sanders, for example, claims that given the unequal and power-laden conditions of deliberation specifically and politics generally, fair and equal deliberation is a naïve, unattainable, and misguided goal (1997). Still others point to the inextricability of power and politics and have searched instead for ways that democracy can cope with the inevitably unequal and non-ideal conditions of democratic discourse (Shapiro 2003). These critics contend that our energies should be directed toward designing institutions that redistribute power (specifically decision-making power) rather than aimed at ensuring and guaranteeing access to communicative venues (Shapiro 2003).

Since the deliberative turn, procedural corrections have been proposed for problems related to the means, ends, and conditions of deliberation. Given the procedural nature of deliberative democracy, it is not surprising that so much attention has been paid to tinkering with the very procedures that are expected to produce just outcomes. A marked focus has been on designing procedures that pluralize the voices included in deliberation as well as amplify the dissenting voices that remain after a decision has been made. These kinds of corrections have proven fruitful terrain for making deliberation more democratic and inclusive.

But in order to ensure inclusive *uptake* and not just input in democratic deliberation and to guarantee that people not only have the chance to speak but also to be *heard*, we must account for a receptive disposition on the part of citizen-listeners. To this end, I go beyond the discussion

of procedures of speaking to incorporate procedures and conditions for greater listening. For deliberatively legitimate decisions to be made, citizens must listen to one another with a significant degree of humility, receptivity, and generosity. This listening, however, cannot be achieved or even approximated by simply amplifying the voices of relevant parties.

For all of these reasons, I contend that an account of the *disposition* or *attitude* required of citizens in order to sustain capacious listening is one of the most important components of a successful model of deliberative democracy. Developing our understanding of the very dialogical openness that is required and often merely assumed on the part of participants is crucial if we are to realize successful deliberation. If unaddressed, the deficit of dialogical openness runs the risk of derailing even the most inclusive and democratic procedures. Despite the importance of this disposition, it has largely been ignored in three of the most comprehensive approaches to democratic deliberation¹ within large, diverse societies – those of John Rawls, Jürgen Habermas, and Iris Young.²

In order to make the means, ends, and conditions of deliberation more hospitable to difference, we must take into account the importance of listening and the extra-procedural obstacles to as well as facilitators of improved listening. Without an account of dialogical openness, including both its nature (discussed below) and potential sources (which I plan to do in future work), theories of deliberation will remain unable to accommodate deep difference. That is not to say that the problems raised by the critics discussed above can be traced back to a lack

¹ The attention to affect and disposition has appeared primarily in the work of agonistic democrats rather than deliberative democrats. The exception to this dearth of research regarding affect and deliberation is the relatively recent literature regarding the role that empathy should

² Young's work occupies a unique position in democratic theory. Young can perhaps best be described as a skeptical proponent of deliberation. For that reason she appears in this chapter as well as the dissertation as both a critic and an advocate of democratic deliberation.

of dialogical openness alone. Rather, I claim that greater dialogical openness can at least make us more aware of and attentive to these concerns.

Difference and disagreement cannot be removed from politics, and should at times be celebrated and protected. Citizens, however, must be able to deliberate in the presence of these differences. Theorizing the kind of disposition that would make citizens more open to listening to each other is of vital importance. We must understand dialogical openness at a conceptual and theoretical level before we can point to the ways that we might actually achieve it in practice. Only with this understanding can we pursue a more equitable and fair consideration of all perspectives, given conditions of moral conflict, including scarcity, limited generosity, incompatible values, and incomplete understanding, (Gutmann and Thompson 25).

In Section 1.2, I show how deliberative democrats, despite their efforts to design fair deliberative procedures, have remained blind to obstacles that impede free, equal, and inclusive deliberation even in a context of procedural perfection. Examining the work of Rawls, Habermas, and Young, I identify two features that lead them to systematically ignore the need for dialogical openness. First, as we see in the work of Rawls, the cultivation of dialogical openness is replaced with formal procedural guarantees of fairness and inclusion. As I demonstrate, however, these procedural guarantees fail when they are applied to informal deliberative settings. Second, as evidenced in the work of Habermas and Young, dialogical openness is often assumed to be an inherent feature of communication in both formal and informal deliberative institutions and procedures. But dialogical openness is often absent; and this weakens the very procedures these theorists aim to develop, as it obscures our understanding of the conditions necessary for those procedures to succeed.

Section 1.3 gives an account of the concept of dialogical openness and explains how it helps to fulfill the promise of deliberative democracy. Such an account gives us a better understanding of the conditions necessary for deliberatively legitimate decisions to be made across difference. Building on the development of this concept, I will dedicate future research to looking for possible sources of this dialogical openness, to find the most fruitful ways to foster it among citizens.

1.2 Procedural Blind Spots and Assumptions

1.2.i Rawls

Given the fact of reasonable pluralism – or the fact that citizens in a liberal democracy subscribe to different and often incompatible metaphysical and religious beliefs (what Rawls calls comprehensive doctrines) – how can citizens reach decisions that are deemed legitimate by all? To explain how citizens might reach agreement in spite of their diverse commitments and beliefs, Rawls offers “the idea of public reason.” Perhaps paradoxically, Rawls maintains that in order to accommodate and respect the diversity of comprehensive doctrines among citizens, these differences must be excluded from deliberation (Rawls 2005, 216). In *Political Liberalism*, Rawls explains that “the ideal of citizenship imposes a moral, not a legal, duty – the duty of civility – to be able to explain to one another on those fundamental questions how the principles and policies they advocate and vote for can be supported by the political values of public reason” (2005, 217). According to Rawls, legitimate decisions are those made and defended by appealing to only “public reasons” – those supported by the shared public political culture. Excluded from the public political forum are comprehensive reasons rooted in religious or metaphysical beliefs, which cannot be assumed to be shared by all reasonable citizens.

