

‘Deliberative democracy and the challenge of power’

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Deliberative democracy and the challenge of power

This thesis asks whether power inequities in the real-world entail that deliberative democracy cannot serve as a non-ideal theory, and instead is purely of limited value as an ideal theory with which to critique current practices. I argue that fundamentally there is no position free from power inequities from which we can develop a deliberative theoretical framework - nor through which we can apply such a framework in real-world conditions. Practically, this means that deliberative democracy could only ever be an imperfect model for challenging these same power inequities, and moreover that it will perpetually run the risk of reaffirming power inequities. However, principles internal to deliberative democracy – the principles of fallibility and fidelity – provide exactly the tools required for embracing this fundamental challenge which deliberative democracy faces. Through confrontation with the challenge of power, I shall therefore draw out a key strength of this theoretical approach.

Section 1: Introduction

Deliberative democracy places deliberation as the heart of democratic decision-making. A key focus of debate within deliberative democratic theory concerns the necessary conditions of this deliberative process – what is demanded of participants, and what they can reasonably demand from the process. This debate is taken so seriously by deliberative democrats because they recognise that the deliberative process otherwise runs the risk of in some way unduly advantaging one set of participants over another. This would be deeply problematic for a theory which places such emphasis on what Jürgen Habermas has described as “the forceless force of the better argument.”¹

Many of the posited stipulations regarding the deliberative conditions can be seen as pertaining to manifestations of power. It would not be a fair deliberative process if threats of violence were permitted, as this would advantage the stronger party, who is able in brute terms to exert power, and so able to overcome or undermine the ‘forceless force’. Given this, deliberative democrats will in different ways stipulate that threats of violence, for example, are not permitted within the deliberative process.

But power inequities will often manifest in more subtle ways. Some people might be seen to be advantaged in the process through a high level of education, and so to exert their relative power perhaps through their developed rhetorical skills, or intellectual confidence. Deliberative democrats will therefore look at how and whether this too can be addressed in a fair manner - again, so as to ensure that power inequities here are not undermining the ‘forceless force’.

Once the internal conditions assumed to be necessary have been stipulated, this is seen to be the end of the theoretical task. But does this capture the extent of the challenge that power presents to the deliberative process? What if one of the parties is able to close the deliberative process down as soon as it stops going their way, or can otherwise prevent the implementation of the proposals? Who is the person who ultimately determines the conditions of the deliberative process, and agrees as to what is fair? What if the deliberative process has already effectively been gamed from the start in favour of one of the parties?

¹ Jürgen Habermas, “Legitimation Crisis”. pp. 108

What if the very perspective from which we engage with the deliberative process – our very world view - itself inadvertently favours this same party?

A failure to capture further manifestations of power inequities would be deeply problematic for deliberative democratic theory – leaving us with a theory which risks reaffirming the interests of the more powerful parties, and of disguising this fact under the guise of free and fair deliberation.

Through the course of this thesis, I shall argue that power not only presents a significant challenge to the notion of free and fair deliberation, but ultimately is an inescapable, omnipresent challenge. I shall start by exploring the potential for deliberation to occur in the context of an unequal balance of power – and so the capacity of deliberative democracy to act as a mechanism for change in light of real-world power inequities. Through evaluating the considerable issues that power presents for deliberative democracy to act as a model for change in real-world condition, I shall show that there is a challenge of infinite regress, such that there is no position free from power inequities from which one can challenge these same power inequities. This entails that deliberative democracy will always to some extent reflect and reaffirm power inequities, and never be wholly capable of challenges these same power inequities.

Both the theory and the practice is in this sense always necessarily imperfect. And yet, deliberative democracy is conceptually and practically able to endorse this ultimate imperfection, to bring it front and centre of deliberative democratic theory and practice, and to nevertheless endorse action – even if imperfect – over a withdrawal from politics. This can be seen through the principles of fallibility and fidelity, which I shall show to be implicit, core principles of deliberation. Through the fundamental nature of the challenge of power, we are thereby able to draw out a profound strength within deliberative democracy.

Argumentative outline

I will start by setting out some background context [section two], principally regarding deliberative democracy and the key themes that can be seen as uniting the many approaches that are taken. I will also here draw out the key suppositions driving this thesis, so that they are explicit wherever possible.

I will then turn to a notable critique levelled at deliberative democracy, as presented by Iris Marion Young [section three]. Young argues that power inequities in real-world conditions are such that deliberation can never be a sufficient or appropriate mechanism for challenging this power. For her, this inability of deliberative democracy to challenge power in non-ideal circumstances entails that it is only of some limited use as an ideal model to be utilised as a critical theory.²

Archon Fung has presented a response to Young's challenge, arguing that it is possible to practically apply deliberative principles in non-ideal circumstances, while still taking the challenge of power seriously.³ In section four I shall review this response, and argue that it is a useful framework, principally in placing the challenge of power front and centre of the

² Iris Marion Young, "Activist Challenges to Deliberative Democracy".

³ Archon Fung, "Deliberation Before the Revolution: Towards an Ethics of Deliberative Democracy in an Unjust World".

deliberative process, whilst at the same time maintaining fidelity to the process. The framework is also instructive in drawing out the extent to which Young's critique applies also to alternative mechanisms for challenging power inequities, which in fact run considerable risk themselves of obscuring power dynamics.

The framework is, however, incomplete. In section five I shall further problematise Fung's response by asking whether ultimately the solution – while neat – has acted to obscure the question of power, and so whether it is a practical response to the challenge after all. Through this further analysis, I shall argue that it is impossible to develop an account which ultimately resolves the challenge of power – indeed, that we find ourselves in a situation of infinite regress, whereby there is no possible position free from power inequities from which we can ultimately challenge these power inequities. Section six will show that the inability to ultimately address such challenges is at the heart of politics; that political theory necessarily entails entering into such theoretically intractable situations.

This might suggest that all is lost after all – that taking Young's challenge seriously demands dropping deliberative democracy entirely. And yet I shall argue [also in section six] that deliberative democracy is well placed to embrace this challenge, and to bring the question of power – and its fundamental irreconcilability – to the very centre of both its theoretical framework and its practice. I shall conclude in section seven, drawing together the key arguments.

Section two: Context

Deliberative democracy – background

Deliberative democracy as a theoretical school includes a wide range of very different notions and approaches, but we can assert some general themes which they will share. Central, of course, is deliberation – as a process of reason-giving, oriented towards some notion of an agreement, in light of the contributions of others. Theories will all in various ways hold that the legitimacy of political decisions lies in the (actual or hypothetical) deliberation of relevant parties.⁴

In addition, deliberative democrats will also likely highlight a number of other positive roles that deliberation plays, which they may variously prioritise, and view as intrinsically or instrumentally valuable. They are likely to highlight the educative role it plays - in helping parties to better understand their own position, and the perspectives of the other parties, and in developing certain capacities, which are intrinsically and instrumentally valuable.⁵ They will likely also point to the social goods it achieves - in bringing about better integrated, more sustainable, more understanding or more public-spirited communities.⁶ And they might additionally highlight the epistemic role it plays in arriving at better collective decisions.⁷

⁴ For example, see Amy Gutman and Dennis Thompson, "Why Deliberative Democracy?" pp. 3

⁵ For example, see Ank Michels and Laurens de Graf, "Examining Citizen Participation: Local Participatory Policy Making and Democracy".

⁶ For example, see Martha L. McCoy and Patrick L. Scully, "Deliberative Dialogue to Expand Civic Engagement: What Kind of Talk Does Democracy Need?".

⁷ For example, see H el ene Landemore, "Democratic Reason: Politics, Collective Intelligence, and the Rule of the Many".

Unsurprisingly, beyond this there is a huge amount of divergence amongst those who subscribe to deliberative democracy – relating to how deliberation itself is to be conceptualised and the necessary conditions for deliberation, as well as the form it takes within a society. As noted, a number of these discussions can be understood as seeking to address the internal challenge that power can present to the deliberative process.

I will not engage directly in this thesis with these broader questions of how deliberative practices are to be implemented within a society, except in so far as this relates to power. And yet in order to describe a deliberative process, as an explicit interaction between a deliberative agent and another party who come together to discuss a specific issue, this already can be seen as implicitly taking a certain view of deliberative democracy. However, my description of a specific deliberative interaction between two individuals does not necessarily entail a particular conceptualisation of how deliberation should be structured within society. I rather hold that this is a clear way of looking at deliberation and drawing out key challenges that pertain to it.

As well as lively debate surrounding substantive questions regarding the nature of deliberation, it has been noted that deliberative democracy has gone through a series of broader conceptual phases, or “turns”, even in its relatively short period as an explicit approach within democratic theory.⁸ There has been active debate in recent years surrounding the role deliberation plays within wider society, following the idea of looking holistically at the ‘deliberative system’, which is contrasted with approaches which focus on deliberative practices within a specific setting – whether deliberation amongst legislators, or in often small, deliberative models which citizens themselves engage in, such as citizens’ assemblies.⁹ Again, the fact that I describe an explicit deliberative interaction need not imply a view on the question of how deliberation is to be conceptualised across a society. I hold that through evaluating the challenges presented through a specific deliberative interaction between two people, we shall be able to equally apply these insights to deliberative processes more generally.

Another significant development within deliberative democracy has been described as its taking an “empirical turn” with deliberative democracy coming to move from making a “theoretical statement” into a “working theory”.¹⁰ Notably, these have reflected the other side of the ‘systems turn’, very much centring on the employment of specific deliberative practices, rather than looking at a systems-wide approach. This has not only seen the development of theories with a much more practical bent, but has also seen extensive real-world usages of different deliberative models, at local, regional and national levels, and across a wide range of forms.

This thesis certainly is not agnostic regarding many of these deliberative practices – indeed, through evaluating these practices we can come to recognise some of the practical manifestations of the theoretical challenge that this thesis explores. The limits of these practices, and the hidden power dynamics that they reflect and reaffirm, can be best seen

⁸ Andre Bachtinger et al, “Disentangling Diversity in Deliberative Democracy: Competing Theories, Their Blind Spots and Complementarities”. pp. 32

⁹ On the notion of deliberative systems, see John Parkinson and Jane Mansbridge, “Deliberative Systems”.

¹⁰ Andre Bachtinger et al, “Disentangling Diversity in Deliberative Democracy: Competing Theories, Their Blind Spots and Complementarities”. pp. 32

when we explore the capacity of a deliberative process to provide a model for change – as it is through exploration of this capacity that we are most likely to draw out the barriers which power inequities might here present.

Fournier et al for example explore the use of citizens' assemblies in Canada and the Netherlands, where governments set up a body of citizens who come together to reflect on a policy issue (in these cases, largely constitutional questions) and make policy recommendations.¹¹ These practices reflect the view that involving people in decision-making proffers some level of legitimacy to the recommendations they make, and seeks to serve a number of other educative and social functions. They are, moreover, often extensive, well-funded projects, involving significant levels of participation. But they are notable in failing to formally transfer power to the newly constituted body, beyond the power to make a recommendation. As such, their capacity to bring about change is severely limited - indeed none of the recommendations from any of the bodies which Fournier et al explore were eventually enacted.¹² These bodies thus reflect a direct example of a more powerful party, in these cases the ultimate decision-makers being the state governments, determining whether deliberative decisions are enacted, and so an overt but underexplored power dynamic.

