Deliberation, Agonism, and Non-Domination: Mapping Democratic Theory

David Watkins (corresponding author), University of Dayton (djw172@gmail.com)

Scott Lemieux, College of St. Rose

Paper prepared for WPSA 2013, Hollywood, CA.

Draft: comments welcome; please do not cite without permission

Two of the most prominent strands in contemporary democratic theory, deliberative democratic theory and agonistic democratic theory, appear to be in considerable tension with each other. Deliberative democratic theory identifies democracy strongly with a particularly circumscribed set of conditions and rules, whereas agonists find democracy’s essence in democratic movements that abjure institutional containment and rationalist rules of engagement. The differences between these two theoretical approaches have attracted considerable attention recently. Accounts of the differences between these two democratic theories pursue one of three different approaches. Some argue for the theoretical or practical superiority of deliberation or agonism. Others have argued that the differences are overstated, and one theory should be properly understood as a particular version of the other. Finally, some have argued that each makes a distinctive contribution to our understanding of democracy, and their distinctness is valuable. Here we take the latter approach and extend it. We argue that deliberation and agonism should not be understood as general theories, but instead as democratic responses to particular contexts. Agonism best captures the democratic politics of the excluded or ignored, while deliberative democracy provides a democratic theory for sorting our differences amongst non-dominated and autonomous democratic subjects. They are both properly understood as subsets of democracy against domination (or, more accurately, democracy as the struggle against domination). We have introduced this theory elsewhere,[[1]](#footnote-1) and seek to further develop in by exploring the way it clarifies the value—and limits—of deliberative and agonistic democratic theory. Democracy against domination offers democratic theory in which agonism and deliberation are important and complementary parts—placing each of them in the contexts in which they make democratic sense, but not overextending them. Neither one defeats or subsumes the other: democracy against domination contains both and gives an account of why they do not offer a general theory on their own, but remain an important part of democracy.

The first section of the paper attempts to demonstrate that deliberative democracy and agonism have in common one important feature; they cast democracy as a form of struggle. But they characterize the kind of ‘struggle’ that we should understand as democratic in distinctly opposite ways. The following section explores in further detail the sort of context that calls for a deliberative democratic politics and the kind that calls for an agonistic one. Substantively: deliberation is appropriate for balancing competing goals—such as fairness and equality—whereas agonism is likely to seem more appropriate when fairness and equality are denied in tandem. Relatedly: deliberative democracy (as noted by many deliberative theorists) makes most sense between citizens granted full inclusion and status. Agonistic democratic politics, on the other hand, is particularly well suited to those situations when such a shared status or baseline equality does not exist.

**Democracy as struggle**

Here we seek to identify common ground between these two approaches to contemporary democratic thought that are often thought to be directly opposed to each other. It has become increasingly common to see the conflicts and controversies dividing these approaches as the preeminent controversy in contemporary debates in democratic theory[[2]](#footnote-2) so grouping them together is bound to raise some eyebrows. These approaches are different in a number of crucial ways, but as we’ll begin to argue here, democratic theorists should pay particular attention to their similarities as well. Both deliberative and agonistic democratic theorists emphasize struggle in some significant way as the central activity of democratic politics. For deliberative democratic theorists, struggle achieves democratic status when it meets a specific set of conditions, constrained by the correct institutional arrangements and rules of debate. For agonistic democratic theorists, struggle achieves democratic status when it transcends, or aspires to transcend, those precise institutional arrangements and “ordinary” politics. Some agonists have focused on political struggle as a democratic moment in identity expression and formation,[[3]](#footnote-3) while others have focused on moments of radical collective action that challenge or disrupt institutional arrangements through the people acting in concert.[[4]](#footnote-4)

Deliberative democratic theory finds democracy in a particular kind of struggle; namely, the struggle that takes place within particular institutional locations and following particular argumentative procedures.[[5]](#footnote-5) Habermasian accounts of communicative action[[6]](#footnote-6) have been among the most significant theoretical touchstones for contemporary deliberative democratic theory, but it is hardly a new idea. Rousseau’s insistence, for instance, that we submerge our particular wills to the general will when debating democratic politics and that we strive for consensus through persuasion leading to agreement rather than simple majority rule, suggests that his democratic theory might be understood as proto-deliberative. Deliberation is both a theory of political democracy and an ethic for living together and addressing life’s challenges in a democratic and egalitarian manner. Leading deliberative democrats treat proper deliberation as a requirement of legislative bodies, but also as a descriptive feature of democratic societies as well. While one of Gutmann and Thompson’s first collaborations on deliberative democracy is explicitly an effort to devise a theory of legislative ethics,[[7]](#footnote-7) they have clearly moved on to a theory of deliberative democracy that encompasses both public discourse in democratic societies and legislative ethics.[[8]](#footnote-8) Habermas is also an advocate of “discourse ethics,” a theory that has different but significant implications for both legislative political discourse and public democratic discourse.[[9]](#footnote-9)

Why classify deliberation as a form of democracy as struggle, rather than a procedural theory of democracy? The procedure of deliberation—the particular ways in which deliberation is arranged and organized in society and government to best advance the practice of democracy and the search for the common good—can be understood as a way to contain democratic struggle in an orderly and organized manner, to capture what is ideal about while avoiding potentially undesirable consequences. Deliberative democratic theorists are sometimes compared to participatory theorists like Pateman and Macpherson, but in a more weakened and constrained sense.[[10]](#footnote-10) Participatory democrats included a wide array of popular activities that were not strictly deliberative in nature in their conception of valuable democratic action.

Why does the form of struggle and political participation that is the central procedural and normative moment in democracy require the sorts of constraints they place on it? For one thing, this is the form of political action that meets the standards of political equality and equal respect. We ought not to treat our fellow democratic citizens instrumentally, and we owe them public reasons for our preferences. We ought not try to manipulate them or otherwise trick them.[[11]](#footnote-11) Deliberative democrats assume political disagreement is a logical and inevitable consequence of the free exercise of reason in an open society. The rules of democratic deliberation spell out the more substantive implications of political equality beyond equal voting rights.[[12]](#footnote-12)

Why characterize democratic deliberation as a “struggle”? It is the forum in which different visions of the political good compete in the public sphere. The norms of mutual respect are the acceptable grounds of the struggle. In other words, deliberativist assumptions about the background conditions of democracy, mutual respect and political equality and what some Habermasians have referred to as his “ideal speech situation,” are assumed in understanding and constructing the rules of democratic struggle. This stands in sharp contrast to the approach of agonistic democratic theory. While agonistic democratic theory also begins with democracy as struggle, this approach contains few of deliberative democratic theory’s efforts to contain democratic struggle within a set of precise institutional rules and arrangements.