Much has been written in regards to whether Rawls's idea of public reason is too restrictive or even necessary. Can citizens achieve neutrality when discussing questions of basic justice and constitutional essentials? And is this neutrality even desirable (McCarthy 1994)? Critics have also taken issue with Rawls's singular view of public reason. For example, Bohman (1996) argues that Rawls's idea of public reason is unnecessarily restrictive and should be pluralized. Others argue that the idea of public reason is not neutral and, in fact, favors some comprehensive doctrines over others. For example, secularists may have an easier time satisfying the limits of public reason than theists who, as a result, would have a unique and unfair burden when engaging in public deliberation.

Rawls addresses many of these critics by pointing to the circumscribed application of public reason. In "The Idea of Public Reason Revisited," he specifies that he is only concerned about debates over constitutional essentials or questions of basic justice. Furthermore, Rawls points out that the limits of public reason apply only to formal deliberations in the public political forum and not informal communicative interactions in the "background culture." He explains that "sometimes those who appear to reject the idea of public reason actually mean to assert the need for full and open discussion in the background culture. With this political liberalism fully agrees" (1997, 768).

In this section, I do not critique or even fully engage with Rawls's idea of public reason. Instead, I want to consider what he misses by focusing primarily on the public political forum in the first place—namely the informal and diffuse communicative interactions among citizens that take place outside of formal decision-making bodies. In his treatment of public reason, Rawls sidesteps any in-depth consideration of the conditions for just deliberation in the background culture. I argue that this omission is problematic because what he leaves aside, deliberation in the

background culture, is extremely important for answering questions regarding the establishment of fair procedures of democratic discourse.

Setting aside the limits of public reason as such, I am interested here in their application. Are the limits of public reason required by the particular setting or by the content of the question at hand? The answer is both. Rawls clearly states that the idea of public reason applies to debates of constitutional essentials and questions of basic justice that take place *in the public political forum*. In sum, the limits of public reason are required by both the content and setting of deliberation. Rawls, however, is not always clear or consistent in distinguishing the two conditions that trigger the need for public reason.

At times, the idea of public reason seems to apply to all deliberations among citizens in regard to relevant subject matter (i.e. constitutional essentials and questions of basic justice) regardless of where they take place. For example, Rawls says that even in a representative government wherein citizens do not directly choose the laws, citizens would ideally “think of themselves *as if* they were legislators and ask themselves what statutes, supported by what reasons satisfying the criterion of reciprocity, they would think it most reasonable to enact” (1997, 769). Here Rawls suggests that when considering fundamental questions, even when that consideration will not lead directly to enforceable laws, citizens have a moral duty to justify their positions using only public reasons. This reading would *extend* the limits of public reason into the background culture when relevant subject matter is discussed. Accordingly, we have reason to believe that the limits of public reason apply anytime questions of basic justice or constitutional essentials are discussed, regardless of the deliberative setting. I will call this reading the “expansive interpretation.”

Take for example deliberation over the question of abortion. If the *legality* of abortion is debated among members of a church or on a cable news talk show should individuals be expected to appeal only to public reasons? The expansive interpretation would suggest that when discussing the *legality* of abortion (rather than its morality or permissibility for a member of particular Church) the limits of public reason should apply.³

There remains, however, strong textual evidence in favor of rejecting this expansive interpretation in favor of a narrower one. The narrow interpretation holds that Rawls intends for the limits of public reason to be applied only to the public political forum and *never* to the background culture. Rawls clearly states that: “the idea of public reason does not apply to the background culture with its many forms of nonpublic reason nor the media of any kind” (1997, 768). Deliberation in the background culture occurs outside of any formal decision-making body. In these informal deliberative encounters, whether during a talk show or a religious service, citizens are free to appeal to comprehensive reasons. According to Rawls, using comprehensive reasons in these settings does not amount to trying to impose one’s views on another because no decision will be made; no law will be passed as a result of these informal deliberations. Therefore, there is no risk involved with allowing citizens to appeal to their comprehensive reasons. According to the narrow interpretation of public reason, the background culture is always open to public and nonpublic reasons alike. Citizens are expected and encouraged to debate a wide range of positions and beliefs that are based on shared public reasons as well as unshared comprehensive reasons.

³ There is some debate as to whether the question of abortion amounts to a question of basic justice or a constitutional essential. Rather than defend the status of the question of abortion, I will note that Rawls himself uses this example.

Given Rawls's insistence that the limits of public reason do not apply to the background culture, the text seems to best support the narrow interpretation. Public reason then applies only to deliberation in the public political forum. I argue, however, that there remain theoretical reasons (if not textual ones) to believe that the expansive view is more in line with Rawls's stated goals.

Communication among citizens in the background culture must be incorporated into any complete account of fair and inclusive democratic deliberation. It is vital for understanding the anatomy of legitimate democratic decisions. Rawls's omission of this component – according to the narrow interpretation of public reason – leads to serious weaknesses in his model of democratic deliberation because it limits our understanding of the complete process of legitimate decision-making. Despite being supported by the text, the narrow interpretation of public reason fails to legitimize coercive decisions in the way that Rawls hopes it will.