Other examples of employing deliberative principles without transferring formal powers can be seen in Fishkin's development of 'deliberative polling' – which clearly can be used within democratic societies without any change whatsoever in institutional design, but which he believes can drive behavioural change in both citizens and ultimate decision-makers (such that the educative function is particularly prominent).¹³ Such models of course are not intended to give decision-making powers to participants – but nonetheless some of the challenges that power presents here will also be manifest in these process too, in terms of limits that are explicitly and implicitly set on the choices deliberative parties are able to make, and how the polling is subsequently used.

Some systems have been developed whereby deliberative bodies are set up and hold genuine decision-making powers – notably the examples of participatory budgets, and the often-cited example of the Porto Alegre Participatory Budget, in which citizens across each of the 16 districts of the Brazilian city meet annually to consider, discuss and finally vote on the budget priorities.¹⁴ Many examples of local participatory policy-making have also been developed, again with deliberation given a critical role – including the example in Oregon in the early 1990s of local citizens setting health care priorities, or in the Dutch cities of Eindhoven and Groningen – although these can differ in the level of ultimate decision-making authority that they hold.¹⁵

Where these models are all commissioned and facilitated in some way by the ultimate decision-maker (in most cases local, regional or national government), other studies have looked at deliberative practices which have been developed by citizens themselves within the

¹¹ Patrick Fournier et al, "When Citizens Decide: Lessons From Citizens Assemblies on Electoral Reform".

¹² Ibid. pp. 126

¹³ See for example James S. Fishkin and Robert C. Luskin, "Experimenting with a Democratic Ideal: Deliberative Polling and Public Opinion".

¹⁴ Dennis F. Thompson, "Deliberative Democratic Theory and Empirical Political Science". pp. 514

¹⁵ Dennis F. Thompson, "Deliberative Democratic Theory and Empirical Political Science". pp. 515; Ank Michels and Laurens de Graaf, "Examining Citizen Participation: Local Participatory Policy Making and Democracy".

context of making demands on those with decision-making powers. Fung, for example, has explored a number of community-based campaigns in the Chicago area which have developed and successfully employed deliberative practices, leading to policy changes.¹⁶ These are understandably often far less well resourced, but notable in the central role which deliberation plays within their advocative processes - in developing the demands, determining the processes used for driving forward the demand, and indeed with the development of further deliberative practices often also a demand itself. They are notable too in the success many of the processes have enjoyed – not only in driving policy changes (something which many of the government-commissioned projects – such as those explored by Fournier et al – failed to achieve), but also in the significant social and educative functions they can be seen to have played - often leading not only to development in citizens’ understanding of the specific policy issues, and of their wider political understanding, but of driving social integration and trust.

Where with the earlier examples, the structural limitations on what the deliberative participants can do are fairly overt, through this thesis we shall nonetheless see the challenge that power presents for these more ‘bottom-up’ bodies - whether those expressly given significant autonomy, or those which work outside of formal government structures - in less obvious ways. As such, by looking at a specific and explicit deliberative interaction, and the capacity of the less powerful party to use this interaction as a mechanism for change, we shall recognise the omnipresent challenge that power presents in limiting this capacity for change, which is in fact inherent in all deliberative processes.

This thesis therefore explores the challenge of power as it pertains to a specific deliberative interaction, and through exploring the capacity of the less powerful agent to drive change through this process, highlights the obstacles that different manifestations of power can present. Through this, we shall note that many current deliberative theories and practices are severely limited in failing to reflect on this challenge of power – a deliberative body which is established by the government and depends on these ultimate decision-makers for the proposals to be enacted, for example, puts huge limits on the deliberative scope of the participants. But we also see these limits to present themselves in far more subtle contexts – indeed, we shall see that power is an omnipresent challenge, which deliberative democrats need to take much more seriously. But through this thesis I shall further show that deliberative democracy is well placed to undertake this task, and confront (but never resolve) the challenge of power – and so through this, I shall highlight a particular strength inherent in the deliberative democratic approach.

A word on change

It might be asked at this stage why I place such an emphasis on the capacity of deliberative democracy to act as a mechanism for change. The reason for this emphasis through the course of the thesis can be seen as part practical and part theoretical. Practically, it is through the notion of change that we are best able to draw out the power dynamics which might present here as resisting the change – which would be more difficult to locate without reference to this resistance.

¹⁶ Archon Fung, “Empowered Participation: Reinventing Urban Democracy”.

But why must a democratic theory theoretically be able to account for change? This turns to the notion of what you want from a political theory – and an extensive debate as to the relationship between ideal and non-ideal theory, which we shall not be able to address here (I will touch on it briefly in section three).¹⁷ However, we can establish without the need for extensive argument that a non-ideal theory necessarily responds to imperfect real-world conditions - and so it would seem very odd if the theory did not seek to address these conditions where possible, and in this way to act as a mechanism for change.

This does not mean that deliberative democratic practices – including those cited above, where there are clear limitations on what participants are able to suggest, and on whether their proposals are enacted – are of no value. We have seen that there are a wide range of both intrinsic and instrumental values which deliberation can offer, even when the scope to drive change is severely limited.

However, I would add two caveats to this. Firstly, where there are such significant limits on the deliberative scope of the participants, this must be made explicit (as we must seek to do with less overt limits too), such that the implications of this can be reflected on and the deliberative activity is not misrepresented. The examples we explored earlier frequently fail to do this – and in so doing, they suggest that they are empowering participants in a way that is not accurate.

And secondly, I hold that the wider instrumental benefits of deliberative democracy (such as building greater understanding between participants, or deeper understanding of policy issues) are weakened to the extent that there are limitations on the deliberative scope and power to implement proposals – crudely, because people are aware of this, and so engage differently in the process. I will not argue this point here due to the exigencies of time, but suggest it could be a point of further exploration.

Young, as we shall see momentarily, argues that deliberative democracy cannot account for change, and so serves no value as a non-ideal theory, and merely is of value as an ideal theory, which can be used to critique current real-world practices. Through the course of this thesis I shall contest the distinction that she draws – arguing that if power inequities are a fundamental barrier to the use of deliberation in the real world, it is not clear in what sense it can serve any value even as a limited ideal theory. In this way, through exploring the extent to which deliberative democracy can act as a mechanism for change, we then shift the focus from this capacity for change towards a much more all-consuming challenge to deliberative democracy as an ideal and non-ideal theory.

Section three: The deliberative democrat vs. the activist on the challenge of power

Having set out some context, I will set out the core argument, as presented by Iris Marion Young – namely, that deliberative democracy is fundamentally unable to offer guiding principles as to how we should act in existing non-ideal democracies, given the challenge of power.¹⁸ Young presents an imaginary conversation between an activist and a deliberative

¹⁷ For instructive accounts of the ideal/ non-ideal theory debates, see Burke A. Hendrix, “Where Should We Expect Social Change in Non-Ideal Theory” and Laura Valentini, “Ideal vs. Non-ideal Theory: A Conceptual Map”.

¹⁸ There is an extensive debate pertaining to what power is, which is itself a highly contested term – see for example Stephen Lukes, “Power: A Radical View” or Robert Dahl, “The Concept of Power”. For the purposes of this thesis I shall not be able to enter into this debate. I will be using power in order to describe the dynamics

democratic – both of whom are committed to challenging social injustices and the power inequities which these injustices reflect (and so agree that a theory must be able to provide a mechanism for change), but who differ on whether they believe deliberation can serve as the process for challenging these inequities. The deliberative democrat seeks to do this through a process of deliberation. The activist believes this to be naïve – given the power inequities prevalent in the real-world, they argue that non-deliberative activist tactics are the better approach. Rather than seeking to deliberate with the other party, we are better advised seeking to challenge their power overtly, through activist tactics including direct and non-direct action, in order to force concessions.¹⁹

Through the conversation, Young draws out four particular challenges that the deliberative democrat faces in the non-ideal world. These can be summarised as follows:

1. Formal exclusion from the deliberative process (both in terms of participation in the deliberative process, and publicity of the deliberative process).
2. Structural bias within the process (including both the formal and informal rules of the process, and the ability to navigate the process).
3. Limitations as to the choice of policy issues which are allowed to be ‘on the table’, and which would be acted upon due to practical parameters that are set by a society’s political, economic and social framework.
4. The implicit reaffirmation of inequality through internalised hegemonic discourse.

For Young, the disagreement between the activist and deliberative activist comes down to a difference in the extent of optimism one holds in regards to the first two points, but the latter two present insurmountable challenges for the deliberative democrat within the non-ideal world.²⁰

We can explore these four challenges in turn. Firstly, and perhaps most obviously, in the non-ideal world, those who hold power can determine when deliberation occurs, and who is to be included in the deliberative process. Where deliberation does indeed occur in democratic societies today, it tends to be an activity of political elites, and the meetings themselves can often be kept from the public, such that scrutiny of the process is not possible.²¹ This first dynamic might therefore manifest itself in the deliberative democrat being denied the opportunity to engage; or in their not being invited to a relevant deliberative process (perhaps another, more amenable individual was chosen) and not having information about that process shared subsequently.

Young notes that the deliberative democrat will of course agree that under such circumstances this deliberation is not democratically legitimate, failing as it does to include representation of all affected interests and perspectives, and failing to make such deliberative processes public. Yet the deliberative democrat will believe that it is possible to contest such exclusion, and that seeking to address this is a key goal in order to contest social injustice.

which Young illustrates in this section. This does not entail a view that power is only ever oppositional (all four of these Young’s dynamics are set out as constraints), nor does it entail that power must always be mitigated or that we should seek to eliminate it (as a narrow view of Young’s categories could perhaps be seen to imply). As such, use of power in the sense I use it here does not entail that this is the only applicable notion of power.

¹⁹ Iris Marion Young, “Activist Challenges to Deliberative Democracy”. pp. 675

²⁰ Ibid. pp. 681

²¹ Ibid. pp. 677

Ultimately, for Young, this debate can be empirically tested – following which we can judge whether the deliberative democrat’s optimism or the activists’ cynicism is the more appropriate sentiment in the particular context.²²

A second dynamic takes this a step further. Even following formal inclusion and appropriate publicity, inequities in power will still be reflected in the deliberative process through structural biases – such that the political elites will have greater access to the deliberative process, and so be better able to dominate proceedings. Young specifically notes that agents with greater resources, knowledge and connections (particularly with those who exert direct or indirect control over the form) are privileged in the process.²³ Young suggests that we might for example see television as a media form which is formally open to all, but recognise that citizens with more money and better connections are more likely to get airtime; or note that even regarding public deliberative events, those who wish to participate will need to know about them, be able to arrange their work and childcare so as to be able to attend, be able to get to the event, and have enough understanding of the process to be able to participate effectively.²⁴ A formally accessible deliberative process is not equally accessible to all, and those with greater privilege will be better able to access and engage with the process.

Again, if we assume the more powerful party has agreed to meet with the deliberative democrat (this first barrier being a very significant one), this second challenge might manifest itself in the deliberative democrat not being aware of the form their deliberative argument is supposed to take, and so having their argument discounted; or not realising that participants on this occasion had to turn up some time before the advertised time in order to put themselves forward to speak; or not structuring their speech in the traditional form, such that others were not able to follow it. Of course, it might further be the case that the more powerful party was able to introduce these rules exactly to disadvantage new entrants.