Agonistic democratic theorists are reluctant to place limits on the sorts of struggle that constitute democracy.[[13]](#footnote-13) One prominent agonistic democratic theorist, Bonnie Honig, identifies the desire to contain struggle with a “displacement of politics” in democratic theory.[[14]](#footnote-14) In a more recent work, Honig argued that key moment of democratic agency is the moment of “taking”—demanding a right or privilege above and beyond what the current rules or structure suggest what the “taker” is entitled to have.[[15]](#footnote-15) For Honig, democratic agency is often marked by stepping outside the official and institutionally sanctioned boundaries of political action, and disrupting and enlivening the political order with an unauthorized but compelling claim to political agency, access, and voice.

Another prominent agonistic democratic theorist, Sheldon Wolin, emphasizes democracy’s “fugitive” character—democracy for Wolin is always fleeting and temporary, and gains made in a moment of revolutionary democratic struggle are stripped of their democratic character by ossification into an institutional structure and arrangement.[[16]](#footnote-16) In another essay, Wolin identifies both revolutions and constitutions as necessary and crucial parts of democratic practice. Revolutions are efforts at often radical constitutional (re)construction, but once the revolution is at an end, so too is the democratic moment. Democracy is a moment of both remembering and recreating the sphere of the political.[[17]](#footnote-17) But it is fundamentally in tension with institutionalization, and the nation-state in general, as the revolutionary moment becomes institutionalized and bureaucratized.[[18]](#footnote-18) Revolutionary moments are those rare, fleeting, political moments when the political is open; not dominated by the power of the state.[[19]](#footnote-19) A formal constitution represents a freezing of the authentic democratic moment; a removal from the people of their ability to seize power in a productive, provocative and democratic manner. A theme running throughout much agonistic democratic theory is an unwillingness to accept previously agreed upon boundaries of politics and political action. It is, they insist, not merely the details of particular policy arrangements that must be subject to democratic contestation, but the bounds of politics themselves.

Wolin’s inclusion in the category of agonistic democracy is controversial. This is largely because he writes about the actions of “the people” in these rare moments of democratic action. Other agonistic democracts focus more directly on the actions not of “the people” per se but of political actors and groups in a society. Most agonists are pluralists. Indeed, for Chantal Mouffe, it is her pluralism that motivates her agonism. Mouffe is highly critical of both Habermasians[[20]](#footnote-20) and Rawlsians[[21]](#footnote-21) for their efforts to try to find a neutral politics, practices or procedures for the purposes of governing norms. Agonistic democracy is characterized by participation through conflictual action and struggle. To try to contain this into a particular institutional container or ideological boundary, whether through political powers or political domination is to (following Honig[[22]](#footnote-22)) deny full political equality and status to these would-be participators in the political. Also central to Mouffe’s theory of agonistic democracy is a letting go of the dream of a compromise in which the core problems and conflicts of a plural society are solved. It is possible (but not required) to read Habermas as if he wishes to do exactly that. For Mouffe and other agonists, to hope for a rational/institutional solution to the problems of politics is to misunderstand the nature of political action and engagement.

These two prominent approaches to democracy-as-struggle provide a striking dichotomy. On the one hand, deliberativists seek to contain democratic struggle not only to the realm of speech and debate, but also within a particular set of rules to govern the forms of speech and argument within a specific set of contexts. On the other hand, agonists remain suspicious of any attempt to contain democracy in an institutional context, suggesting that a willingness to question and challenge all that has been previously settled is of central importance to democracy. For deliberative democratic theorists, the institutionalization of democratic action is the end of the democratic moment. This essay is motivated by the suspicion that both these approaches to the relationship between democratic struggle and institutionalization are less than satisfying, and reflect a lack of attention to the diversity of contexts and situations to which democratic action is responding. This leaves us at something of an impasse. Those who view democracy as a struggle needn’t choose between these two approaches. Deliberative democracy may be a suitable institutional arrangement in some cases, but not necessarily as a broad procedural norm. It does not have a monopoly on democratic struggle. The next section considers in more detail the kind of circumstances that might be well suited for democracy as a deliberative struggle and democracy as an agonistic struggle.

Before considering the contexts of democracy against domination, we want to clarify a few things about democracy against domination in general, and the relationship of this theory to other central democratic values. That democracy’s central point is the reduction or amelioration of domination has been pursued by a fairly diverse group of political theorists in recent years.[[23]](#footnote-23) However, it has not been considered in relation to agonism or deliberative democracy. Democracy against domination gives an account of the democratic content of particular democratic contexts and settings. Representative democratic institutions provide, amongst other things, an avenue for citizens to resist domination by the state. But democracy against domination also helps account for the democratic value of civil society (making the domination-by-the-state resisting properties of representative democracy stronger) as well as a variety of state intervention into social and economic life. The state, on the democracy against domination account, is a both a source of potential domination and a crucial counterweight against domination by non-state actors. The challenge of the democratic state becomes constructing a sufficiently empowered state to meaningfully stop domination in society, while remaining controllable through ordinary democratic means, thus limiting its ability to become a dominating force.

What about democracy against domination’s relationship to other political values associated with democracy? As we aim to demonstrate in the next section, democracy against domination requires the promotion of two central democratic values, fairness and equality, as well as sensitivity as the two are balanced. The relationship between nondomination and equality should be clear: some forms of equality are (as many deliberative theorists have noted) necessary for democratic representation to be meaningful. Excessive inequality is one way in which we might find ourselves open to domination. This point has been made by many, including advocates of democracy against domination theorists as well as democratic equality theorists.[[24]](#footnote-24) But what of fairness? Fairness demands proper treatment in response to specific actions rather than treatment as an equal citizen. Fairness can work with equality—it is an indispensible part of equal treatment—but it can also come into tension with equality. By serving as a kind of counterweight to equality, a focus on fairness can limit a potential danger associated with the state becoming dominative towards some sections of the population. The insistence on fair treatment alongside equality has democratic value as well. Both fairness and equality are important democratic goals, and both concepts—whether working together or in tension with each other—are an important part of a theory democracy against domination.