After showing that the narrow interpretation of public reason ignores the question of fair deliberation in the background culture, I go on to argue that the expansive interpretation fails to ensure it. Despite the limits of the narrow interpretation, I am unable to endorse the expansive view of public reason. Applying public reason to the background culture is impossible. In regards to ensuring fair deliberation across difference in the background culture, we must look beyond procedure and give an account of the kind of disposition required of citizens engaging in deliberation.

Importance of Background Culture

By separating the background culture from the political forum, Rawls implicitly acknowledges two distinct phases of democratic deliberation: collective opinion-formation followed by collective will-formation. Before a collective *will* is formed in the public political

forum, where citizens, judges, and legislators decide the best course of action based on shared public reasons, a collective *opinion* is formed in the background culture. Legitimate decisions are reached only if both phases of deliberation are inclusive of and open to all citizens. And yet in the narrow interpretation of public reason, Rawls concerns himself only with the public political forum, and therefore only with procedures of collective will-formation. By leaving behind deliberation in the background culture, Rawls does not discuss legitimating procedures for collective opinion-formation in the background culture. If Rawls implicitly acknowledges these two phases of deliberation, why does he ignore the former and discuss only the latter?

Rawls downplays the initial, informal phase of deliberation in his model not because he thinks it is unimportant, but because he mistakenly identifies it as free from coercion. The outcomes of deliberation in the opinion-formation stage are not immediately binding or coercively enforced.⁴ Therefore, under the narrow interpretation of public reason, deliberations in these settings do not need to be held to the same standards as deliberation in the public political forum.⁵

The expansive interpretation of public reason challenges this assessment of the public political forum as uniquely coercive. Deliberation in the background culture is removed from the coercive decisions of the public political forum only by time, not substance. For example,

⁴ This assessment of deliberation in the background culture being non-coercive aligns well with John Dryzek's discussion of cool deliberation, or deliberation that is decoupled from formal decision-making bodies. According to Dryzek cool deliberative settings are the most fruitful setting for political debate in divided societies where intractable divisions often derail formal deliberative engagement, let alone, consensus or agreement. Cool deliberative settings are attractive because people can deliberate without threat of "losing" and being forced to abide by the winner's decisions.

⁵ Whether the limits of public reason are required in order to legitimize coercion or to ensure coauthorship (as in Bird's view), they are not applied to the background culture because the background culture is seen as separate and disconnected from official political decisions (in this case separate from both coercion or authorship).

debates about abortion that occur on a cable news show or in a university classroom do not occur in a vacuum. The effects that these conversations have on coercive decisions may be indirect, but they are real. Deliberative encounters in the background culture precede formal deliberation in the public political forum. Despite being pre-procedural in this literal sense, these diffuse and informal encounters play a significant role in generating the collective decisions that are ultimately reached in the public political forum.⁶ Rawls's aim to prevent anyone from forcing his own comprehensive doctrines on others could lead him to support the expansive view of public reason.

Even if we accept Rawls's understanding of democratic deliberation as culminating in a final decision-making moment, that moment is always preceded by deliberation occurring "across wide distances and over long times, with diverse social sectors speaking to one another across differences of perspective as well as space and time" (Young 2000, 46). Unless this informal communicative process is open, free, and inclusive, the binding decision made in the political forum will lack democratic legitimacy.

A process of collective will-formation that is cut off from the preceding collective opinion-formation will be democratically defective. It is precisely the debate in the background culture that generates the public opinion and collective preferences that are reflected in the decisions of the public political forum. Because these two phases of deliberation are inextricably tied – normatively and empirically – legitimate outcomes require that both be open, fair, and equally inclusive of all citizens. No matter how fair, inclusive, and neutral deliberation may be in

⁶ For example, the flood of referenda and judicial decisions in favor of marriage equality has been attributed to major shifts in public opinion regarding same-sex marriage over the last decade (Lax & Phillips 2009, 2012).

the public political forum, outcomes will not be democratic if the preceding deliberation in the background culture is not also sufficiently open and fair.

By ignoring deliberation in the background culture because it is not tied to a formal decision-making body, and therefore does not *immediately* result in coercively enforced or “binding” decisions, the narrow understanding of public reason undermines the legitimacy of decisions reached in the public political forum. In light of the connection between deliberation in the background culture and the public political forum, I conclude that the narrow interpretation of public reason fails. We cannot limit our concern for fair procedures of deliberation to the public political forum. The narrow view of public reason does not go far enough in ensuring fair decision-making procedures in a pluralistic society.

Rawls contends that citizens have a moral duty of civility when deliberating across difference in the public political forum. This duty – again, realized through the idea of public reason – helps support legitimate decisions that respect differences among citizens. Having rejected the narrow view of public reason, we must consider whether the expansive view of public reason can ensure civility and a corresponding respect for differences in the background culture. I argue that it cannot.

The procedural guarantee of fair and inclusive deliberation that Rawls employs for the public political forum – namely the idea of public reason – cannot be applied to the background culture.⁷ Although I have shown the insufficiency of a narrow application of public reason to the public political forum, simply extending the limits of public reason to the background culture is not an effective solution.

⁷ Again, I am tabling the question of the merit of the idea of public reason in the public political forum. I am engaging with Rawls on his own terms and picking up where his conversation leaves off.