Once more, the deliberative democrat might agree with the activist that structural inequalities once again in practice will limit access to the formally inclusive deliberative process. Young argues that this time the argument between the two centres on whether it is nonetheless valuable to seek to engage (as the deliberative democrat might argue), or whether this simply serves to legitimise an illegitimate process (as the activist might argue).²⁵ The deliberative democrat is once again more optimistic regarding the scope to influence even from an unequal position of power, and that through so doing the process may incrementally come to be more meaningfully inclusive. The activist considers this position to be naïve.

Young notes that in regards to both of these elements, the activist and deliberative democrat are close in regards to the normative question of what would make the deliberative process democratically legitimate, while they differ in their assessment of whether political agents

²² Iris Marion Young, “Activist Challenges to Deliberative Democracy”. pp. 678

²³ Ibid. pp. 679-680

²⁴ Ibid. pp. 679-680

It is notable that technological developments can significantly change the landscape here, and help to circumvent certain barriers – in the instance of the formal ability for all to be on TV but the practical barriers that are higher for some than for others, social media and internet formats such as YouTube can very notably present alternative options. However, while this can provide opportunities, the substantive point remains – even with these forms of new media, the more powerful entities will come to be able to better exploit these too.

²⁵ Ibid. pp. 681

can be persuaded to address these issues of inclusivity, publicity and process.²⁶ Indeed, given the proliferation in deliberative democratic processes being used in real-world democracies, it is possible to start to determine empirically the extent to which optimism or pessimism is the most appropriate assessment. Given that both activist and deliberative democrat hold broadly the same normative position, such empirical evidence might indeed lead either to a practical reassessment of their position. If these were the only challenges that power presented, the question which this thesis responds to would be primarily a matter for political scientists.

Young turns to two further issues which she argues are more intractable – moving from issues pertaining to the publicity and inclusivity of the deliberative public, to the terms and content of the deliberation. She invites us to assume that, “by some combination of activist agitation and deliberative persuasion” the deliberative process is meaningfully inclusive and appropriately publicised.²⁷ Still, the existing inequitable social and political structures will set constraints on both the terms of deliberation, and the agenda. In order to engage in the deliberative process, the deliberative democrat has to work within a framework, reflecting the existing structural constraints.

As such, for Young, “to the extent that such implementation must presuppose constrained alternatives that cannot question existing institutional priorities and social structures, deliberation is as likely to reinforce injustice as it is to undermine it.”²⁸ So, assuming that the deliberative democrat has managed to secure a meeting with the key decision-maker they are seeking to engage, and has been able to navigate all of the explicit and implicit rules and conventions appropriately, there are certain issues which are simply not up for debate within our society. Core institutions are beyond contestation – the notion of property, the notion of a state, the notion of certain basic rights that we all hold. And there are numerous additional concepts and institutions which are in practice beyond contestation, which operate as ‘conventional wisdoms’ as to the basic framework within which we must operate. The deliberative democrat will meet intractable resistance if they propose anything outside of these frameworks – and so while they have been able to put the idea forward, this is of no practical value.

Young argues that there is no adequate response available to the deliberative democrat – implementing deliberative processes within the context of these constraints is a near-fundamental barrier to the possibility of the structurally disadvantaged proposing solutions to social problems that might alter the structural positions within which they stand.²⁹ The only option for the theory and practice of deliberative democracy – according to Young – is to withdraw from practical policy questions, instead working to create deliberative settings “in which basic social and economic structures can be examined” – which must (for the most part) “be outside of and opposed to ongoing settings of official policy discussions.”³⁰

The deliberative democrat might respond by proposing the use of deliberative fora, removed from the immediacy of the given economic imperatives and social structures, in which a diverse set of representatives can critically discuss those very imperatives and structures, with

²⁶ Iris Marion Young, “Activist Challenges to Deliberative Democracy”. pp. 681

²⁷ *Ibid.* pp. 682

²⁸ *Ibid.* pp. 684

²⁹ *Ibid.* pp. 683

³⁰ *Ibid.* pp. 684-685

an eye to reforming them. And yet, for Young this is still inadequate, and leads to her fourth and final challenge – namely that under these circumstances, participants will still all be influenced by a common hegemonic discourse, which reflects and reaffirms structural inequalities.³¹

Young notes that her use of ‘discourse’ refers to “a system of stories and expert knowledge diffused through the society” which convey “widely accepted generalisations about norms and cultural values to which most people appeal when discussing their social and political problems and proposed solutions.”³² She notes that such discourses become ‘hegemonic’, in a manner derived from Gramsci, where most people think about social relations in those terms, “whatever their location in the structural inequalities.”³³

This challenge therefore asserts that preferences, and notions of what is possible or reasonable, will be framed within this context, such that deliberative outcomes seemingly freely arrived at should in fact not be considered as reflecting genuinely free consent.³⁴ Young argues that such hegemonic discourse can entail that “parties to deliberation may agree on premises, they may accept a theory of their situation and give reasons for proposals that the others accept, but yet the premises and terms of the account mask the reproduction of power and injustice.”³⁵ She offers the example of discourse in the United States regarding poverty – where she argues that there is significant consensus on the view that poverty should be seen as a function of the inability of individuals to develop the skills and capacities necessary for inclusion in the labour market, such that “there is almost no other way to think about poverty policy than as a labor market policy.”³⁶

Young argues that both the theory and practice of deliberative democracy are unable to address the challenge that hegemonic discourse presents, and that “for most deliberative democrats, discourse seems to be more ‘innocent’.”³⁷ In order to contest hegemony, according to Young’s activist, we need non-deliberative, activist approaches – using pictures, songs, or expressions of mockery, used in rowdy or playful ways, and aimed “not at commanding assent but disturbing complacency. One of the activist’s goal[s] is to make us *wonder* about what we are doing, to rupture a stream of thought, rather than to weave an argument.”³⁸

From these four challenges, Young claims two key conclusions. Firstly, that democratic theory – including deliberative democracy – should be seen primarily as a critical theory, setting up an ideal with which we can critically evaluate real-world democracies, rather than

³¹ Iris Marion Young, “Activist Challenges to Deliberative Democracy”. pp. 685

³² Ibid. pp. 685

³³ Ibid. pp. 685

³⁴ Kadlec and Friedman note that Young draws on Gramsci in this fourth point relating to the notion of hegemony – as the internalisation of longstanding and multiple structural inequalities by significant sections of a population, often in the form of “pervasive and often unconscious cultural and linguistic assumptions.” They place the term in quotes because they argue that its consequences are often seen in as “rigidly totalising” such that for them “it’s unqualified use would be at cross purposes with our aim of showing that there is room to manoeuvre via deliberation in meaningful and powerful ways.” (all citations: Alison Kadlec and Will Friedman, “Deliberative Democracy and the Problem of Power”, footnote 6, pp. 5) I shall similarly hold that hegemony does not wholly nullify the potential for progress, despite certainly acting as an impediment.

³⁵ Iris Marion Young, “Activist Challenges to Deliberative Democracy”. pp. 685

³⁶ Ibid. pp. 687

³⁷ Ibid. pp. 686

³⁸ Ibid. pp. 687

offering a mechanism for action within the real-world setting. And secondly, even within the ideal theory, deliberation must be conceived of in a broad manner, allowing for democratic communication to include street demonstrations, musical works and sit-ins, so as to allow for contestation of hegemony.³⁹

Moreover, even with these amendments, Young argues that there remains an irreconcilable tension between deliberative democracy and activism. She argues that individuals and organisations seeking to drive positive social and political change will need to employ both approaches - to engage in discussion with others, and protest and engage in direct action – and the best democratic theory and practice, for Young, “will affirm them both while recognizing the tension between them.”⁴⁰

Reviewing the challenge – implications for ideal theory

Young’s challenge is significant, and must be taken seriously – indeed, through this thesis, I argue that it demands that we place questions of power front and centre of deliberative democratic theory. However, I hold that her argument underplays the challenge that power presents both for deliberative democracy in the limited sense that she wishes to retain it, and underplays the challenge that power presents for the alternative activist approach which she advocates.

We have noted that she holds that the challenge of power entails that deliberative democracy, as with all other democratic theory, is of use primarily as a critical theory “which exposes the exclusions and constraints in supposed fair processes of actual decision making, which make the legitimacy of their conclusions suspect”, but cannot be applied in practice.⁴¹ I hold that it is important to recognise the extent to which the same challenge of power will permeate significantly as an ideal, critical theory too. To draw this out, it is prudent to say a few words on the notion of ideal and non-ideal theories. As Laura Valentini argues, there are a number of ways in which the ideal/ non-ideal distinction is used and understood.⁴² She notes three main distinctions which are variously utilised – as a distinction between assumptions of full compliance vs partial compliance; as utopian vs. realistic theories, such that the distinction relates to “whether feasibility conditions should constrain normative political theorising, and, if so, what sorts of feasibility constraints should matter”; and as between end-state and transitional theories.⁴³

Moreover, Valentine argues that some of the distinctions between ideal and non-ideal theories can be understood as seeking to answer different questions. On the second distinction between utopian and realistic theories, she argues that utopian models are best understood as developing critical models which can be used to critique current real-world practices, while realistic models are intended to act as guides for action in the ‘here and now’.⁴⁴

³⁹ Iris Marion Young, “Activist Challenges to Deliberative Democracy”. pp. 687

⁴⁰ Ibid. pp. 689

⁴¹ Ibid. pp. 688

⁴² Laura Valentini, “Ideal vs. Non-ideal Theory: A Conceptual Map”.

⁴³ Ibid. pp. 654

⁴⁴ Ibid. pp. 660. Through the course of this thesis, my use of the ideal/ non-ideal theory rests primarily on the realistic/ utopian distinction – and whether deliberative principles have any applicability in realistic, non-ideal circumstances, or is otherwise of only of value as a utopian ideal with which we may critique non-ideal practices. The discussion also pertains to the transition/ end-state distinction – of the extent to which current

This is of course the distinction which Young seeks to draw. But in fact a stark distinction here collapses in the face of the challenge of power – it is not possible to hypothesise a utopia under which power does not pose a challenge. This can be seen in two respects. Firstly, Young’s deliberative, ideal theory principles are tainted, on her own analysis - and as she recognises – according to her own non-ideal world hegemonic framework, and so are in fact necessarily imperfect principles. And secondly, the central and most insidious aspect of hegemonic discourse is the fact that we will never be wholly aware of the extent to which this framework permeates our thinking. Once we have allowed this possibility of these unrecognised and so uncontested elements of hegemonic discourse which permeate our thinking, of course even the most rarefied, abstract theorising suffers from the omnipresent risk of its in fact reaffirming our current hegemonic framework.

This dual dynamic – that our ideal theories will reaffirm existing power inequities, and that we will always risk failing to recognise the manner in which this occurs, poses a fundamental challenge to the value of ideal theory, even in the limited sense which Young wishes to retain it.

Moreover, not only will ideal theory be tainted, but this will occur once more at the point at which we seek to apply the theory – even simply as a critical framework to challenge decision-making processes. Indeed, this will occur at all four levels at which Young raises the challenge of power – as a conscious exertion of power (as through Young’s first and second challenges), whereby an actor uses a supposedly fair, idealised model – even in the limited role of a critical theory - to dismiss or silence the other; as we seek to make them applicable within the societal constraints that we are presented with; and as we apply the critique in a manner which fails to escape the hegemonic framework with which we view the world.