**Agonistic and Deliberative Contexts**

At this point, we can identify two broad sorts of practical circumstances that demand a democratic response. The first would be the struggle for the right balance—when the demands of fairness and equality appear to come into conflict with each other and efforts are made to sort out this conflict, either for one side or the other, or for a new way of balancing the two. The second sort of democratic struggle would be work toward greater fairness or equality (or both) in the face of social practices or forces that manifestly defend unacceptable levels of unfairness or inequality. The struggles against apartheid, slavery, autocratic regimes, and many other sorts of manifest injustices would be of the latter sort. They are both important, of course, but it would seem that rectifying the latter situations is a far more urgent concern. Despite this, many approaches to contemporary democratic theory, including deliberative democracy, seem far more geared to the first sort of democratic challenge identified here.

Consider perhaps the most thoroughgoing affront to both fairness and equality imaginable: slavery.[[25]](#footnote-25) Every country, democratic and non-democratic, has arrived at the conclusion that slavery is unjustifiable and indefensible, and has consequently made slavery illegal. The democratic struggle against slavery has succeeded in rendering the practice categorically illegal in both national and international law. Nevertheless, there are approximately twenty seven million people[[26]](#footnote-26) held in slavery today, a total higher than any other time in human history. The global economy no longer relies on slave labor; slavery’s direct economic contribution is minimal. Kevin Bales estimates the profit from slave made goods at thirteen billion dollars annually, in addition to thirty two billion dollars from human trafficking,[[27]](#footnote-27) which isn’t much money in the context of the global economy. Despite the relative small economic value of modern slavery, it circulates widely in global economic and social life, such that the consumptive habits of many are touched by slavery. Slavery functions, under current conditions of globalization as what Jeremy Waldron has called “a contagion of injustice.”[[28]](#footnote-28) The networked web of modern economic life ensures that our lives are touched by slavery and slave labor (even if epistemic privilege disguises this fact for many). For example: the number of slaves held in West Africa is small by global standards, the nature of slavery in these countries taints the majority of the world’s chocolate supply with slave labor.[[29]](#footnote-29) Furthermore, slavery in its modern forms turns out to be profoundly difficult to eradicate. The most appropriate foci for nineteenth century abolitionist movements was obvious; the end of the use of the law to justify and uphold the practice of slavery. But when confronted with this alliance of unfairness and inequality in its current law-evading form, how should democratic struggle proceed? It seems unlikely deliberative democracy is of much use for this particular challenge for democratization. The kinds of arguments deliberative democratic theory calls upon us to make don’t contain room for a defense of slavery; and moreover slavery would destroy the “background equality” that makes deliberative democracy possible. Joel Olson has recently made a persuasive case that in the face of slavery, zealotry had a prominent place in the abolitionist movement; and rightfully so.[[30]](#footnote-30) Defenses of slavery don’t deserve the respect of deliberate democratic norms of argument, and such an engagement might lend the defense of the indefensible an air of respectability they don’t deserve. Deliberative democratic norms are limited when faced with the problem of slavery as a legal and economically central practice. But this tells us little about the struggle against slavery today, when the juridical and public[[31]](#footnote-31) moral battle has been won and slavery still persists.

Slavery’s status outside the law has created new challenges for the struggle against slavery. For one thing, the price of slaves has dropped considerably. Absent an open market for slaves, slaveholders typically resort to deceit in the capture of new slaves (after they have been enslaved, violence replaces deceit as the central mode of domination). The kind of problem slavery has become is less and less of a public matter.[[32]](#footnote-32) While are likely political solutions that might lead to the amelioration of slavery, a great deal of other effective anti-slavery struggles has little to do with the state: providing education and rehabilitation for former slaves is crucial but need not be provided by state agencies. Consumer boycotts of industries or producers who use slave labor aren’t state activities. In other cases, the struggle against slavery necessarily must begin with rescue. Kevin Bales recounts the story of a rescue of slaves, mostly children, working looms in an Indian village.[[33]](#footnote-33) In this instance the relevant agents of the state were not only not involved in planning and organizing the raid; they were purposefully kept in the dark until the last possible minute. This is because many of the local police are on the payroll of slaveholders. A public debate about the problem of slavery in India, or even the passage of a new law regarding slavery prevention and rescue, is not likely to change the local dynamics of law enforcement and slaveholders. One of the greatest tools for the prevention and amelioration of modern slavery, Bales insists, is the simple combination of knowledge and vigilance; developing the capacity to identify slaves in our own communities and lives.[[34]](#footnote-34) Another important element of the modern struggle against many of the worst atrocities committed against people (such as slavery, as well as genocide and torture) is the task of bearing witness and testimony to the acts and their aftermath; assuring that these acts, which are often meticulously hidden, don’t escape the historical record. Fuyuki Kurasawa suggests that the work of bearing witness is one of the central tasks of advocates of global justice:

…testimonial acts undergird and create the ethical and socio-political conditions under which other modes of practice…can exist. Indeed, without the labour of groups and persons struggling to give voice and respond to mass abuses of political and socioeconomic rights, the pursuit of global justice would rapidly grind to a halt.[[35]](#footnote-35)

The act of bearing witness isn’t a form of deliberative argument; in its purest form, it’s not an argument at all. Indeed, part of the power of bearing witness to slavery is that actually seeing and hearing the stories of victims of slavery, torture and the like militates against the need for argument against these practices. Actual arguments that such practices and conditions of slavery are unjust affronts to norms of fairness and inequality become superfluous to those confronted with an unflinching account of the consequences of such practices for their victims.