The diffuse and informal nature of deliberation in the background culture makes it unaccommodating to the kinds of procedural guarantees of equal consideration and fairness that Rawls proposes for formal deliberation in the public political forum. Rawls himself acknowledges that, for practical reasons, the idea of public reason cannot be applied to the background culture. The background culture of a pluralistic democratic society is not “guided by one central idea or principle” (1997, 443). As a result, there is no shared set of reasons or standards toward which citizens could appeal when debating in this setting.

Given the inapplicability of the idea of public reason to deliberation in the background culture, it becomes clear that Rawls lacks the theoretical resources to account for fair and open deliberation across difference in that setting. In other words, even the expansive view of public reason cannot answer the question of how to ensure reciprocity and civility in the background culture where shared public reasons are not available.

Given the inherent and necessary connection of the two stages of deliberation, the duty of civility – or a comparable guarantee of equal consideration across differences – must apply as much to the background culture as it does to the public political forum. The narrow understanding of public reason fails to ensure the legitimate and fair decision-making procedures that Rawls thinks it will. But the openness and reciprocity that is required for deliberation in the background culture to be inclusive of all perspectives cannot be guaranteed simply through formal procedural design. As a result, we need something other than procedural norms and rules to ensure fair and democratic outcomes of deliberation.

To ensure the democratic quality of deliberation in the background culture, I propose a shift in focus from procedure to the disposition or qualities of participants that can be understood as procedural preconditions. This shift will deepen our understanding of the necessary conditions

of democratic deliberation. Without dialogically open citizens, informal deliberation in the background culture will not be truly inclusive of all perspectives. This is problematic insofar as public opinion is formed first in the background culture before being implemented into coercive laws, justified by public reason in the public political forum.

I show in the following sections that Habermas (1.2.ii) and Young (1.2.iii) depart from Rawls by offering accounts of democratic legitimacy that take seriously deliberation in the “background culture,” or “public sphere.” With their respective models of deliberative democracy both Habermas and Young give “more prominence to processes of discussion and citizen involvement in the associations of civil society than do most theories of deliberation” (Young 2001, 46). Their theories mark a stark departure from Rawls’s model of deliberation which focuses primarily on the public political forum.

By explicitly incorporating diffuse and informal deliberation into their theories of democratic deliberation, Habermas and Young both offer a more complete view of the processes of legitimate democratic decisions. In their expansive views of deliberation, Habermas and Young consider what – using Rawls’s language – the “duty of civility” might require of citizens engaging in deliberation in the background culture. As I show below, however, Habermas and Young still suffer from a problematic assumption of openness among citizens.

1.2.ii Habermas

Compared to Rawls, Habermas pays much more attention to the question of deliberation in the background culture, or what he calls the “informal public sphere” (1996, 308). He explains that deliberative politics “lives off the interplay between democratically institutionalized will-formation and informal opinion-formation” (1996, 308). His attention to the quality of deliberation that takes place at an informal level marks an improvement over Rawls’s exclusive

focus on the formal public forum. Yet Habermas still fails to attend to the question of ensuring that this informal deliberation will be sufficiently free and equal. Similarly deficient in “dialogical openness,” Habermas lacks the theoretical resources for comprehending the kind of communicative generosity and receptivity that his model of discursive democracy requires.

Habermas understands deliberative democracy as operating along two tracks: the informal communication dispersed across public spheres, and the formal deliberation that occurs in official decision-making bodies like Parliament and Congress. The second track provides an institutional focus for the broader “subjectless” communication of the first track. First, communicative power is generated in informal deliberations taking place in the public sphere. This communicative power is then transformed into administrative power (1994, 8). It is the realization of this process that legitimizes coercive political decisions and actions. In fact, Habermas explains that “the democratic procedure can lead to a rational will-formation only insofar as organized opinion-formation, which leads to accountable decisions within government bodies, remains permeable to the free-floating values, issues, contributions, and arguments of a surrounding political communication that, as such, cannot be *organized* as a whole” (1988, 485). Decisions are legitimate insofar as they are reflective of and influenced by public discourse.

Habermas does well to focus on the complete process of collective opinion-formation that occurs before will-formation and collective action. But as I will show, the theory of communicative action on which he relies falls short in explaining the conditions for a truly discursive communicative process.

The transformation of “communicative power” into “administrative power” is not sufficient for ensuring successful deliberation. An adequate theory of deliberation must secure adequate sources for dialogical openness in order to explain *how* communicative power is

generated. The legitimacy of formal decisions made in the public forum depends on the discursive quality of the informal deliberative processes that generate communicative power in the first place (1996, 448).

Assumption of Openness in Theory of Communicative Action

The power of Habermas's discourse theory of democracy is rooted in his theory of communicative action. According to this theory, citizens are expected to present, challenge, and defend various validity claims to one another in an attempt to reach mutual understanding. "Insofar as actors wish to coordinate their action through understanding rather than force or manipulation, they implicitly take on the burden of redeeming claims they raise to others regarding the truth of what they say, its normative rightness, and its sincerity" (White 1995,7). The understanding achieved through language allows for coordination of actions based on consensus and not manipulation or coercion.

Communicative action "depends on the use of language oriented to mutual understanding. This use of language functions in such a way that the participants either agree on the validity claimed for their speech acts or identify points of disagreement, which they conjointly take into consideration in the course of further interaction" (1996, 18). With the presence of disagreement, ongoing communicative action is interrupted and discourse begins. At this point, language works to mediate a disagreement only if participants adopt the "performative attitude of a speaker who wants to 'reach understanding' with a second person about something in the world" (1996, 18). This performative attitude replaces the objectivating attitude, which is oriented to personal success. But how does this transition to the performative attitude take place?