We can take this challenge further still, to ask what it would mean to have an ideal theory free from power inequities (notably, something which Young herself does not suggest is possible). As David Owen argues, “simply calling for the equalisation... of power is radically insufficient as a way of addressing the issue of power as a positional good for the straightforward reason that power can be exercised in concert with others”.⁴⁵ As such, even if we could posit the notion of there being no power inequities between individuals which could allow for the subordination of one over another, once you have more than two people, you have the possibility of others advertently or inadvertently forming coalitions, such that they do as a group come to have more power than others. His argument relates specifically to issues of state power, but the point stands more generally – even in an ideal world without inequities in power, and even where individuals were not motivated to come together to form a more powerful block (if we are assuming benevolence on the part of actors within this ideal world), people will still coalesce, and the challenge of power will present itself once more.

imperfect conditions, particularly in regards to power inequality, entail that deliberation cannot serve as a mechanism for change, and so cannot act as a transitional theory. On the basis of this distinction, we can see Young as arguing that deliberative democracy cannot serve as a transitional theory, and is only of some limited use as an end-state ideal. However, her view is that the end-state can never be realisable, and so is in this sense highly utopian. In this way, we can see the notion of end-state and utopian theory to converge. For the purposes of this thesis, I shall refer broadly to the distinction between ideal and non-ideal theories, given that this general distinction suffices.

⁴⁵ David Owen, “Activist Political Theory and the Question of Power”. pp. 90

Whilst Young does recognise that an ideal theory cannot be insulated from power dynamics, she suggests it can serve a limited role, as a thinly developed notion which is solely used to play a negative role in critiquing current practices.⁴⁶ However, even in this limited role, power presents as a challenge - given that the ideal theory is projected from within current, non-ideal circumstances, and so will exhibit the same challenges of power; and that the idea of an ideal world free from any power relations whatsoever seems incoherent, as David Owen highlights.

Young can argue that the challenge of power does not present such a problematic issue when limited in the manner she advocates. We therefore simply face a question of judgement as to whether the challenge entails that it can or cannot be used in a particular instance, rather than a categorical distinction.

Reviewing the argument – implications for other democratic models

It is also worth noting here that while all four of Young's challenges of power are significant, there is a way in which they are not particular to deliberative democracy. Power inequities will undermine the ability to arrive at fair outcomes in all forms of decision-making settings – where the more powerful party is still able in different ways to determine the process, the agenda, the rules and the participants, and where the overriding hegemonic presuppositions will frame and so skew the participation of all parties. As with Young's argument, this becomes particularly evident when the goal is directly confronting a more powerful party – where a 'have not' seeks to contest a 'have', to use a perhaps crude but not unhelpful distinction drawn by Saul Alinsky.⁴⁷

Young can reasonably contend that deliberative democracy faces a particular difficulty, however, given that so much is left open within the deliberative process. Picking up on abuses of power within a deliberative setting might be particularly challenging given its open nature, given the significant role it gives to citizens, and given the faith participants must place in the process, which in turn risks obscuring power dynamics. This concern is well recognised by deliberative democrats who, as noted at the start of this thesis, go to significant lengths to discuss the deliberative conditions for exactly this reason. However, it equally seems clear that abuses of power at the four levels which Young highlights will be manifest in other democratic models – and so to the extent to which power poses an insurmountable barrier to deliberative democracy as a model for change, there are likely to be implications for democratic theory more widely.

But Young will also contend that her comparison is not with alternative democratic structures, but with an activist model of change which aims at rupture of the status quo – of contestation, not engagement or agreement. It is exactly because of the challenge of power that utilising existing democratic models is problematic, on Young's reading.

However, as Levine and Nierras highlight, Young "starts with the premise that activists are right – that they are on the side of 'social justice'... However, she overlooks the very large category of activists who believe that they are right and virtuous, but who are actually

⁴⁶ Iris Marion Young, "Activist Challenges to Deliberative Democracy". pp. 688

⁴⁷ Saul Alinsky, "Rules for Radicals: A Pragmatic Primer for Realistic Radicals". pp. 1

misguided or prejudiced in various ways.”⁴⁸ If we apply the challenge of power to the activist, we see that this assumption is deeply problematic.

Once we see that the challenge of power is not particular to deliberative democracy as a non-ideal theory - but applies also to deliberative democracy as an ideal theory, and also to other mechanisms for driving change in the non-ideal world, such as activism – the nature of Young’s challenge changes; not to whether the functioning of deliberative democracy as a non-ideal practice is affected by power inequities, but the extent to which it can manage this challenge, and how this compares to other alternative approaches.

Section four: The deliberative activist

We will now turn to Fung’s response to these challenges, which we will see offers some hope for the notion that deliberative practices can indeed be applied in non-ideal settings as a mechanism for change, with some practical revisions. Fung’s response focusses on this same question of deliberating in the context of unequal power, and sets out a practical process which could be utilised, such that reasonable efforts are made to deliberate, but that it is recognised that at a certain point other activist methods can be utilised coherently, without undermining the aim of introducing deliberation as a practice as well as an ideal.

Fung does not deal so directly with the fundamental challenge of hegemonic constraints, but there is space within his account to draw this out more explicitly, as I shall do. Whilst the notion of hegemony is difficult to deal with through any democratic theory, I shall offer an account which is coherent and offers a practical account of change.

Fung and the deliberative activist

Fung argues that the gap between activist and deliberative democrat is not as stark as Young has argued, and through the notion of the ‘deliberative activist’ offers a model for “advancing deliberation through persuasion where possible, but not to limit his means to persuasion only.”⁴⁹ He notes that we must dispense with two polar positions – the naïve deliberator, who persists with deliberative methods, regardless of the level of resistance and systemic domination; and the notion that “all bets are off ‘before the revolution’”, such that non-deliberative methods are seen to be the best method for working towards achieving the conditions required for deliberation.⁵⁰ The first, for Fung, does not offer a persuasive account for achieving actual political change; and the latter offers no political ethics, leaving a gulf between the ideal of deliberation and our practices in the real world, as well as failing to offer an account of how our democratic institutions are to become incrementally more deliberative, if even the proponents of deliberation are failing to do it.⁵¹

Instead, Fung proposes an account which is sensitive to the challenges presented by structural inequalities within society, whilst also noting that deliberative democracy is a demanding ideal, which asserts and demands high standards of behaviour. Moreover, his account will offer an account of how our democratic institutions themselves become incrementally more deliberative through these practices.

⁴⁸ Peter Levine and Rose Marie Nierras, “Activists’ Views of Deliberation”. pp. 12

⁴⁹ Archon Fung, “Empowered Participation: Reinventing Urban Democracy”. pp. 399

⁵⁰ Ibid. pp. 399

⁵¹ Ibid. pp. 399

Fung argues that the deliberative activist should be guided by four principles – fidelity, charity, exhaustion and proportionality.⁵² Fidelity sets normative and empirical commitments within which the deliberative activist operates. This firstly involves affirming a loyalty to the method of deliberation itself – believing that it can improve the quality of democratic governance, whilst recognising that it will involve substantial imperfections in practice – and that the benefits outweigh the limitations. Secondly, fidelity also relates to the liberal democratic society in which the deliberative activist lives – viewing contemporary institutions as “flawed but improvable”, such that the aim is not “institutional rupture” but “incremental improvement in a deliberative direction.”⁵³

The second principle of charity requires that the deliberative activist assumes that deliberative parties will be willing to engage in good-faith deliberation, until they prove otherwise.

The third principle of exhaustion sets out how the principle of charity is to be applied – that deliberative methods are to be utilised, until the point at which reasonable efforts to undertake fair, open and inclusive deliberation have failed. At this point, non-deliberative forms of power may be utilised.

The fourth principle of proportionality addresses the manner and extent to which these non-deliberative forms of power can be utilised – such that the choice of non-deliberative mechanisms is proportionate to the extent to which the other party rejects the deliberative norms and underlying values. The greater the rejection of these norms, the less deliberative will be the methods which the deliberative activist can reasonably utilise. However, Fung notes that even here the deliberative activist must be clear that the approach they use always has the ultimate goal of persuading the other party of their position, or raising the cost of rejecting the deliberative process.⁵⁴ Deviations from deliberative methods must therefore still retain an eye to returning eventually to deliberative methods.

Fung has therefore offered a practical method which seeks to affirm the value of deliberation as an ideal, and to apply it to non-ideal settings as a mechanism for change. Moreover, through its application in non-ideal circumstances, we can see at least the possibility that institutions and practices come to be increasingly deliberative. Through these two elements, it is possible to envision a mechanism such that deliberative methods (alongside non-deliberative methods, where necessary) used in non-ideal circumstances drive the necessary social, political and economic changes required for moving towards more deliberative practices, and that our institutions and practices themselves come to be truly deliberative.

The activist and Fung’s four principles – fidelity to institutions

Unfortunately, Young’s activist is unlikely to be convinced. Firstly, and most basically, they will hold with Young that to apply deliberative principles in non-ideal circumstances is naïve and problematic. We have already looked at this question in some detail - including noting that to apply the critique of power consistently means that deliberative democracy is undermined too as an ideal theory. Young contends that it can still be of use as a limited critical theory, but again we noted that even as a limited ideal it risks being imbued with pre-existing real-world power inequities, and moreover that power will present again as the

⁵² Archon Fung, “Empowered Participation: Reinventing Urban Democracy”. pp. 401-404

⁵³ Ibid. pp. 403

⁵⁴ Ibid. pp. 403

critique is applied in real-world, non-ideal circumstances. The activist then has to present their positive alternative model. And at this point Young's challenge of power bares back on them, as we have seen.

Let us assume for now that the activist is happy to accept these significant implications, for deliberative democracy as an ideal theory, and for the impact of power on their own model for change – and instead let us present the activist with Fung's specific principles, to see whether they withstand scrutiny. At the very outset, they are likely to have significant problems with Fung's first principle of fidelity to our current democratic practices and institutions. In explaining the first principle, Fung notes that the “deliberative activist is not a revolutionary”, which can be seen to be in tension with his assertion at the top of his paper that “deliberative democracy is a revolutionary political ideal”, in the sense both that it calls for fundamental changes in the way that political decision-making is undertaken, and also in requiring significantly greater political, social and economic equality.⁵⁵

The two assertions are consistent, however, if we are to note that a revolutionary ideal may be achieved through non-revolutionary, incremental progress, which is clearly Fung's position. But even if we allow that this may be consistent, why must Fung's deliberative activist hold such a strict commitment to contemporary institutions and political practices, and necessarily believe them to be improvable? Specifically, is this not precisely Young's concern in regards to her third challenge, as set out above, namely that “to the extent that such implementation [of deliberative practices] must presuppose constrained alternatives that cannot question existing institutional priorities and social structures, deliberation is as likely to reinforce injustice as it is to undermine it”?⁵⁶

This represents a key challenge, and so deserves some further expansion. Let us start then by exploring whether we can simply drop this notion of fidelity with respect to contemporary institutions and political practices. An initial problematic consequence of this is practical rather than principled – if one deliberative party is in fact committed to the wholesale rupture of current political institutions and practices as a starting point, it will be far harder to develop a level of trust between the deliberative parties, and so will make for a much more challenging deliberative process. But just because the deliberative process will be easier practically cannot mean that the deliberative activist must in fact be committed to believing that current institutions and practices are necessarily improvable – this would flagrantly fail to address Young's concern, setting an unjustifiable barrier on participation in the deliberative process.