The point of this discussion of modern slavery is two-fold. First, it is to demonstrate that the nature of the problem for democracy to solve will shape the kind of response we should demand from democracy. Slavery’s illegality has allowed it to retreat from the public eye and the political agenda. This doesn’t change its democratic valence; it is, from the perspective of the slave, the same affront to fairness and equality as it was in the times of legally sanctioned slavery. Second, it is to illustrate the ways in which a kind of commonplace thinking about democracy has taken the most undemocratic social practices in the modern world off the democratic agenda. When democracy as a concept is associated with an idealized version of the decision-making in modern democratic states, the problems of democracy tend to be of the sort these states are more likely to focus on. This kind of democratic struggle is often (but not always) about the balancing of democracy’s two central normative goals. The normative ideals of deliberative democracy are relatively well suited to good-faith efforts to sort out proper boundaries between fairness and equality in specific cases. They are notably less well suited to tackle areas of social life in which fairness and equality are both effectively destroyed for some parties. This is particularly true for the victims of these great wrongs themselves, as they are denied access to deliberative forums, political representation, and in many cases the formative resources to articulate and formulate arguments and claims in the way deliberative democracy requires. One might plausibly make the case that these struggles ought to be democracy’s most urgent ones. But, as the case of slavery demonstrates, these struggles may go through the state, but they also may go around, above, and underneath the state, and sometimes work against parts of the state (usually parts of the state with a great deal of distance from deliberative decision-making bodies). We need a theory of democracy that encompasses both these versions of democratic struggle.

It would be a bit too simple to suggest that internal democratic struggles regarding the proper boundaries between fairness and equality belong to the institutionalized, rule-based realm of deliberative theories of democracy, while the fight against unjust inequalities and unfairness are perhaps better captured by the agonists in all cases. Nevertheless, while this delineation of modes of democratic struggle is too crude and schematic to tell the whole story, it is a good starting point in the process of matching particular democratic challenges to particular forms of struggle. The former seems to fit the deliberative democratic model because both sides are advocating a theory of the public good using a value that their opponents share to some degree.[[36]](#footnote-36) The latter is more of an existential struggle against those who, in practice if not in theory, are rejecting one (or both) of the values that form the core of democracy.[[37]](#footnote-37) The reality of democratic struggle is certainly more complicated than simply these two categories, of course, although this overly simplified version of the divide captures something important about why we need a theory of democracy that maintains a more flexible/contextual attitude toward disagreement. Deliberative democratic theorists often concede as much; for example, Gutmann and Thompson recently suggested that “Deliberation cannot make incompatible views compatible,”[[38]](#footnote-38) but they don’t consider this a reason to question the centrality of deliberation to democracy. But this leaves an important question unanswered: what do we make of those cases when one or more of the incompatible views are opposed to fairness and/or equality, and the other is a view in favor of them? Surely, democratic actors have, and will continue to encounter these cases with some regularity. The exclusion and denial of rights to women and slaves has been, at times, justified by paternalism rather than any pretence to a fairness or equality-based argument.[[39]](#footnote-39) This doesn’t mean deliberation has no role—often, it is the persuasion of third parties to act that leads to a successful democratic outcome—but it alone is perhaps not the best or most imaginable form of political process to attempt to rectify this problem.[[40]](#footnote-40)

That deliberation can be an appropriate (and perhaps the most appropriate) way to approach some democratic dilemmas isn’t sufficient to place it at the epistemic or conceptual center of democratic theory. Deliberation is best understood as a democratic strategy that might be appropriate and effective for some, but not all, democratic challenges. In a recent article on the subject of deliberative democratic strategies “before the revoluation,” Archon Fung makes a series of related arguments and points on this issue.[[41]](#footnote-41) However, there are important differences that distinguish his account of these issues from ours. First and foremost, Fung remains convinced that while deliberation may not currently be the sole appropriate method for democratic change, he does view a particular form of the deliberative ideal as a guiding principle shaping our understanding of the desirable end-state towards which we should strive.[[42]](#footnote-42) An end-state in which all the preconditions to deliberation as identified by Fung, Knight and Johnson, Habermas, Gutmann and Thompson, and others have actually been reached is decidedly appealing and we have no doubt it would be preferable to present circumstances in a host of important ways. Some have suggested this feature of deliberative democracy as evidence that it is, indeed, a form of radical democratic theory.[[43]](#footnote-43) Where some see radicalism, however, we see utopianism. Theorizing democracy as a struggle demands that we theorize democracy as a struggle relevant to the improvement of our current conditions. Sketching what ideal or near-ideal conditions might look like is only valuable to the extent that it might contribute to democratic struggle in a meaningful way. To the extent that I’m willing to connect utopian thinking and democratic theory, we suggest that such utopianism would best be expressed as the elimination of as many major sources of unfairness and inequality as possible, while finding and maintaining a workable compromise between these two goals. Again, this world may have a great deal of overlap with the deliberation-enabling world Fung mentions. We don’t pursue the question of precisely how much overlap there might be because we have little interest in sketching concrete utopias—mine or his—as such a task is of little use for the democratic theorist.[[44]](#footnote-44) The key difference, from our perspective, is that our quasi-utopian thoughts are directed toward the normative point of democracy, whereas Fung’s are premised on the enabling of a particular set of democratic methods. He explains the contours of his argument:

This account of deliberative activism is addressed to those who find deliberative democracy attractive as a political ideal—as an *end* to which our political institutions and practices should aspire. To what extent should those who are so inclined also be committed to persuasion, discussion, and reason giving as principal *means* of settling disagreements and arriving at collectively binding decision even under circumstances that are unfavorable to fair deliberation?[[45]](#footnote-45)

There is something backwards about this. The end for Fung is the creation of a system in which his preferred method of democratic practice can flourish. But the procedure isn’t—or shouldn’t be—the point. The point should be the creation of fairer and more equal social relations, and to end domination in its statist and social forms (and reduce risk of domination). It’s possible, of course, that a significant improvement to the fairness and equality of social relations and lessening of domination would lead to a situation in which most—or even virtually all—democratic processes took place in ways that resembled a version of the deliberative democratic ideal, and that would be entirely consistent with our approach. But democratic theory should speak to the social, economic, and political circumstances of the here and now.