It is the reciprocal nature of communication that allows for consensus and *mutual* understanding to be achieved. As opposed to strategic action, which aims at convincing (or

deceiving) someone to participate in one's own predetermined end, communicative action does not necessarily presuppose the end towards which discourse will ultimately aim. The opinions and positions that are raised in communication are susceptible to the consideration and critique of others, which may ultimately lead to consensus (1994 I, 136). Habermas specifies that "the binding energies of language can be mobilized to coordinate action plans only if the participants suspend the objectivating attitude of an observer, along with the immediate orientation to personal success, in favor of the performative attitude of a speaker who wants to *reach an understanding* with a second person about something in the world" (1996, 18).

Habermas does not explain the origin of the wish for understanding that sustains communicative action. He appears to assume that this orientation is an automatic or an inherent part of language itself. As he explains in his *Theory of Communicative Action*, "reaching understanding is the inherent *telos* of human speech" (1994 I, 287). Mutual understanding is the natural end of our communicative encounters with others.

While I am generally sympathetic to Habermas's model, especially its inclusion of informal deliberative encounters, I argue that the assumption of reciprocity and openness to others' opinions requires a corresponding theoretical exploration of their source. In a political context where groups and individuals are potentially vying for scarce resources or conflicting policies or laws, the assumption that citizens would adopt such a performative attitude needs justification. As Romand Coles explains, for the most part, Habermas resists "ontological harmony claims" (1997, 15). He does not assume that consensus is a natural or automatic part of the human condition. For Habermas, agreement is not inherent to the human condition, but an *orientation* toward agreement is. Coles sums up Habermas's position well: "because our existence and coexistence are deeply communicative, we are ontologically and normatively

characterized not by de facto agreement but by a mutual lived commitment (agreement) to coexist through efforts to agree” (Coles 1997, 18). Although Habermas’s assumptions regarding mutual understanding and consensus are much weaker than critics often charge, he still has a yet unjustified assumption regarding our general “orientation” toward mutual understanding.

The assumption of reciprocity and the maintenance of a performative attitude, which may be valid and empirically justified in ongoing communicative action where there is no perceivable disagreement, does not automatically obtain in discourse. In Habermas’s model, discourse only begins once ongoing communicative action has been disrupted by a disagreement among citizens. The presence of disagreement makes his assumption of an orientation toward mutual understanding even less convincing. Why, in the presence of disagreement, when discourse has interrupted ongoing communicative action, would citizens maintain the performative attitude instead of switching to the objectivating attitude of strategic action. Habermas asserts that this performative attitude will continue as a function of our capacity for language.

Of course, the empirical question of *why* or *how* people adopt the performative attitude may be ancillary to Habermas’s theory of the normative conditions for legitimate decisions. A full explanation of how this is brought about may not be required for his theory of democracy. Habermas might insist that he is only interested in making the normative claim that decisions reached between citizens who fail to adopt the performative attitude are not democratically legitimate. But given that Habermas’s model of deliberation explicitly relies on his account of how language works, fleshing out the transformation from the objectivating to the performative attitude is crucial.

When Habermas writes that “the *telos* of language is mutual understanding,” he assumes that openness or reciprocity is an automatic component of speech. He famously claims that the

hallmark of modernity is our ability to provide reasons for our opinions and our willingness to be swayed only by “the forceless force of the better argument.” But being swayed by the forceless force of the better argument is not a given, especially when deliberation occurs among citizens with different experiences, values, interests, comprehensive doctrines, etc. I maintain that citizens must be primed if their wills and opinions are to be moved through the forceless force of reason.

1.2.iii Young

Departing from Rawls, but following Habermas, Young “advocate[s] a ‘decentred’ conception of politics and society...Society is bigger than politics and outruns political institutions, and thus democratic politics must be thought of as taking place within the context of large and complex social processes the whole of which cannot come into view, let alone under decision-making control” (Young 2000, 46). In such a decentered model of deliberative democracy, “the democratic process cannot be identified with one institution or set of institutions...Rather, the processes of communication that give normative and rational meaning to democracy occur as flows and exchanges among various social sectors not brought together under a unifying principle” (Young 2000, 46).

Before I explain how Young’s procedural model of democratic deliberation insufficiently addresses the concerns of difference democrats raised in the first section, I should explain the various – and seemingly contradictory – ways that I cite her work in this paper. In the introduction, I grouped Young with “difference democrats” who take issue with the ways in which extant theories of deliberation fail to accommodate difference in democracy. Now in this section, I turn Young’s criticisms against her own model of communicative democracy. Despite this seeming contradiction, I still would place Young squarely in the camp of “difference

democrats.” And yet she remains committed to communication as the best means to bring about just political decisions. Although a critic of some models of deliberative democracy, Young does not wholly reject deliberation as do agonistic democrats who share her concern for difference.

While aware of some of the exclusionary tendencies of deliberation, Young advocates a model of the democratic process that “retains deliberative democracy's account both of communicative orientation towards normative reason and of the transformation of private, self-regarding desire into public appeals to justice” (2000, 51). Despite her commitment to communication as the best means to bring about just political decisions, I would argue that Young is as worried about threats to justice that exist in the presence of deliberation as she is to threats to justice in its absence. Accordingly, she raises important concerns regarding the inhospitality of traditional deliberative processes of democracy to the question of difference.