A strict attachment to all current institutions and practices seems a wholly excessive requirement, and to exactly fail to address Young's challenge. Instead, we must lean on Fung's other principles to help to significantly soften this notion. The principles of charity, exhaustion and proportionality in fact suggest a framework which demands that in the first instance we assume institutions to be improvable only until we can demonstrate otherwise, and that deviations from these institutional practices be proportionate to the extent to which they exhibit an injustice. This does of course demand that the first principle is understood far

⁵⁵ Archon Fung, “Empowered Participation: Reinventing Urban Democracy”. pp. 402; pp. 397

⁵⁶ Iris Marion Young, “Activist Challenges to Deliberative Democracy”. pp. 684

less strictly – and that ultimately it may prove to be that a particular institution or practice is irredeemable, and must be rejected in its entirety.

Still, the activist is likely to challenge that this presumption towards existing institutions is problematic – such a presumption will cloud effective scrutiny, and will therefore maintain a bias towards already existing, unjust institutions and practices.

This is not wholly fair – it is possible to assume that institutions and practices can be productively reformed whilst allowing ultimately for the possibility that this will be proven to not be possible. And yet the activist will continue to worry that this bias will stifle genuine change, and cloud our sensitivity to recognising and highlighting injustices.

To help Fung respond appropriately to the activist, we must ask what it is that is gained from this principle of fidelity in respect to current institutions and practices, beyond the practical (and wholly insufficient) implication of its easing the deliberative process. Here, Christopher Meckstroth's notion of the 'historical baseline', one of his four principles for democratic legitimacy, is instructive.⁵⁷ This principle asserts that for a democratic program to be legitimate, it must respect principles established by past democratic struggles, "in the absence of evidence that the people have since reversed those decisions." This does not mean that democratic decisions cannot be challenged, but "sets a certain bar that later movements must clear if they are rightly to convince us they have managed to reverse it."⁵⁸ This arises from a need for consistency – if we ignore the history, Meckstroth argues that we will miss the "principled interconnectedness" of specific institutions or principles, and the way that present decisions might fail to cohere with general principles which we continue to affirm elsewhere.⁵⁹

Our contemporary institutions and principles reflect a wider democratic framework, and to fundamentally reject an institution or principle requires a deviation from something which has received at least tacit endorsement – and so it is right that there is a bar which must be met (reflecting the values of charity, exhaustion and proportionality), which does indeed entail at least a starting point of fidelity to the current institutions and practices.

The activist will likely challenge this, in (at least) two respects. Firstly, many institutions and principles were not developed democratically, at least in any active sense – there was no democratic process which set up our financial institutions, for example. And secondly, even with the cases in which institutions were actively set up democratically, this was based on an imperfect democratic model, by some past set of citizens, and should have no bearing on us now.

Both arguments can be addressed together, and turn to the question of judgement, based on the three further principles of charity, exhaustion and proportionality. To the extent that the institutions or principles were not determined democratically, the bar is steadily lower regarding the level of fidelity with which they must be held. All of this is a matter of interpretive judgement, but a judgement which must be actively expressed in an open deliberative process of reason-giving.

⁵⁷ Christopher Meckstroth, "The Struggle for Democracy". pp. 190

⁵⁸ Ibid. pp. 190

⁵⁹ Ibid. pp. 192

And here we may draw out some further benefits which the initial presumption of fidelity offers. We are able to test our intuitions (which crucially might be wrong) and in so doing either strengthen them or recognise our error. We are able to bring others with us, who through the strength of our arguments might come to hold our point of view. And we have a far stronger basis on which to ground the future institutions or principles which replace the old ones. Notably, on this last point we see that through this initial assumption of fidelity, we are able to make sure that we do not make the same error we are levelling at past institutions, which are being challenged on the basis of their lack of democratic legitimacy. Through fidelity, we ensure that there is a firm foundation of ideas and of agreement by others, in a way that did not occur in respect to previous institutions.

So, to respond finally to the activist, we can accept that fidelity is burdensome regarding time and energy, to develop our arguments to challenge existing institutions, and bring others with us. But through this process, we will have greater confidence that our analysis is correct, and will strengthen our ability to clearly articulate our arguments; we will bring others with us, ensuring that we build closer ties of understanding, and more sustainable solutions; and so we will ensure that the new institutions and principles are not founded on the same basis on which we criticised the past institutions or principles. These are central values to deliberative democracy generally – and so we see fidelity in this way as a central dynamic which draws these values out.

The activist and Fung's four principles – fidelity to deliberation

We can also turn to a second, related, challenge, which the activist is likely to posit, regarding the principle of fidelity this time to the process of deliberation. Young's third challenge, of structural constraints to the deliberative process, and fourth challenge, that the hegemonic frame within which the deliberative activist operates, both correctly highlight that the deliberative method itself can be deeply flawed. Surely there will be instances where the very notion of what constitutes reasonable deliberation must be contested, and where tolerating (and so defending) imperfections in the process and outcomes is tantamount to tolerating and defending social, political and economic injustices?

An essentially practical response is, this time, sufficient. There is a difference between on the one hand accepting that the deliberative process will be imperfect and so at times lead to imperfect outcomes, and remaining committed to it despite these lapses; and on the other, to denying the opportunity for fundamental contestation to the process and outcomes where the failings can be seen to be systemic, and to reflect an underlying injustice. Moreover, in regards to the second position, it can of course reflect exactly a fidelity to the deliberative process to highlight failings in the process which ensure that it is failing to work generally; but this is clearly different to accepting the process only when it offers 'perfect' results. We can understand this distinction in practice, and indeed the deliberative process can be strengthened through ongoing reflection and contestation on the extent to which imperfections reflect systemic injustices.

This will be a matter for the deliberative activists' judgement. And so, here the activist can contend that we have failed to grasp the challenge of hegemony. However, the activist must be careful with making this argument – for as we have seen, this presents a difficulty for any course of political action, including traditional activist methods. The deliberative activist has the considerable advantage of utilising a framework which recognises this challenge, and

seeks to respond to injustices which manifest themselves in the system. The activist either does the same – and so is no better off than the deliberative activist – or refuses to accept that their method may also be flawed, including through the hegemonic reaffirmation of internalised power structures, and so is considerably worse off than the deliberative activist.

The activist and Fung's four principles – charity

As a third challenge to Fung's principles, Young's activist might also question the second principle of charity, arguing that this is naïve, and a waste of time – in a similar vein to the challenge we explored regarding the principle of fidelity to existing democratic institutions and practices. Once again, given that the consequence of wasting time is less time and energy that can be expended on actually addressing social injustices, this might be seen to be more than simply inefficient, in that it builds a culture which undermines the ability to critique and contest – if we assume the best of everyone, we will increase the chances of our failing to recognise an injustice. Surely, it is more prudent to assume the worst of everyone, such that we are more alert to injustices?

In fact, this principle can be defended against both charges. Regarding the notion of it being naïve and a waste of time, it need not be – it is perfectly possible to assume the best of others while being alert to the possibility of their not behaving in this way, and being adept at recognising where this occurs. Moreover, the notion of it being a waste of time turns to the question of what the goal is – and if we do indeed take deliberation seriously as an ideal, then providing space for others to decide to engage in the practice, such that we incrementally move closer to the ideal of its practice being taken up more widely, is vital.

The response to the developed, second, charge is much the same – we can be alert to the possibility of transgressions whilst at the same time assuming in the first instance that people will behave well. To suggest that we must choose between being wholly cynical or naïve is false, and does not reflect our actual capacities to effectively navigate this position.

The activist and Fung's principles – exhaustion and proportionality

I hold that Fung's third and fourth principles, of exhaustion and proportionality, are likely to be less contentious. The activist may well critique the notion of exhaustion along the same lines as the critique to fidelity and charity, namely that exhaustion is a waste of time – which, in turn undermines our capacity to contest social injustices. The response is as above – that exhausting the process allows us to continually reflect on and critique our own viewpoint (which we accept may be wrong), helps to bring others with us, and so leads to better, more sustainable outcomes.

Challenging the notion of proportionality in and of itself seems less coherent – it is unlikely that the activist will call for a *disproportionate* response. Debate here will therefore centre on what is and is not seen as a proportionate response, which turns to a matter of judgement. Of course, the deliberative activist must be prepared to give reasons for their interpretative judgement here – and it is through a deliberative process that the best judgements will be developed. I suggest that the activist who is certain that their alternative judgement as to what the proportionate response is, is correct, '*just because it is*', is here precisely failing to exhibit the self-reflection and openness which taking power seriously demands.

Fung's principles – a summary

Having explored these challenges, it seems that Fung's deliberative activist does indeed provide a coherent model as to how deliberation can be utilised as a practical mechanism for driving change within non-ideal circumstances. The activist will retain concerns that the mechanism exhibits an unacceptable bias towards the status quo, and that this will lead the deliberative activist's judgement to be clouded to injustices. I have argued that this tension can be practically navigated, and that we can in fact remain vigilant whilst expressing the principles of fidelity and charitability.

Moreover, I have argued that the notion of fidelity draws out a number of key benefits, which are commonly associated with deliberative democracy – we actively critique and so strengthen our own arguments, starting with the principle that we might not necessarily be correct in our judgement, and in so doing we take seriously the challenge of power as presented by Young. We bring people with us, who also have the opportunity to engage with the arguments, and in so doing we build social bonds, and more sustainable solutions. And we ensure that new institutions are developed with a legitimacy which our previous institutions did not have – we avoid the charge of hypocrisy.

I have also argued that we can assume a level of sophistication to the democratic activist, such that they are able to recognise that processes in practice can lead to imperfect results and continue to endorse the process; and that they are able to charitably assume the best of the other party, whilst remaining alert to the potential for transgression or malpractice.

These arguments therefore act as a response to Young's central challenge, whilst in effect echoing her related, practical argument that it would be dangerous to assume that deliberative processes reflect deliberative ideals "when public officials or foundations construct procedures influenced by these ideas."⁶⁰ I am arguing that the deliberative activist need not – and must not – be that naïve. In fact, in response to the challenge that deliberative democracy even as an ideal is problematic in obscuring power inequities, I hold that the deliberative activist must be highly sensitive to the insidious mechanisms through which power inequities can manifest themselves. This is far from being an easy task - as we shall see in the following section.

Section five: Exploring the deliberative activist and the challenge of power

It might be argued that a fundamental challenge to Fung's deliberative activist, as I have so far presented it, follows particularly from this last argument – in terms of the tremendous demands it places on the interpretive judgement of the agent. Whilst Fung offers a framework with which the deliberative activist is to act, fundamentally these are highly complex judgements that they must contend with. Even if we accept that there is nothing which makes this a theoretical impossibility, it does seem a highly challenging task to actually undertake in the real world.

However, in practice the deliberative activist will work within institutional structures, some of which the activist will establish, others which they will amend. The deliberative activist will also work with others – and indeed the intersubjective nature of deliberation is seen as a key advantage of the approach, exactly in taking pressure off of the individual's capacities.

⁶⁰ Iris Marion Young, "Activist Challenges to Deliberative Democracy". pp. 688

Through this section, we shall explore these dynamics, as well as the question of how it is that the deliberative activist is to develop the required capacities and motivations.

Through this further problematising of the deliberative activist, however, we shall note the re-emergence of manifestations of Young's four power dynamics – that there is ultimately no position free from power inequities from which to engage with a deliberative process, or indeed from which one can develop a deliberative theoretical framework. I shall set out the fundamental implications of this fact in section six, as an issue of infinite regress. As such, through examining the capacity for the deliberative activist to deliberate in the real-world, we will note the challenge of power to in fact to be omnipresent in any deliberative activity, whether in non-ideal or ideal theory.