At this point, it may seem as though our differences with Fung are largely semantic. But he approaches “democracy before the revolution,” as he calls it, as a tragic necessity; a second-best sort of democratic practice. The democratic actor, in Fung’s view, is one who engages in non-ideal forms of democratic struggle with a heavy heart, wishing (and working) for the day she can abandon these practices and become a proper deliberator. An implication one could reasonably draw from Fung’s approach is that the closer we are to the necessary amount of “background equality,” the closer our political activism can approximate the deliberative ideal. This makes intuitive sense—think of the decidedly non-deliberative forms of resistance from impoverished and relatively powerless peasants discussed in the work of James Scott, for example.[[46]](#footnote-46) These peasants are very far from a situation of sufficient background equality, and their primary resistance technique is neither deliberative nor persuasive. Amongst other strategies they are practicing what Pettit calls “strategic deference,” a show of respect toward the powerful that is cynical and entirely strategic.[[47]](#footnote-47) From Fung’s perspective we should respect this resistance as a response to the unfortunate situation they find themselves in. However, his approach still suggests that such resistance techniques are, while necessary, fundamentally less democratic, and as such should be avoided whenever it is reasonably possible to engage in more democratic forms of resistance. The real core of democratic action for Fung is a deliberative ideal that is suited for some future time. This is an improvement over ideal theory which fails to acknowledge that conditions of the present are not conducive to that ideal practice. Nevertheless, it is still in some sense a democratic theory for some use in some future set of circumstances rather than the present. Democracy is a way to make the world better, not how we’ll govern ourselves once the task of making the world better is complete.

At this point the skeptical reader might point out that at least Fung’s deliberative ideal provides a method for evaluating means. Since we have offered no specific boundaries or limits to the forms of struggle that count as democratic, or for that matter a hierarchy of preferred forms of democratic struggle, it could be plausibly inferred that we have adopted an “ends justify the means” approach that allows violent, deceptive, or otherwise objectionable forms of struggle to share co-equal democratic status with far less objectionable methods.[[48]](#footnote-48) This is not, however, the case. Since all struggles, to count as democratic, ought to be geared toward greater fairness and equality, or a recalibration of the differences between them, the consequences of this struggle should be evaluated in terms not only of their likely efficacy toward their goals, but also of any other fairness/equality norms they might or might not violate. Consider the following hypothetical: a male manager in a workplace is predisposed toward more favorable evaluations and faster promotions for his fellow male employees at the expense of his female employees. This could be framed as a fairness problem as it violates the fairness notion of some notion of meritocracy or transparency of procedure, or an equality problem as it violates the ideal of gender equality in the workplace. Either way, it is clearly a proper subject of democratic struggle to change this situation. One could imagine a host of potential methods to pursue this social change that would fit with our approach to democracy. One could document his errors for the purposes of a lawsuit or a report to human resources; one could simply attempt to persuade him of the error in his evaluation or appeal to his sense of fairness and see beyond his biases; one could attempt to shame him for his bad behavior, or one could organize a collective labor action by the female employees and their sympathetic male coworkers. There isn’t one obvious democratic strategy in this case, but some are surely better than others on pragmatic grounds. The best strategy depends a great deal on the existing legal options, the character of the manager, the degree of solidarity among female employees under his management, the larger corporate culture’s attitude and policies regarding gender equality, the ability to gather concrete and persuasive evidence of bias, and so on. This hardly exhausts the forms of struggle available, however. Another possibility is that the female employees (perhaps taking inspiration from film *Nine to Five*) could kidnap and torture the manager until they received a commitment to more equitable treatment in the workplace. For the purposes of this discussion, let’s make the dubious assumption that the kidnappers and torturers have good reason to believe, and are correct in their belief, that this technique would be quite effective. Why wouldn’t this be an acceptable approach to democratic politics? After all, unlike deliberative democratic theorists such as Fung, I’ve provided no guidelines with which to evaluate democratic struggle.

The answer is that such a form of struggle, while perhaps advancing equality and fairness in one area of life, would violate other principles of fairness and equality in the process—and it would create a new form of domination. If we look at fairness and equality more broadly, this strategy could be described as “one step forward, two steps back.” How might we evaluate this in terms of fairness for the manager? On just about any conceivable account of human rights, it’s held that torture, under any circumstances, violates the norm of equality by violating the inherent dignity of persons. The detention of the manager without due process of the law is a violation of the norm of fairness. Overall, the use of terrorism to achieve ends is an exceedingly egregious violation of the norms of both fairness and equality in a host of different ways, regardless of the democratic content of the ends this struggle means to seek.[[49]](#footnote-49) Our approach to the boundaries of democratic struggle is driven by the evaluative framework provided by the substantive normative point of democracy, whereas Fung’s is driven by a vision of how democracy ought to work in a different world than our own.

Another noteworthy difference between Fung’s approach to democratic process and ours relates to the social ontology that provides the backdrop for our respective accounts. One might infer from Fung’s argument that he thinks that a social state of affairs is possible in which one possible democratic technique—deliberation, properly calibrated—is able to maintain a steady-state of affairs and to deal with all political problems as they arise, without concerns about the applicability and appropriateness of the method. Fung—like many deliberative democratic theorists—seems to favor a position with respect to democratic procedure similar to Nozick’s position regarding social relations more broadly: “whatever arises from a just situation by just steps is itself just.”[[50]](#footnote-50) This view is in stark contrast to that expressed by democracy against domination theorist Ian Shapiro: just hierarchies, in their current form and operation, might remain a threat to democracy since when “left unchecked” they might “atrophy into systems of domination.”[[51]](#footnote-51) The choice between Nozick and Shapiro’s position on the connection between social change and its impact on justice is an important one for political theorists, even though it is rarely directly addressed. We choose Shapiro’s view over Nozick’s for a variety of reasons, although we can’t give a full account of them here. Even if we were to concede that this state of affairs really only needed deliberative democratic procedures, the preconditions for fully democratic deliberation could still be eroded from many sources. Many of these sources might well be beyond the scope of deliberation. For example, a strong tendency in many complex societies is for social inequalities to ossify and persist, in ‘patterned pairs,’[[52]](#footnote-52) over time and space. Thus, even if inequalities were distributed in a manner consistent with the relevant and operative norms of equality and according to the rules of fairness *at the time,* those inequalities might become less in line with those norms over time. Social change is inevitable, and social change can’t (and probably shouldn’t) be entirely constrained and directly through direct political intervention. Furthermore, in many instances the implications of some forms of social change will not and cannot be predicted in advance. New technologies, evolving social and cultural practices, environmental changes may produce schisms and inequalities that upset the background equality that had heretofore provided the background conditions necessary for democracy. Even if we were fortunate enough to find ourselves in social, economic and political environments of near-perfect levels of fairness and equality it would still be mistaken to assume that a particular, single, idealized form of democratic contestation would be able to maintain that state of affairs indefinitely. We don’t see any reason to believe that a particular method of democratic action can—even in a hypothetical possible future social world—ever hope to become all that is necessary for future struggles toward fairer and more equal social relations.