Like Rawls and Habermas, Young provides a robust account of how democratic deliberation can bring about just outcomes within large, pluralistic societies. She differs from them, however, in what she identifies as the major threat to this outcome. As I show above, Rawls focuses on the threat that non-public deliberation poses to achieving just outcomes. He wants to make sure that people are not forced to live by laws that are motivated by comprehensive doctrines to which they do not subscribe. By maximizing the *public* nature of our deliberation, Rawls hopes to maximize the legitimacy of decisions. Habermas, on the other hand, is most concerned with the free flow of communicative power and its transformation into administrative power. Laws are legitimate only if they have been shaped by the informal and decentralized communication of citizens. Habermas attends to maximizing the *permeability* of sites of administrative power so as to ensure the influence of communicative power. We are always already oriented towards reaching understanding with one another through language.

Habermas's main priority, then, is ensuring that institutions are open to the input of public spheres and therefore that laws reflect the inter-subjectively rational will of the people.

For Rawls and Habermas, legitimacy is all but guaranteed through the adoption of their procedures. For Young, however, the hard work of ensuring legitimacy and justice lingers even after these procedures have been adopted. Young helps us see the ways that even communicatively achieved decisions can be undermined by the very procedures of deliberation meant to ensure their legitimacy. As a critic, she points to the ways in which even the ideal procedures of Rawls and Habermas produce non-ideal outcomes.

One of Young's most important contributions to democratic theory has been her challenge to the kinds of communication that have traditionally been admitted into deliberation. She argues that the inclusivity and openness of deliberation are undermined by Rawls's and Habermas's preference for rational argumentation. She rejects the assumption that argumentation will be persuasive only by the "forceless force" of being superior. Young rightly points out that the sorts of restrictions on the kinds of speech permitted in democratic discourse are not "culturally neutral and universal," pointing to the "way that power sometimes enters speech itself" (1997, 63). Concerned about the ways in which power can operate through language in invisible or undetectable ways, Young aims at reducing some of this power by pluralizing the means and modes of communication.

To make deliberation more inclusive of differences, Young proposes admitting additional forms of communication including greeting, rhetoric, and story-telling. For Young, restricting deliberation to argumentative speech has the potential to generate damaging forms of hierarchy and power dynamics. Taking her aim of inclusiveness even further, Young argues that "Disorderly, disruptive, annoying, or distracting forms of communication are often necessary or

effective elements in such efforts to engage others in debate over issues and outcomes” (2000, 50). To make deliberation more open and inclusive of all voices and perspectives, Young loosens the restrictions placed on the types of reasons and the forms of communication that can be used in deliberation.

Young productively identifies new ways to design deliberative institutions so that relevant voices will be included. “Demonstration and protest, the use of emotionally charged language and symbols, publicly ridiculing or mocking exclusive or dismissive behavior of others, are sometimes appropriate and effective ways of getting attention for issues of legitimate public concern” (Young 2000, 66). Permitting disorderly, disruptive, or annoying forms of speech necessarily makes the procedures of communication more open and more broadly inclusive. But the citizens who are hearing this speech are not any more likely to engage with these forms of communication than they are with the rational and orderly argumentation of Rawls or Habermas. Despite these important improvements to the inclusiveness and openness of deliberative processes, Young seems to conflate the adoption of more open procedures with more receptivity or openness on the part of citizens. The problem of dialogical closure, if not procedural closure, remains.

Missing from Young’s discussion is an account of how citizens might be drawn to *listen* to each other and actually *consider* alternative opinions especially the newly included forms of communication. Either Young does not recognize the importance of priming citizens to be receptive to these and other more traditionally accepted forms of political speech, or she assumes that citizens will simply be more likely to engage these rhetorical, disruptive, and affective modes of communication. While the latter position may certainly be true, it is at least worth

exploring why these forms of communication would have more success in drawing some citizens to engage perspectives that they would otherwise ignore.

Young is right to discuss the ways in which restrictive or closed procedural design can undermine the very goals of inclusion and fairness. But when it comes to the disposition required of citizens, she too includes it merely as an assumption or initial premise of democratic deliberation. Young, like Habermas, assumes a high level of receptivity and openness on the part of citizen-listeners. For example, Young lists “reasonableness” as a prerequisite for democratic deliberation. Importantly, Young *redefines* “reasonableness,” distinguishing her concept from a narrow view of “reasonableness, or civility,” often associated with Habermas, and which can be “used to locate some people as temperate and to label as ‘extreme’ others who use more demonstrative and disruptive means” (Young 2000, 47). Young shifts the focus from reasonable speech to “reasonableness” as a willingness to engage in the first place.

Her expansive definition of “reasonableness” is explained as a willingness “to listen to others, treat them with respect, make an effort to understand them by asking questions, and not judge them too quickly” (Young 2000, 25). Young’s new and improved statement of the condition of reasonableness gives us an idea of the kinds of attitudes citizens must adopt if their communication is to result in legitimate democratic decisions.

Given the lengths that Young goes to ensure that formal and informal deliberation will be inclusive of all perspective and diverse forms communication, her assumption of openness or “reasonableness” among citizens engaging informally in the public sphere seems perfunctory. The open disposition among citizens that Young assumes as an initial premise of her model of democratic deliberation is not automatic and instead must be cultivated. In the final section of this chapter, I explore this disposition in greater detail. What would an attentive listener or a

dialogically open citizen look like? I argue that if citizens are to meet Young's expectation of reasonableness, they must be drawn to show a significant level of humility, receptivity, and generosity in their interactions with others.