The challenge of power - institutions

Fung discusses the role of institutions, but these are particularly developed by Kadlec and Friedman in their response to Young's challenge, who develop institutional solutions to the challenge in greater detail.⁶¹ They frame their response around the three themes of control, design and change – who controls the process, who determines its institutional design and practices, and how it can allow for change in non-ideal conditions of inequality.

Within this framework, they locate Fung's deliberative activist as addressing the question of change (largely endorsing his notion of the deliberative activist). This can be seen to be somewhat unfair, as in fact the deliberative activist provides the best starting point for addressing questions of control and design as much as it does for the notion of change; and as all three notions in fact address the same fundamental challenge of the constraints for deliberative democracy presented within the non-ideal context of unequal power relations, and the barrier this presents to achieving progress which challenges current power interests.

Kadlec and Friedman are optimistic regarding the potential of ordinary citizens to recognise and confront the challenges presented by unequal power relations, such that – whilst far from achieving consistently perfect results – the citizens will be broadly able to deliberate effectively and achieve meaningful results.⁶² But particularly in relation to the issues of control and design, they develop institutional proposals which seek to address Young's challenge.

In response to the first question of control, Friedman and Kadlec agree with Young that wherever the impetus for public deliberation emerges, the question of who controls the process is critical.⁶³ They argue that the basic principle ought to be that no one individual or entity with a stake in the outcome should be the main designer, or in control of the process.⁶⁴ They argue that the two practical ways of addressing this are either to utilise a nonpartisan intermediary, or to ensure a multi-partisan framework, such that control is shared between parties.⁶⁵

⁶¹ Kadlec and Friedman link Young's challenge to a similar challenge presented by Lynne Sanders – who adds the argument that deliberation itself reflects an elite framework, which demands rationality, moderation and respect, which therefore introduces an implicit bias in favour of those with greater resources and power. For the purposes of this thesis we shall not explore the particular implications of this specific argument.

⁶² Alison Kadlec and Will Friedman, "Deliberative Democracy and the Problem of Power". pp. 6

⁶³ Ibid. pp. 7

⁶⁴ Ibid. pp. 7

⁶⁵ Ibid. pp. 8

Whilst undoubtedly of practical value, this response cannot in itself address Young's challenge. In the context of unequal power relations, either notion of non-partisan intermediary or of plural leadership risks simply knocking the question up a level. Whether through external means (such as setting conditions on their participation, such as choosing the supposedly non-partisan intermediary), or internal means (including through the internalised biases of the intermediary), the system still risks being gamed in favour of the more powerful party.

Assuming that this bias as to the choosing of the intermediary is recognised (which is of course a significant assumption), this will need to be contested, in a manner that seeks to reaffirm and utilise the deliberative process wherever possible, but allows for proportional deviation once this process has been unsuccessfully exhausted. As such the intermediary is not in itself a solution, but demands further contestation and oversight from elsewhere.

A similar – if less overt – dynamic can be seen in Kadlec and Friedman's response to the challenge of design. For them, design relates to the detail of the deliberative process, one level down from who has fundamental oversight of the process – including who participates, how the issues are framed, how the process is structured and facilitated, and how the goal of the deliberative process is conceived and articulated.⁶⁶ Clearly, once again these questions are fraught with challenges relating to the reflection of power inequities. As with the challenge of control, Kadlec and Friedman once again propose solutions based on the use of non-partisan or multi-party intermediaries, and explore the challenges which must be navigated here – ensuring that recruitment of participants is genuinely inclusive, including of those from typically marginalised perspectives; ensuring non-partial framing of the issue; and notably ensuring that the goal of the deliberative process is conceived of as confluence rather than consensus.⁶⁷

As important as this notion of confluence is, Kadlec and Friedman's wider institutional responses to the challenge of design once again fail to get to the root of the activist's challenge. Whilst they highlight instructive considerations, in posing the notion of an intermediary as the mechanism for addressing the challenge of power they fail to note that once again external and internal factors ensure that the risk of dominance by the powerful party continues to pertain, including through this intermediary.⁶⁸

Kadlec and Friedman's institutional responses to the activist challenge are certainly likely to be appropriate solutions in many situations. But fundamentally, it seems that a systems-based response is conceptually unable, in and of itself, to address the fundamental nature of the

⁶⁶ Alison Kadlec and Will Friedman, "Deliberative Democracy and the Problem of Power" pp. 9

⁶⁷ *Ibid* pp. 10

⁶⁸ Setting the goal as confluence rather than consensus is significant and important, in several respects. For Kadlec and Friedman, confluence entails a problem-solving approach to deliberation, which encourages deliberative parties to examine the issue from as many perspectives as possible, seeking ongoing insight, such that differences are clarified as is the potential for common ground. This significantly ensures that critical differences between parties (including in their relational positions) can be made explicit rather than dismissed, making a virtue of this; ensures that matters need not be wholly resolved, which increases the possibility that where hegemonic framing leads to implicit bias towards one party, this can be subsequently contested; and does not demand mutual respect as a pre-requisite of the process, rather seeing this as something that can be achieved through the process.

activist challenge. In non-ideal circumstances, systems-based responses simply knock the question up one level.

Moreover, as well as failing to address them, they risk serving to obscure the issue. This can be seen most clearly with the notion of the non-partisan facilitator, where the challenges of power present themselves again. This occurs through the process of choosing the facilitator – where the more powerful party is able to utilise Young’s first two manifestations of power (as explicitly choosing a certain type of facilitator, and setting the parameters within which they can work), and where the second two manifestations of power will also continue to operate (even if the deliberative parties agree on the facilitator and the parameters they will work within). This entails that both parties will be choosing facilitators within a societal frame which has already been set, and moreover that their choice will always risk reflecting an internalised hegemonic discourse. But moreover, these challenges will then re-present themselves from the perspective of the facilitator – particularly the latter two, such that the facilitator will still work within a particular societal frame, and will have their own internalised hegemonic framework.

This can be seen to occur again in the context of any institutional response, which will seek to level the playing field. Firstly, as the response cannot be established in a truly neutral manner, and so will always be imbued with elements of the four challenges of power which Young highlights. And secondly, as the institutional response will then involve people who will have to apply the new system to actual situations, through which the challenges of power again re-present themselves.

This is far from to argue that systems and institutions do not need to be developed to respond to the challenge – as with Kadlec and Friedman’s argument, institutional practices might frequently be important ways of addressing the challenge of power. Moreover, crucially, institutions must be developed so as to allow for and encourage contestation. However, the ultimate response, it seems, must come from elsewhere.

The challenge of power - the activist’s capacities and motivations

We have noted that institutions might be utilised by the deliberative activist, but by themselves can never be the solution to the challenge of power. Again, it seems that we have a huge amount of pressure on the capacities of this agent. We therefore must ask how it is that the deliberative activist is to develop the appropriate capacities and motivations, and whether power poses an issue here too. We shall see that it certainly does.

We have a number of questions to face here. We might first ask who this agent is, and how it is that we can expect any such person to be realisable in non-ideal circumstances. We might secondly - and relatedly - add, how can it be that this agent is immune to the power manifestations we have been looking at. If the deliberative agent is to be developed by the state (through formal or informal education), will they not reaffirm (at least some of) the same power dynamics which we have raised concerns with? And if they are developed through more bottom-up means (whether through community-based education, or vicariously from other deliberative activists who exhibit the appropriate virtues), does this not still remain a real risk?

The charge is that the demands on this deliberative activist are so high that Fung has not really developed a practical response to Young’s challenge at all – the character is practically

unrealisable, and so we are stuck without any meaningful mechanism by which deliberative practices can be used in non-ideal circumstances. Moreover, the notion of the deliberative activist – who is somehow expected to expertly navigate Fung’s four principles – itself obscures power dynamics.

Rules and processes in and of themselves can be seen to be insufficient as mechanisms for supporting the deliberative activist, and to be problematic. They are *insufficient* because they leave too much unaccounted for, given the significant space that we have highlighted for the interpretative judgement of the deliberative activist. Fung’s four principles set a useful guide for action, but of course then demand very significant levels of interpretive judgement in their application. We are best served by unpicking how the deliberative activist might be able to navigate this practically, in order also to judge whether there are hidden issues here. And we have also seen the rules and processes in and of themselves to be *problematic*, given Young’s challenge, as the rules and processes that we develop will undoubtedly come to be permeated with the prevalent, inequitable power dynamics which exist in the non-ideal world we inhabit, but which risk masking this fact.

A number of theorists have highlighted this gap in deliberative democracy, relating to the insufficiency of rules and structures, and have turned to virtue ethics - as an ethical theory which places an emphasis on virtues, or moral character - to develop an account of how agents can meaningfully develop the appropriate capacities and motivations required for deliberation. Paul Nieuwenburg for example argues that whilst deliberative democrats put significant emphasis on the particularly deliberative characters which the theory demands, deliberative democrats at the same time “are not wont to spend much effort on the characteristically Aristotelian issue of how such a [deliberative] character may come about.”⁶⁹

Derek W.M. Barker similarly turns to virtue ethics in order to answer the related question of how agents can develop the collective identity which he argues is necessary for deliberative democracy.⁷⁰ He shares Nieuwenburg’s concern that deliberative democrats (he cites Rawls and Habermas in particular) retain a Kantian, rules-based orientation, “thereby viewing justice in terms of formal processes rather than a habituated sense of collective identity.”⁷¹ In the case of Habermas, despite a key departure from Kant in viewing rationality as discursive and communicative rather than individual, he shares a formulistic view of morality as the application of rules. Barker cites Sharon Krause as arguing that this leaves both Habermasean and Rawlsian theories of deliberative democracy as suffering from a ‘motivational deficit’, such that for Barker, they lack “an account of the actual motivations for the citizens to adhere to the manifold rules and restrictions of deliberative procedures.”⁷²

⁶⁹ Paul Nieuwenburg, “Learning to Deliberate: Aristotle on Truthfulness and Public Deliberation”. pp. 456 Nieuwenburg cites Gutman and Thompson as arguing that individuals with particularly deliberative characters are “morally committed, self-reflective about their commitments, discerning of the difference between respectable and merely tolerable differences of opinion, and open to the possibility of changing their minds of modifying their positions at some time in the future if they confront unanswerable objections to their present point of view.” (also pp. 456, citing Amy Gutman and Dennis Thompson, “Democracy and Disagreement”. pp. 79-80).

⁷⁰ Derek W. M. Barker, “Deliberative Justice and Collective Identity: A Virtues-Centred Perspective”.

⁷¹ Ibid. pp. 119

⁷² Ibid. pp. 122

Both Barker and Nieuwenburg argue that virtue ethics provides the necessary response to the deontological gap otherwise inherent in deliberative democracy. However, at this point, we must return to the challenge of power – as we can see that the virtues and behaviours which the agent seeks to develop will undoubtedly come to reflect and so reaffirm the external power dynamics. This will occur in numerous and often insidious ways – and so the deliberative activist’s judgement will manifest and reaffirm power inequities that have been developed and inculcated through this process.

This can be seen most pertinently in terms of Young’s third and fourth challenges of power – of societal frames and hegemonic discourse. Wherever the deliberative agent learns and develops their virtues, this will be from individuals, groups or institutions who are always already imbued within these societal and hegemonic frames, such that the virtues will reflect and reaffirm this. To apply this directly to Fung’s four principles, the deliberative activist’s understanding of what is proportionate, for example, will reflect an explicit understanding of societal norms as to what this constitutes; and it will also reflect a wider set of unconscious hegemonic views which frame this notion. As such, the interpretation of the rules and principles, the motivation to seek to apply them properly, and the motivation to continue to develop one’s capacities, all reflect ways in which these power dynamics will reappear.