**Conclusion**

We have argued that democracy against domination helps us make sense of the proper roles of different democratic theorists. Against those who see the ‘debate’ between deliberativists and agonists as one to be ‘won’ by one side or the other, we have argued they are both mis-cast as general or complete democratic theories. This error has misdirected democratic theory substantially. Once each are properly understood as particular, partial manifestations of a larger democratic struggle, rather than democratic theories in themselves, the so-called debate is transcended. Democracy calls for responses to and defenses against domination, with fairness and equality as central tools to against domination. If democracy is to be effectively responsive to the threat of domination as well as actually existing domination, it surely must adopt a sufficiently wide variety of forms to meet these challenges. Agonism and deliberative democracy are each important yet partial and provisional democratic strategies.

**Works Cited**

Anderson, E. (1999) “What is the Point of Equality?” *Ethics* 109:2, 287-337.

Bales, Kevin (2002) “The Social Psychology of Modern Slavery,” *Scientific American* 286:4, 80-88.

Bales, K. (2004a) *Disposable People: New Slavery in the Global Economy*, 2nd ed. Berkeley, CA: University of California Press

Bales, K. (2004b) *New Slavery*, 2nd ed. Santa Barbara, CA: ABC-CLIO Press.

Bales, K. (2005) *Understanding Global Slavery: A Reader*. Berkeley, CA: University of California Press.

Bales, K. (2006) “Non-state Actors and the Challenge of Slavery,” in G. Andreopoulos, Z. Arat, and P. Juviler, eds., *Non-State Actors in the Human Rights Universe*. Bloomingfield, CT: Kumarian Press, 273-288.

Bales, K. (2007) *Ending Slavery: How We Free Today’s Slaves*. Berkeley, CA: University of California Press.

Benhabib, S. (1996) “Toward a Deliberative Model of Democratic Legitimacy,” in S. Benhabib, ed., *Democracy and Difference: Contesting the Boundaries of the Political*. Princeton, NJ: Princeton University Press, 67-94.

Chanthavong, S. (2002) “Chocolate and Slavery,” *TED Case Studies* 664m, American University. Available at http://www.american.edu/TED/chocolate-slave.htm

Connolly, W. (1991a) “Democracy and Territoriality,” *Millennium* 20:3, 463-484.

Connolly, W. (1991b) *Identity/Difference: Political Negotiations and Democratic Paradox.* Ithaca, NY: Cornell University Press.

Connolly, W. (1995) *The Ethos of Pluralization*. Minneapolis: University of Minnesota Press.

Cunningham, F. (2002) *Democratic Theory: A Critical Introduction*. London: Routledge.

Fung, A. (2005) “‘Deliberation Before the Revolution’ Toward an Ethics of Deliberative Democracy in an Unjust World,” *Political Theory* 33:3, 397-419.

Gutmann, A. and D. Thompson (1985) “The Theory of Legislative Ethics,” in B. Jennings and D. Callahan, eds., *Representation and Responsibility: Exploring Legislative Ethics.* New York: Plenum Press, 167-195.

Gutmann, A. and D. Thompson (1996) *Democracy and Disagreement*. Cambridge, MA: Belknap Press.

Gutmann, A. and D. Thompson (2004) *Why Deliberative Democracy?* Princeton, NJ: Princeton University Press.

Habermas, J. (1985) *Theory of Communicative Action, Volume One: Reason and the Rationalization of Society*. Boston: Beacon Press.

Habermas, J. (1994) *Justification and Application: Remarks on Discourse Ethics*, trans. C. Cronin. Cambridge, MA: MIT Press.

Habermas, J. (1996) *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, trans. W. Rehg. Cambridge, MA: MIT Press.

Habermas, J. (1998) *The Inclusion of the Other: Studies in Political Theory*. Cambridge, MA: MIT Press.

Habermas, J. (2001) *The Postnational Constellation: Political Essays*, trans. M. Pensky. Cambridge, MA: MIT Press.

Honig, B. (1993a) *Political Theory and the Displacement of Politics*. Ithaca, NY: Cornell University Press.

Honig, B. (1993b) “The Politics of Agonism: A Critical Response to Dana Villa’s ‘Beyond Good and Evil: Arendt, Nietzsche and the Aestheticization of Political Action,’” *Political Theory* 21:3, 528-533.

Honig, B. (2001) *Democracy and the Foreigner.* Princeton, NJ: Princeton University Press.

Honig, B. (2007) “Between Decision and Deliberation: Political Paradox in Democratic Theory,” *American Political Science Review* 101:1, 1-17.

Knops, A. (2007) “Antagonism and Deliberation: On Mouffe’s Theory of Democracy,” *Journal of Political Philosophy* 15:1, 115-126.

Kurosawa, F. (2007) *The Work of Global Justice: Human Rights as Practices*. Cambridge: Cambridge University Press.

Lemieux, S. and D. Watkins (2009) “Beyond the Countermajoritarian Difficulty: Lessons from Contemporary Democratic Theory,” *Polity* 41:1, 30-62.

Manzo, K. (2005) “Modern Slavery, Global Capitalism, and Deproletarianization in West Africa,” *Review of African Political Economy* 106, 521-534.

Martin, R. W. T. (2005) “Between consensus and conflict: Habermas, post-modern agonism and the early American public sphere,” *Polity* 37:3, 364-388.

Mouffe. C. (1993) *The Return of the Political*. London: Verso.

Mouffe, C. (1999) “Deliberative Democracy or Agonistic Pluralism?” *Social Research* 66:3, 745-759.

Mouffe, C. (2000) *The Democratic Paradox.* London: Verso.

Mouffe, C. (2005) “The Limits of John Rawls’s Pluralism,” *Politics Philosophy and Economics* 5:2, 221-231.

Nagel, T. (2005) “The Problem of Global Justice,” *Philosophy and Public Affairs* 33:2, 113-148.

Nozick, R. (1974) *Anarchy, State and Utopia.* Cambridge, MA: Harvard University Press.