Although Habermas and Young build the need for openness into their models – through their respective discussions of the “performative attitude” and “reasonableness” – neither adequately theorize the source or origin of this orientation. Although the omission of the nature and sources of dialogical openness is problematic for both Habermas's and Young's account of democratic deliberation, their work is instructive in pointing to the need for it in the first place. Therefore, I consider the argument that follows to complement and grow organically out of their discussion of deliberation in the background culture.

1.3 Dialogical Openness

So far, I have highlighted the ways in which Rawls, Habermas, and Young do not adequately attend to the nature and sources of dialogical openness among citizens in public discourse. This inattention to dialogical openness prevents extant models of deliberation from adequately addressing challenges regarding democracy and difference. Only a model of deliberation that provides adequate sources of dialogical openness will be able to accommodate deep differences – ensuring that they are considered rather than simply permitted in discourse. In their contention that “reciprocal reason giving is going to form an effective or stable basis for the moral validity of agreements in a pluralistic society,” Rawls's, Habermas's, and Young's models each, in their own way, rely not only on a willingness to justify one's own position to others but also “a prior willingness to actively engage, listen to, and learn from diverse others” (Buttun 2005, 860). All three fail to consider or explicitly articulate the disposition on the part of citizens that is implicitly working in the background of their theories of deliberation. In this section, I

outline the disposition required of citizens engaging in deliberation. We must have a clear understanding of this disposition in order to explore ways that it may be cultivated among citizens.

Outside of the context of procedural theories of democracy, the question of disposition and ethical orientation of citizens has been a topic of renewed debate. For example, agonistic democrats, with their eyes already trained on the deep differences between people, have theorized more extensively about the kind of disposition that would allow deeply divided citizens to engage agonistically rather than antagonistically. As Stephen K. White explains, the most credible agonistic democrats are acutely aware of “the cognitive and affective need to dampen the initial wariness and certainty that we are likely to carry in our engagement with those whom we all too easily size up as radically other to us” (2009, 31). William Connolly and Stephen White have both dedicated much attention to theorizing a concept of “presumptive generosity” in an attempt to explain one way that citizens can engage across deep constitutive differences. The idea I present here, regarding the nature of dialogical openness draws on their work; however, I approach the question of democratic dispositions from a more explicitly deliberative angle. Rather than looking skeptically at the deliberative goal of mutual understanding and agreement, as Connolly does, I argue that an orientation toward consensus, though not an inherent or automatic human capacity, is still possible and worth pursuing.

The procedural justice to which deliberative democrats subscribe actually requires that we look beyond or, perhaps more accurately, *before* procedure and examine the kind of citizen who will engage openly in deliberation. By drawing attention to the importance of dialogical openness, which I identify as an affective disposition on the part of citizens, I am following the more recent tradition of democratic theorists who make room for the role of affect in democracy

(Krause 2008, Morrell 2010, Nussbaum 1995, Abizadeh 2007, White 2009). The affective component of deliberation, in my understanding, works as a complement to the rational argumentation that takes place among citizens. As Arash Abizadeh explains, Habermas actually weakens his own model and opens it up for criticism by constructing “the notion of discursive rationality in contrast to, and in abstraction from, the rhetorical and affective components of language use” (2007, 445). Until we “reject the false dichotomy between reason and passion in both political theory and American public life” we undercut “our ability to advance the cause of justice” (Krause 2008, 7). By encouraging the incorporation of affective elements – specifically the affective disposition of dialogical openness – I hope to weaken the sharp opposition between rationality and affect, reason and passion.

I ask: if people are to be swayed only by “the forceless force of the better argument” and if they are to engage with the claims and preferences of their fellow citizens, what kind of disposition is required? What attitudes must citizens have towards each other in order for their deliberative encounters to be fair and equal? What would an empowered listener or a dialogically open citizen look like?

It does not represent a threshold that is to be met, nor is it a capacity that can be turned on or off. Dialogical openness creates the metaphorical space where citizens come to engage with one another. Instead of imagining deliberation as being a door that can be open or closed to participants – I propose thinking of openness in spatial terms. Turning away from the idea of openness as procedural “access,” we expand the concerns of deliberative democrats beyond the question of voice and speech. Procedural guarantees of openness can ensure only open “access” to deliberative forums, not the corresponding engagement and consideration that makes the access meaningful in the first place. Struggles for inclusion and engagement continue, and

maybe only truly begin, once access has been achieved. Only with this more expansive view of openness can we attend to the goal of equal consideration, which is at the heart of the promise of democracy. Given the inevitability of difference and disagreement, legitimate decisions can only be made if participants in discourse have a particular disposition – one of humility, receptivity, and generosity characterized by a deep openness in dialogue.

Humility is what allows for the conversation to take place at all. Drawing on the “epistemic and social-relational dimensions of humility,” Mark Button defines democratic humility as “a cultivated sensitivity toward the incompleteness and contingency of both one’s personal moral powers and commitments, and of the particular forms, laws, and institutions that structure one’s political and social life with others” (2005, 841). If we do not exercise humility when engaging with our fellow citizens, then deliberation is not likely to get off the ground. Without humility – in relation to our own knowledge, ideas, and especially our understanding of the question and stakes involved – we have no need to engage with one another. If I am wholly confident in my own understanding – even if not mutual understanding – then decisions can be decided monologically. Button describes humility as “a window through which we allow that which is outside of the self or group to enter in and work upon us, at least for a time” (2005, 851). This understanding of democratic humility is “supportive of cognitive/affective openness, a spirit of attentiveness and active listening” insofar as it demonstrates the value for engagement in the first place (Button 2005, 851).