This issue is inescapable from the point of view of the deliberative activist. One might seek to argue that the most highly skilled deliberative activist is able to reflect deeply on their views and to recognise and contest views which reflect an internalised hegemonic discourse. I hold that the fact of hegemonic discourse entails that there is always the possibility that we will fail to recognise the extent to which this frames our worldview, and so this can never be undertaken ‘perfectly’. But moreover, the more pressure we apply on the skills and motivation of the deliberative activist, the more pressure we apply on the question of how they developed their capacities – and so the greater the risk that such capacities are learnt from other, less perfect deliberative activists, whose approaches will themselves reflect biases and limitations.

Of course, the challenge of the interpretive judgement and motivation – of the deliberative virtues - clearly cannot be itself solved through any rules-based or structural response (which, as we saw in the previous section, will itself reaffirm the same power dynamics), so we seem to face something of a bind. And so, once again we are unable to find a point free from power dynamics from which we can develop the required capacities and motivations that the individual deliberative activist so clearly will require.

The challenge of power - intersubjective judgement

It can be argued here that we have been focussing excessively on the deliberative activist as sole agent – and that in fact a particular advantage of deliberative democracy is the particularly intersubjective nature of interaction of reasoning that it offers. Does this not provide the means by which we take the pressure off of the individual’s capacities and motivations, and allow for collective intersubjective judgement to aid us?

We could view this intersubjective deliberation in a number of ways – but none can ultimately address the issue we here face, and rather at each point we collapse into the same infinite regress. One could suggest that the setting we have described, of one deliberator seeking to engage another party in a deliberative process, gives a very limited view of

deliberation, and in so doing we have ended up putting too much pressure on the deliberative activist. It might be that through broad deliberation with a wide range of people, the perceived social injustice is recognised widely, which entails greater pressure for change, through deliberative means.

But the challenge of power suggests that this might not occur – where the deliberative activist might perceive a social injustice, others might see the change as unrealistic, naïve or foolhardy (in response to the third challenge of the limits imposed by the structure of society), or fail to recognise an injustice whatsoever (given their internalisation of the hegemonic values implicit in the status quo). Having more people involved does not entail that it is any easier to think outside of the perceived limits set by society; and even less to think outside of internalised hegemonic frames.

Given this difficulty, the same emphasis of recognising one's own fallibility must also be employed at the intersubjective level – we must recognise that group judgements can be, and are, frequently flawed, exactly because of this challenge of power.

We might otherwise seek to use the intersubjective nature of deliberation as a support less directly – by noting that the deliberative activist does not exist in an island, even though they are in a one-on-one deliberative process. They are in fact more generally supported by the fact that they exist within a society in which the judgements and deliberations of others help us to develop our own judgements. Moreover, the same too is true of the more powerful party with which the deliberative activist is seeking to deliberate.

However, much like we saw in exploring how the agent would develop the necessary deliberative capacities, we again here face a regress – for the same challenges of power will present themselves in the other people who are supposed to provide the support.

We might lastly seek to join these two responses together - to give the fundamental challenge that the presentation of a deliberative exchange between two isolated individuals is an abstraction which precisely misses the deeper value and strength of deliberative democracy. Deliberative democracy must be understood more as a general and ongoing orientation towards understanding. Specific deliberative processes or deliberative agents might err, but the general move is nonetheless towards greater deliberation, greater understanding and greater efforts to contest the barriers to achieving this.

But once again this response does not address the issue at hand – of deciding whether a deliberative process is an appropriate mechanism for driving change. Even if we view deliberation as an implicit practice ongoing within society which provides a support to our individual deliberative processes, we are still faced with the question of whether deliberation in this instance is the right mechanism to use. And as we explore the challenge of power, we can see it to present itself very much on the intersubjective level, through all four of Young's manifestations of power. Individuals will still seek to manipulate the process for their own advantage (using the first two notions of power), there will be limits on what is possible within the constraints set within society, and hegemony once again is inescapable.

As with institutional responses, and as with the individual's capacities, the challenge is ever-present.⁷³ In fact, wherever we seek to provide a solution to the challenge of power – a place free from power inequities from which we can contest these power inequities – we find the challenge to present itself once more. It seems we face a fundamental challenge of infinite regress, which we will turn to in the following section.

Are all power abuses of equal concern?

Fung – and Young, indeed - at this point can reject the direction this thesis has taken. Fung is responding to one specific challenge, as to whether deliberative principles can be applied pragmatically in non-ideal circumstances, in the face of inequitable power relations. In seeking to explore the wider power relations which permeate in relation to the deliberative activist, however, it can reasonably be contended that I have opened up a different, much more abstract notion of power – and that there is a meaningful difference between the abstract challenge of power, and the brute fact of power as it pertains in the kind of non-ideal deliberative processes which Fung and Young are discussing.

This argument would be unfair – as this more abstract notion of power comes to us through Young's own third and fourth challenges, of the structural barriers set by society, and the internalised hegemonic structures, through which power inequities are reaffirmed – and so they are very much 'on the table' as challenges of power. As we have seen in section three, if these present constraints at the level of deliberation, they must also present constraints in developing the ideal principles which guide the process.

And yet we might want to form some distinctions. Firstly, it seems that a distinction must be drawn between the fact of a power inequity and its abuse. However, this is far from being an easy line to draw, given that the potential for abuse can in itself skew a deliberative process - if I know that the person I am seeking to engage in deliberation can end the deliberative process on a whim and get me thrown out of the room, I may limit the asks I present them with, even if the other person never in fact threatens to get me removed. Once again, drawing this distinction puts pressure on the deliberative agent, on the intersubjective judgement and on the deliberative institutions to anticipate and mitigate this issue.

We will also need to draw a distinction between gradations of the abuse of power inequities. It seems that there is a difference between power inequities which present themselves in the form of brute obstruction from the process, as opposed to unintended manifestations of these power inequities which reflect internalised hegemonic power relations. Here again, however, we do not face a binary distinction, but a matter of gradation which demands interpretive judgement. We shall have to return to Fung's principles, and to the deliberative agent, intersubjective judgement and institutions as the means to provide challenge – and once again, this simply raises the interpretive stakes.

So, whilst there are distinctions to be drawn, it is a matter of gradation rather than absolutes. This means that if we accept Young's four power dynamics as a challenge in real world deliberative processes, they must present too in the development of ideal world principles.

⁷³ Of course, this acts as a challenge to deliberative democrats who hold a thick notion of rationality as intersubjectively determined through deliberation. In fact, collectively determined judgements will frequently be imperfect, and reifying these judgements does indeed risk obscuring the omnipresence of power.

And it also means that Fung is not able to dismiss the manifestations of power which we have explored, as being substantively different to those which he is concerned with.

Section six: Deliberative democracy and the paradox of politics

We are therefore presented with a fundamental challenge – it is not possible to locate a position free from power inequities – in theory as well as in practice – through which we can contest these power inequities. The challenge of power presents itself as an infinite regress.

The issue of breaking out of this infinite regress brings us in turn to a manifestation of what Bonnie Honig has termed ‘the paradox of politics’.⁷⁴ Honig notes an initial and fundamental paradox in respect of democratic legitimacy when it comes to the question of founding a polity. For the people to legitimately determine an initial founding, we also need to determine the question of who the people are; and we have no democratic means for determining which people are able to address the question of who is to constitute the people.⁷⁵

Honig discusses this as a classic ‘chicken and egg’, or bootstrapping, challenge.⁷⁶ But she further argues that this does not simply occur at the instance of founding a polity, but is an ongoing paradox – given that, every day the population changes (through birth and death, or through immigration), already-socialised citizens deviate in some way from the commitments of democratic citizenship, and democracies resocialise citizens in some way, in ways these citizens do not and could not will.⁷⁷ The ideal of a people who express themselves through democratic institutions which they endorse is an ongoing impossibility – the people will err from the principles, as will the institutions. The people will behave in undemocratic ways, and institutions will never be wholly democratic – and there is no point outside of this from which this issue can be addressed.

For Honig, this fact entails the ongoing challenge “of which comes first, good law or the wisdom of self-governance”.⁷⁸ As such, this “infinite sequence is the condition in which we find ourselves when we think and act politically”.⁷⁹ Honig argues that this paradox cannot be resolved, transcended, managed or even affirmed.⁸⁰

The arguments I have set out through section five highlight that there is no position free from power relations from which we may evaluate or challenge power relations; we are always already imbued within them. This is the infinite regress. And in order to break-out of this regress, one would need some location free from these power inequities, from where one can have citizens who are able to re-establish institutions that are free from these power inequities, or otherwise from where institutions and laws can bring about people who are able to act free from these power inequities. The paradox which Honig has highlighted shows that it is not possible to escape from the infinite regress which power presents us with.

So, it might be argued, all is lost after all – deliberative democracy is not able to act as a model for change in non-ideal circumstances, and moreover serves no value either as an ideal

⁷⁴ Bonnie Honig, “Between Decision and Deliberation: Political Paradox in Democratic Theory”.

⁷⁵ Ibid. pp. 2-3

⁷⁶ Ibid. pp. 2-3

⁷⁷ Ibid. pp. 3

⁷⁸ Ibid. pp. 15

⁷⁹ Ibid. pp. 15

⁸⁰ Ibid. pp. 1

model. Against this reaction to the paradox, whilst we cannot resolve, transcend, manage or affirm this challenge, I hold that we must seek a way to navigate this path - even if we hold with Honig that it cannot *ultimately* be managed. And I shall argue in this final section that the internal logic of deliberative democracy provides the very tools necessary for undertaking this task – that principles internal to deliberative democracy exactly demand that we do not seek to ultimately solve the issue, but rather to engage nonetheless, despite both the theoretical and practical imperfections inherent here in relation to the challenge of power.

Ideal and non-ideal theory

We have firstly already critiqued the distinction which Young draws between deliberative democracy as having use as an ideal model, but of no use as a non-ideal theory. We have seen that the position puts significant demands on the current non-ideal conditions, as indeed posing an insurmountable barrier to the application of deliberative principles. And we have noted that if real-world circumstances pose such a barrier, the extent to which the ideal theory principles will be applicable is extremely limited.

And, more fundamentally, we have critiqued the notion of an ideal theory in which the challenge of power does not still pertain – both because we develop ideal theory principles from within non-ideal conditions, and so the values will be imbued with the same challenging power inequities; and because, as David Owen has noted, the idea of an ideal world without (even inadvertent) power inequities is not coherent.

We can now re-present this critique in light of the paradox of politics. Honig is correct to argue that the paradox does not only present itself at the founding of a polity, but as an omnipresent state of politics. But we can also then note that the paradox of course does not respect the ideal/ non-ideal theory distinction, in light of the challenge of power. Developing ideal principles outside of the current conditions of unequal power relations is not an option, and so to engage in ideal theory involves necessarily accepting this same paradox. A challenge which Young presents as particular to the practical application of the principles in non-ideal circumstances – and demands withdrawing from practical questions of public policy - in fact seems to involve entering into the paradox of politics, whether in ideal or non-ideal circumstances.