Olson, J. (2007) “The Freshness of Fanaticism: The Abolitionist Defense of Zealotry,” *Perspectives on Politics* 5:4, 685-701.

Pettit, P. (1997) *Republicanism: A Theory of Freedom and Government.* New York: Oxford University Press.

Pettit, P. (2001) *A Theory of Freedom*

Pettit, P. (2008) “Republican Political Theory,” in M. Fleurbaey, M. Salles, and J. Weymark (eds), *Justice, Political Liberalism, and Utilitarianism: Themes From Harsanyi and Rawls.* Cambridge: Cambridge University Press, pp. 389-410.

Pettit, P. (2012) *On the Peoples Terms*. Cambridge: Cambridge University Press.

Phillips, A. (1999) *Which Equalities Matter?* London: Polity.

Quirk, J. (2008) “Ending Slavery in all its Forms: Legal Abolition and Effective Emancipation in Historical Perspective,” *International Journal of Human Rights* 12:4, 529-554.

Quirk, J. (2011) *The Anti-Slavery Project: From the Slave Trade to Human Trafficking*. Philadelphia: University of Pennsylvania Press.

Scott, J. (1985) *Weapons of the Weak: Everyday Forms of Peasant Resistance.* New Haven, CT: Yale University Press.

Shapiro, I. (1999) *Democratic Justice.* New Haven, CT: Yale University Press.

Shapiro, I. (2003) *The State of Democratic Theory.* New Haven, CT: Yale University Press.

Shapiro, I (2012) “On Nondomination,” *Toronto Law Journal*, 62:3, 293-336.

Tilly, C. (1999) *Durable Inequality.* Berkeley, CA: University of California Press.

Tully, J. (1995) *Strange Multiplicity: Constitutionalism in an Age of Diversity.* Cambridge: Cambridge University Press.

Tully, J. (1999) “The Agonic Freedom of Citizens,” *Economy and Society* 28:2, 161-182.

Waldron, J. (1992) “Superseding Historic Injustice,” *Ethics* 103:1, 4-28.

Wolin, S. (1993) “Democracy: Electoral and Athenian,” *PS: Political Science and Politics* 26:3, 285-287.

Wolin, S. (1994a) “Hannah Arendt: Democracy and the Political,” in L. Hinchman and S. Hinchman, eds., *Hannah Arendt: Critical Essays*. Albany, NY: SUNY Press, 289-306.

Wolin, S. (1994b) “Norm and Form: The Constitutionalizing of Democracy,” in J. Ober, J, Wallach, and J. Euben, eds., *Athenian Democratic Thought and the Reconstruction of American Democracy.* Ithaca, NY: Cornell University Press, 29-58.

Wolin, S. (1996) “Fugitive Democracy,” in S. Benhabib, ed., *Democracy and Difference: Contesting the Boundaries of the Political*. Princeton, NJ: Princeton University Press, 31-45.

Xenos, N. (2001) “Momentary Democracy,” in A. Botwinick and W. Connolly, eds., *Democracy and Vision: Sheldon Wolin and the Vicissitudes of the Political*. Princeton, NJ: Princeton University Press, 25-38.

Young, I.M. (1990). *Justice and the Politics of Difference.* Princeton: Princeton University Press.