After the initial exercise of humility sets the stage for engagement, providing an opportunity, receptivity is what provides the space for engagement to occur, as if we were receiving someone into our home. In our receptivity, we acknowledge the relevance and

contribution of someone else's perspective. We show curiosity and a desire to hear what they have to say.

Through the exercise of generosity, citizens show patience and allow the other to express herself before jumping to any conclusion. Generosity can only be sincere and not patronizing with the initial exercise of humility, which ensures that the engagement has value and is not akin to simply "going through the motions."

Dialogical openness is an active ethos that must be cultivated among citizens if their deliberation is going to be as inclusive and solicitous as proponents of deliberation assume it will be. Dialogical openness is a state or disposition of engagement, it is not itself a motivation to engage. Furthermore, although I refer to it as a prerequisite for successful deliberation, this orientation towards the other does not always occur before political engagement begins. And it is not necessarily something that citizens develop on their own. This openness is perhaps just as likely to be demanded or extracted by a minority group as it is to be freely offered by a majority. In other words, while this openness can be cultivated internally, others also demand it. For example, we can see a demand for openness in actions taken by the Occupy Wall Street movement. During the height of this movement, activists forcibly occupied space that would have otherwise been closed off to them.

We should be attentive to what dialogical openness looks like, even if we cannot rely on citizens cultivating it on their own. Articulating the virtues, capacities, or dispositions of engaged citizen-listeners marks a contribution to the existing literature, much of which assumes that they either are inherent to citizens or can be replaced by elements of procedural design such as the idea of public reason.

1.4 Realist Critics of Deliberation

Some critics of democratic deliberation might take issue with my claim that dialogical openness will meaningfully improve the inclusivity of difference in deliberation. For these realist critics, *communication* is not the best way to address problems of power and exclusion operating in politics. Despite looking beyond deliberative procedures, these critics maintain a decidedly procedural focus, looking to procedures of *decision-making*, specifically distributing decision-making power and authority fairly (though perhaps not equally in an absolute sense) among citizens. Instead of focusing on making communication more open and equal so as to achieve unforced consensus or agreement, these theorists favor a focus on (re)distributing real political power across individuals and groups. Only such a distribution of *power* can ensure all relevant parties' interests and concerns are represented. For example, Ian Shapiro argues that rather than focus on procedures of deliberation, the problem of domination is better addressed by giving rights of delay or veto to those whose basic interests are at stake (2003, 48). Similarly, even Young points to the importance of these extra-communicative efforts, suggesting that relevant minorities be given veto power over policies "that fundamentally and uniquely affect members of their group" (1990, 189).

The problems of an exclusionary public sphere are certainly mitigated when procedures of decision-making protect the influence of otherwise marginalized groups. For example, giving historically underrepresented groups veto power guarantees that they are not ignored out of hand. Furthermore, Bohman rightly points out that "if power over decisions is widely dispersed in institutions...excluding groups from deliberation is more difficult to accomplish" (1996, 148). If we have decision-making procedures that 'nudge' citizens to confer with historically marginalized groups, do we need dialogical openness? If certain groups have veto power over

policy domains, does it matter if people actually listen to each other? Why do we need deliberation in the first place?

Although certain protections should be institutionalized to ensure the special representation of otherwise socially excluded groups, we should also continue to seek communicatively mediated agreement that is inclusive of all perspectives. “Power shifts may bring improvement, but only accidentally. Changes of mind are responsive to reasons that at least direct our attention toward improvement. When majorities are obligated to offer reasons to dissenting minorities, they expose their position to criticism and give minorities their most effective and fairest chance of persuading majorities of the justice of their position (Guttman and Thompson 1996, 44). Although an imperfect tool, language still provides individuals and groups with significant power.

I would be more sympathetic to these realist critics if all avenues of procedural redesign and preconditions had been exhausted. But given that there is still so much terrain with which to address issues of dialogical closure and failures to communicate, I find their rejection of democratic deliberation to be too hasty. Although I commend political theorists who seek to study economic, political, and social inequality, the scope of useful and productive deliberative theory is broader than they allow. This project operates according to the view that just decision-making is impeded not only by the *presence* of limiting conditions, such as inequality, but also by the *absence* of certain facilitating factors. Although we will struggle to resolve many of the intractable limiting conditions, such as economic inequality and cultural hegemony, we can continue to make improvements by introducing these facilitating factors to the process of democratic decision-making.

1.5 Conclusion

As I have shown, Rawls, Habermas, and Young all propose models of democratic deliberation that are deficient in theoretical sources of “dialogical openness.” By relying on formal procedures to guarantee open deliberation among citizens, Rawls is unable to account for the openness and inclusiveness of informal, yet politically significant, deliberations occurring among citizens in the background culture. Through his view of language, Habermas merely assumes the reciprocity that deliberation requires. And Young, though concerned with many of the same issues as myself, assumes that more open and inclusive procedures will lead to more openness on the part of citizens.

Moving beyond the question of procedures, democratic theory must turn to the question of the disposition required of citizens engaging in deliberation. More specifically, my concern is pushing these attitudes in the direction of greater open-mindedness. I do not expect to find one solution to the problem of dialogical closure. Attention to this problem, however, is an important first step in correcting it. And my hope is that, through our examination of the problem of dialogical closure, we can begin to address some of the concerns that critics of deliberative democracy have addressed since the deliberative turn.

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