Deliberative democracy and the principle of fallibility

And yet, internal to deliberative democracy are core principles which embrace the imperfect nature of the process, and indeed make a virtue of recognising this imperfection; and moreover, these are principles which compel us towards a certain pragmatism in acting in spite of these imperfections. These principles which I believe are at least implicit within deliberative democracy are of fallibility and fidelity. We have in fact looked at these themes in different ways throughout the thesis – I hold that it is hard to discuss deliberative democracy in much detail without raising these principles, whether implicitly or explicitly.

These values allow deliberative democracy to accept the omnipresence of the challenge of power, and to place it at the centre of the deliberative framework. Rather than solving the challenge of power, which we have seen to be an impossibility, deliberative democracy has principles which provide the tools to ensure that it is continually taken seriously.

First, to fallibility. I hold that a recognition of one's at least potential fallibility is a basic principle of deliberation, and that this is a key strength of deliberative democratic theory. Whether it is explicitly recognised or not, to enter into a deliberative process demands accepting that one's position might not be correct. A deliberative process in which both parties are closed to the possibility of their position not being correct serves little purpose, and indeed cannot be described as a process of deliberation. This does not mean that to deliberate means believing one's position is wrong in some way, but it does demand remaining open to the possibility that one will be presented with additional information or a certain argument which leads you to change your position.

Indeed, this principle of fallibility applies not just at the level of the individual deliberator (or group of deliberators), but also in terms of the process and outcomes themselves. Everything must be open to further contestation – the deliberative process must be open to challenge, and the outcomes must be open to further deliberative challenge. This is to endorse the fact that processes and outcomes will both involve imperfections, and on this basis to avoid final closure.

This value is at the heart of deliberative democracy. And it is exactly the principle which is required for engaging with the paradox of politics in respect of the challenge of power – a recognition that we will err, given that there is no starting position free from inequitable power relations. I argue that the response to this in this instance is to seek to lay bare the power dynamics, and to seek to mitigate against them, whilst recognising that one will do so imperfectly, and so require this to be contested again at a later stage.

This has significant implications in respect to Young's argument. Firstly, this notion of fallibility is internal to deliberative democracy whether at the ideal or non-ideal level. As such, in endorsing deliberative democracy as serving some limited value as an ideal model, Young is endorsing a model which itself reflects an implicit recognition that it will err. Young's judgement is that the ways in which it will err are less problematic when deliberative democracy is utilised as an ideal rather than a non-ideal theory.

Young instead advocates an alternative approach, of using deliberative democracy solely as a limited ideal theory with which to critique current practices, and of using activist methods to drive change (presumably in part on the basis of critiques presented through this deliberative democratic ideal model). She therefore endorses as the better non-ideal theory an approach which seems not to recognise the fact that it too will err – in place of a theory which places an implicit recognition of fallibility at its very core. Her approach is therefore problematic – even dangerous - in the face of her own argument, in advocating an approach which risks obscuring or even denying the challenge of power.

Against this, I hold that given her concern with the challenge of power, the deliberative process which she dismisses as inappropriate is in fact best placed to take seriously her very argument – for it is very this process which implicitly puts this concern front and centre of the approach. She rejects the very practical, non-ideal model which perhaps particularly accepts the pertinence of her own argument.

Deliberative democracy and the principle of fidelity

The deliberative process will be impeded by power relations, and indeed this extends much further down than Fung notes in his response – it presents itself ultimately as an infinite

regress. And yet deliberative democratic principles embrace this fallibility. We can therefore accept the strength of Young's challenge of power as an impediment to the application of deliberative principles in non-ideal circumstances, and argue that the deliberative model is best placed to take this challenge seriously.

But there is a second principle internal to deliberative democracy which further implies an orientation towards action over a withdrawal from politics in the face of the challenge of power. This is the principle of fidelity – as affirming a loyalty to the method of deliberation itself, whilst recognising that it will involve substantial imperfections in practice, due to the fact of fallibility.

Again, this is implicit in deliberation – reflecting a non-instrumental approach to the process, which leaves the final outcome at least to some extent open. An engagement which does not exhibit this implicit fidelity to the system, but rather seeks to use the process strategically to achieve some fixed, specific ends, is not in fact meaningfully deliberative.

Fidelity need not – indeed, must not – be a blind loyalty, but builds on the notion of fallibility practically – recognising that both the process and our own engagement with the process will be imperfect, it therefore further implies an ongoing effort to lay bare the imperfections, and to improve deliberative processes in light of this.

We discussed the notion of fidelity in section four, as one of Fung's four principles – where Fung argues that the deliberative activist must in the first instance hold fidelity in respect of currently existing institutions and in respect of the deliberative method itself. I argued that, in respect of fidelity to the deliberative method itself, “it can of course reflect exactly a fidelity to the deliberative process to highlight failings in the process which ensure that it is failing to work generally; but this is clearly different to accepting the process only when it offers ‘perfect’ results.”⁸¹

Given the arguments we have since explored, we can see that the notion of the process ever delivering ‘perfect’ results is an impossibility. As such, rejecting a deliberative process just because the results risk being imperfect cannot be an in-principle argument, but rather is a question of judgement as to the *extent* of the imperfections (rather than the mere fact of there being imperfections). And moreover, I am arguing that fidelity must in this context be a *critical* fidelity – really believing in, or having faith in, a process means recognising it will be flawed, and so perennially working to develop the approach.

This implicit principle further implies an orientation which is to take the paradox of politics seriously. Where fallibility takes it seriously by recognising the ongoing imperfect nature of political action, fidelity orients us towards seeking to develop our institutions, our principles and our processes. It is through fidelity that we take the effort to improve and develop so seriously, and keep returning to the task, even though it can never be completed.

Again, this has implications for Young's challenge. For we can see that implicit within deliberative democracy is not just a recognition of the necessarily imperfect nature of any ideal or non-ideal theory, through the notion of fallibility, which I argue allows us to put the challenge of power front and centre of our approach; but further, through the notion of fidelity, there is a non-instrumental approach to democratic engagement, which runs hand-in-

⁸¹ See pp. 20 of this thesis.

hand with an ongoing recognition of the need to challenge our develop the deliberative approach. We value the approach, and so in recognising that it is necessarily imperfect, we continually seek to develop and improve upon it.

Through this thesis we have seen that the challenge of power permeates ultimately to present an infinite regress, and so there is a clear tension in regards to the notions of fidelity – we are demanding quite a lot from it, given the level of ongoing challenge, and the extent to which any process will be necessarily flawed. In part, of course, fidelity in particular only makes sense in the context of this resistance – it is not necessary, and perhaps not even possible, to have faith in a system which one knows to be perfect. Deliberative democracy as practically applied will always – on the analysis set out in this thesis – risk leading to imperfect results, and we are noting here that an internal value within deliberative democracy is that one nevertheless holds faith with the process.

But even if we hold that it is possible to respond to recognised imperfections in the deliberative process whilst maintaining a faith in the system, why should we then choose to be faithful to the model, despite the particular challenge of power? The paradox of politics shows us that power is an omnipresent and inescapable challenge in the case of both ideal and non-ideal theory. Given this fact, fidelity is the alternative to absolute cynicism, to a withdrawal from politics. We can argue that there is also a choice to be made: in the face of the paradox of politics in relation to the question of power we can choose to collapse into cynicism or not, and faithful deliberation presents an alternative.

Section seven: Conclusion

Deliberative democracy does face a tremendous challenge with respect to power. And there is no way of resolving this – the challenge ultimately presents itself as an infinite regress, which cannot be solved given the fundamental paradox of politics. However, deliberative democratic principles accept this paradox, and bring it to the fore. The principle of fallibility ensures that the ongoing possibility of our erring in the face of the challenge of power is acknowledged and endorsed. And the principle of fidelity offers the alternative response to a withdrawal from politics, whilst demanding that in holding faith in the system, we continually work to contest and develop this system, again through a recognition that we can only ever do so imperfectly.

I will briefly restate the argumentative steps I have taken through this thesis. I have firstly presented the challenge of power in relation to deliberative democracy as a model for change, and specifically Young's argument that the challenge is such that deliberative democracy cannot serve as a model for change in non-ideal circumstances – such that for her, it comes to be purely of value (if limited) as an ideal theory with which we can critique actual practices.

I have argued that the challenge of power must be taken seriously – and through the rest of the paper have sought to see the extent to which power re-presents itself at different levels. Fung's model of the deliberative activist presents a practical model whereby deliberative principles can be applied in non-ideal circumstances. And yet in looking at the context surrounding the deliberative activist – in relation to how they develop the required capacities and motivation, how they relate with others, and how they relate to institutions – we have seen that it is impossible to secure a position free from power relations from which one can challenge these power relations.

This presents an infinite regress, whereby it is not possible to locate a position free from inequitable power relations with which to develop ideal or non-ideal theory. And we see through a particular manifestation of the paradox of politics in relation to this challenge of power that this cannot be solved. The challenge of power is therefore more profound than Young seems to recognise, and is in fact necessarily irresolvable, at both the ideal and non-ideal levels.

I have argued that if one holds deliberative principles as an ideal, the challenge of power in itself cannot be the reason for which you then do not seek to apply them in non-ideal circumstances – as power too permeates at the ideal level, and there is not a substantive difference between the power dynamics in the ideal and non-ideal contexts – instead we face a question of judgement. And I have argued that values internal to deliberative democracy provide tools with which to endorse this paradox, and nonetheless to seek to realise deliberative practices in non-ideal circumstances. A recognition of fallibility, and fidelity in the face of this fallibility, are both central to deliberative values – without them, deliberation cannot operate. This thesis has therefore responded to the challenge of power in respect of deliberative democracy to show it to be a source of fundamental strength.

And finally, in highlighting the fact that power presents itself here as an infinite regress, we note further that one cannot remain in a cocoon of ideal theory, insulated from the challenge of power – the challenge of power does not respect this distinction. The choice is to accept the inevitability of the ongoing challenge, or to disengage from politics entirely.

We have seen that this provides a response to, and critique of, Young's argument, particularly her distinction between the value of deliberative democracy as an ideal rather than a non-ideal theory. But what does it entail for Fung's theory? I suggest that the framework is still instructive, and indeed that the arguments are consistent with the arguments set out through this thesis. What this thesis has shown is that the power inequities will manifest in every direction, and that this fact is inescapable. What this thesis adds to Fung's principles is the need to seek to reflect on the many manifestations of these power inequities, to seek to lay them bare and address them where possible. And it demands that the deliberative activist is open to further subsequent challenge – that decisions must remain open to future contestation, in light of further information,

Once we have accepted this paradox of politics in relation to the question of power, we can therefore return to reapply Fung's deliberative activist model, laying bare and challenging power dynamics at deeper and more abstract levels. This entails applying the values of deliberation through an emphasis on fallibility and fidelity in the process, allowing for use of non-deliberative contestation of power where necessary and proportionate to this challenge, and always with an orientation back towards the ideal of deliberation.

We can lastly also return to the question of what these arguments mean for deliberative democratic theory. As I set out in section two, many deliberative democratic theories and practices fundamentally fail to take seriously the challenge of power, and so fall foul of Young's critique – they do not sufficiently address the question of where power lies, and the impact that this has on the deliberative process. Moreover, many deliberative practices falsely present themselves as empowering citizens, without giving any ultimate decision-making powers to these citizens – and I postulate that this severely limits not only their legitimacy,

but also the instrumental benefits that deliberative processes can proffer to participants and to wider society. I suggest this as an issue that would benefit from further exploration.

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