1. Lemieux and Watkins 2009. [↑](#footnote-ref-1)
2. Mouffe 1999, Martin 2005, Honig 2007, Knops 2007. [↑](#footnote-ref-2)
3. Mouffe 2000. [↑](#footnote-ref-3)
4. Wolin 1994a, 1996. [↑](#footnote-ref-4)
5. There is an enormous amount of deliberative democratic theory literature. Our brief discussion here will focus primarily on the writings of Habermas (1985, 1996, 1998, and 2001) and Gutmann and Thompson (1996, 2004). [↑](#footnote-ref-5)
6. Habermas 1985, 1996. [↑](#footnote-ref-6)
7. Guttmann and Thompson 1985. [↑](#footnote-ref-7)
8. For example, in their recent work on deliberative democracy, Gutmann and Thompson begin with a discussion of the public debates about the impending 2003 war in Iraq from the perspective of deliberative democratic theory. [↑](#footnote-ref-8)
9. Habermas 1994, 19-112. [↑](#footnote-ref-9)
10. See, e.g., Cunningham 2002, 167. [↑](#footnote-ref-10)
11. Archon Fung (2005) relaxes this requirement for deliberative democratic actors in an imperfect world. His approach to this topic is revealing of a conceptual flaw in deliberative democratic thinking; his argument will be taken up in more detail in the next section. [↑](#footnote-ref-11)
12. A discussion of the equality-derived rules of deliberation, elaborating on Habermas’s norms can be found in Benhabib 1996, 69-70. [↑](#footnote-ref-12)
13. Major agonistic democratic theorists include Bonnie Honig (1993a, 1993b, and 2001), Sheldon Wolin (1994a, 1994b, and 1996), William Connolly (1991a, 1991b, and 1995), James Tully (1995, 1999) and Chantal Mouffe (1993, 1999, 2000, and 2005). [↑](#footnote-ref-13)
14. Honig 1993a. [↑](#footnote-ref-14)
15. Honig 2001. [↑](#footnote-ref-15)
16. Wolin 1996. [↑](#footnote-ref-16)
17. Wolin 1994a, 55. [↑](#footnote-ref-17)
18. Ibid. [↑](#footnote-ref-18)
19. Wolin writes a great deal about “the political” but as Xenos (2001) argues there is little difference between Wolin’s use of democracy and his concept of authentic political moments. [↑](#footnote-ref-19)
20. Mouffe 1999. [↑](#footnote-ref-20)
21. Mouffe 2005. [↑](#footnote-ref-21)
22. Honig 1993a. [↑](#footnote-ref-22)
23. Among the most prominent are Philip Pettit (1997, 2001, 2008, 2012), Ian Shapiro (1999, 2003, 2012) and Iris Marion Young (1990). For a helpful overview of theorists who focuses on nondomination, including Michael Walzer and Michel Foucault, see Shapiro 2012. [↑](#footnote-ref-23)
24. Anderson 1999, Phillips 1999. [↑](#footnote-ref-24)
25. Our discussion of modern slavery draws heavily from the work of Kevin Bales, one of the foremost experts on modern slavery. See Bales 2004a, 2004b, 2005, 2006, 2007. [↑](#footnote-ref-25)
26. This is the figure given by Bales and Anti-slavery international. Of course, since modern slavery is often hidden behind fraudulent contracts and false kinship claims, this figure is probably inaccurate, but is more likely to underestimate the extent of the problem than overestimate it (Manzo 2005, 526). [↑](#footnote-ref-26)
27. Bales 2007. [↑](#footnote-ref-27)
28. Waldron 1992, 11-12. Waldron coins the phrase to refer to the broad scope across time and space of the injustices of land appropriation in settler colonies such as New Zealand. Our use of Waldron’s phrase here is not, as his was, referring to injustice persisting over time. Instead, we mean to suggest that the injustice of slavery ripples throughout the conduits and networks of globalization, across the space of the global economy. [↑](#footnote-ref-28)
29. For an analysis of the regional and global aspects of the West African slave trade, see Manzo 2005. On the chocolate-slavery connection, see Chanthavong 2002. [↑](#footnote-ref-29)
30. Olson 2007. [↑](#footnote-ref-30)
31. We use the term public here because in many cases slaveholders defend what they do as appropriate and ethical business practices. This psychology is often adopted by the slaves themselves, as a way of coping with their situation (Bales 2002). Nonetheless, despite widespread ignorance of and indifference to modern slavery, *actual public and principled* *defenses of slavery* are virtually unheard of. [↑](#footnote-ref-31)
32. The changing nature of modern slavery demands a new set of democratic strategies, in which changes to the law are decentered significantly. Joel Quirk has helpfully theorized this shift as the move from legal abolition to effective emancipation (2008, 2011). [↑](#footnote-ref-32)
33. Bales 2007, 36-42. [↑](#footnote-ref-33)
34. Bales drives home the importance of this strategy with anecdotes about slaves living in affluent communities in the United States whose neighbors were completely unaware of their status, largely due to their lack of knowledge about modern slavery. (2007, ch. 1). [↑](#footnote-ref-34)
35. Kurasawa 2007, 23. Kurasawa’s theoretical innovations in constructing a critical theory of global justice as practice or work fits nicely with the argument we make here for democracy as struggle. [↑](#footnote-ref-35)
36. Of course, the deliberative approach to democratic process is potentially subject to cynical misuse by those arguing in less than good faith even in cases such as these. [↑](#footnote-ref-36)
37. To be clear: this approach to democracy does not authorize in any sense struggles explicitly against fairness and equality (although, of course, there will often be disagreement as to whether a particular struggle or goal fits this category). Still, we assume for obvious reasons that no democratic theory can afford to assume that such struggles won’t be a persistent feature of social life indefinitely. [↑](#footnote-ref-37)
38. Gutmann and Thompson 2004, 11. [↑](#footnote-ref-38)
39. Paternalism, in some forms, bears a family resemblance to a certain kind of ‘fairness’ argument—that applying a certain kind of equality to a certain group of agents will set them up for failure due to a particular characteristic of this kind of agent. [↑](#footnote-ref-39)
40. To be clear, we are suggesting that those excluded from the political process (slaves, women in strongly patriarchal societies) can find no benefit in deliberation. The terms of their deliberation must necessarily be quite different from the deliberative ideal, with its strong background assumptions of political equality. [↑](#footnote-ref-40)
41. Fung 2005. [↑](#footnote-ref-41)
42. Fung cites prominent passages from Habermas (1996) and an influential essay by Jack Knight and James Johnson (1997) on the important preconditions of a truly deliberative public sphere, which is, without doubt, well short of the amount of “background equality” extant in most, if not all, political communities in the world today. Many other deliberative theorists, including Gutmann and Thompson, have made similar observations about “background equality.” [↑](#footnote-ref-42)
43. See, for example, Grodnick 2005, 399. [↑](#footnote-ref-43)
44. By suggesting that such a task is of little use for democratic theorists, we don’t mean to suggest that utopian visions have no role in democratic politics. They can be quite useful in demonstrating a serious problem in today’s social, political or economic world by showing how much better the world would be without it. But utopian visions are in this sense serving a particular role in a particular social context; their value is not capturing the correct and true vision of the best possible world humanity could possibly construct for itself, but in persuasively and vividly highlighting and critiquing specific flaws in the shared world of the sketcher of utopias and her audience. [↑](#footnote-ref-44)
45. Fung 2005, 399. Emphasis retained from original. [↑](#footnote-ref-45)
46. See Scott 1985. We should note that Scott thought he was identifying resistance and not (necessarily) democracy. Given the nature of the social relations being resisted, the activities he identified clearly fit within this conception of democracy. [↑](#footnote-ref-46)
47. Pettit 1997, 86-87. Strategic deference occurs when those on the dominated attend to their own freedom by “develop[ing] and exercise[ing] strategies for placating and anticipating the powerful” though, for example, “strategic flattery and avoidance” (87). For Pettit, the necessity of developing strategies of strategic deference is one of many deleterious consequences of living a life in which one is potentially subject to arbitrary influence and domination. Those who practice strategic deference regularly, due to a persistent and/or permanent dominative relationship, are limited in their choices and therefore freedoms even when the potential dominator is successfully placated, and furthermore they risk the development of a strategic disposition that might serve to limit their ability to function as an agent and life a life of freedom in the future, even without persistent interference. [↑](#footnote-ref-47)
48. I do not wish to categorically reject deception as a permissible democratic strategy here. Burke Hendrix’ contribution to this panel gives a compelling defense of circumstances in which deception may be perfectly acceptable for some democratic actors. [↑](#footnote-ref-48)
49. Furthermore, our stipulation that this method would be effective is highly suspect as well. We added that condition to show that such an approach would be highly problematic under our conception of democracy even if it were successful. [↑](#footnote-ref-49)
50. Nozick 1974, 151. [↑](#footnote-ref-50)
51. Shapiro 2003, 4. See also Shapiro 1999. [↑](#footnote-ref-51)
52. Tilly1999. For example, man/woman, rich/poor, noble/common, and white/non-white, to list the most prominent examples. Tilly considers these patterned pairs because the nature of the inequality between the two categories assumes patterns that replicate, reproduce, and reinforce themselves across time and space. [↑](#footnote-ref-52)