Political Theory

**What Can Political Freedom Mean in a Multicultural Democracy? :
On Deliberation, Difference, and Democratic Governance**
Clarissa Rile Hayward

The online version of this article can be found at:

Published by:
$SAGE

Additional services and information for *Political Theory* can be found at:

Email Alerts: http://ptx.sagepub.com/cgi/alerts

Subscriptions: http://ptx.sagepub.com/subscriptions

Reprints: http://www.sagepub.com/journalsReprints.nav

Permissions: http://www.sagepub.com/journalsPermissions.nav

>> Version of Record - Jul 11, 2011

OnlineFirst Version of Record - May 18, 2011

What is This?

What Can Political Freedom Mean in a Multicultural Democracy? On Deliberation, Difference, and Democratic Governance

Clarissa Rile Hayward[1]

Abstract

This essay takes as its starting point an apparent tension between theories of democratic deliberation and democratic theories of multicultural accommodation and makes the case that many multiculturalists and deliberative democrats converge on an ideal of political freedom, understood as nondomination. It argues for distinguishing two dimensions of nondomination: *inter-agentive* nondomination, which obtains when all participants in a power relation are free from rule by others who can set its terms, and *systemic nondomination*, which obtains when the terms of a power relation itself are responsive to those they affect. Because inter-agentive and systemic nondomination do not covary, it is critical to distinguish between them, in order to build institutions and practices that promote both.

Keywords

democracy, deliberation, recognition, domination, freedom

[1]Washington University in St. Louis, MO, USA

Corresponding Author:
Clarissa Rile Hayward, Campus Box 1063, St. Louis, MO 63130, USA
Email: chayward@wustl.edu

Imagine a group of people who form a numerical minority in a political society, and who are structurally disadvantaged—disadvantaged, that is to say, by institutionalized inequalities in resources, in opportunities, and in the social capacity to act—vis-à-vis some majority population. Let us stipulate that these people have developed over time, perhaps in response to shared experiences of subjugation and/or marginalization, practices and institutions with which they identify *as* members of this group, and that many experience their membership in this particular group as, in some deep and relatively enduring sense, constitutive of their personal identities.

In a situation like this one, a democrat might reasonably adopt either of two seemingly divergent responses. She might, first, search for ways to bring members of the subjugated minority into *deliberation* with members of the dominant majority: to bring them together, face-to-face, in local deliberative fora, for instance, and/or to bring their representatives together in democratic deliberation in legislatures or other representative bodies. Numerical minorities cannot end their subjugation through purely aggregative processes (she might reason), but deliberative processes and deliberative institutions—processes and institutions designed to encourage both public-regardingness and an orientation toward achieving agreement—might prompt those who are privileged by structural inequalities to think and to act politically in ways that take into account the good of the disadvantaged.

Alternatively, a democrat might search for ways to promote *recognition* of the minority group identity: to acknowledge that identity publicly and affirmatively, for instance, through local school curricula informed by the history, perspectives, and practices of the minority group, and/or to acknowledge it politically, for instance by defining minority group political rights, perhaps even rights to group self-government. The most basic democratic norm (she might reason) is that all persons should be enabled to help shape the laws and the other collective decisions that bind them. If and to the extent that minority group members are constrained to advance claims and arguments, and to justify their political preferences, in terms the dominant majority might accept, this requirement places an unfair, and a democratically unacceptable, burden upon them.

The starting point for this essay is the apparent tension between these two responses, and more generally between the theories of democracy that inform them. To be sure, not all multiculturalists are democrats; principles of multicultural accommodation are not inherently democratic. But they are very often justified in democratic terms. Democratic theorists of multicultural accommodation might worry that deliberative politics oriented toward achieving mutual agreement can pressure members of structurally disadvantaged minority groups to conform to dominant norms and standards. At the

same time, deliberative democrats might worry that politics oriented toward recognizing social difference can militate against the construction of political agreement.

In what follows, my aims are two. First, I want to advance a reconstructive claim about democratic theories of multicultural accommodation and deliberation. Many multiculturalists, I want to argue, understand the purpose of the accommodation of minority groups to be, not the preservation of canonical definitions of particular cultures, so much as the promotion of *political freedom*: that state of power relations in which all participants are enabled, and equally so, to challenge and to change, or alternatively to defend, their terms. At the same time, many deliberative democrats assign positive value to contestatory political engagement, on the grounds that consensus-*disrupting* forms of communication are freedom-promoting. Hence the tension between the deliberative and the multiculturalist response to the problems of structurally disadvantaged minority groups is less severe than it might at first seem.

Second, I want to advance the constructive claim that there exist two analytically distinct dimensions of political freedom, understood as nondomination. *Inter-agentive nondomination* obtains when all participants in power relations are free from rule by other agents who are socially enabled to set the terms of those relations. Impersonal or *systemic nondomination* obtains when participants in a power relation achieve collective agency vis-à-vis its terms. There is no constant relation between these two forms of freedom. Although, in practice, inter-agentive and systemic domination often appear together, they do not necessarily. They are analytically distinct, and it is critical for political theorists to distinguish between them, since they do not covary. Indeed, in some cases, fostering one form of nondomination may militate against achieving the other. Hence the challenge is to devise social and political institutions that promote both inter-agentive and systemic nondomination.

As I advance this argument, I illustrate with the example of African Americans in the contemporary United States. I focus on this case for five principal reasons. First, African Americans are a structurally disadvantaged minority group, which makes the case a challenging one for democratic theory. Second, they are geographically concentrated in older American cities and in inner-ring suburbs, which renders many of the institutional remedies favored by deliberative democrats and theorists of multicultural accommodation, at least in principle, workable.[1] Third, African Americans tend to self-identify—and also to *be identified* by others—racially. Politically, they tend to perceive their fates as "linked" to that of their racial group, and socio-culturally, they have developed distinctive traditions, practices, and institutions.[2] Nevertheless, African Americans are, clearly and unambiguously, a heterogeneous group, which points to my

fourth reason: this case highlights the internal diversity of all collective identities, a characteristic that has grown increasingly important in recent debates about identity and difference.[3] Fifth and finally, this case is one that has been grossly underattended to by political theorists. As Hawley Fogg-Davis has argued, although empirical scholars have developed a rich literature on African American social and political identity, when political theorists take up questions of identity, "they often evade race in general and the case of African-Americans in particular."[4]

What Is Deliberative Democracy?

Let us begin, then, with deliberative democratic theory, which developed as, and is understood as, a reaction against what is unappealing, or at least uninspiring, in standard liberal accounts of democratic politics. I want to start with a brief—and necessarily stylized—sketch of this approach, ignoring (at first) important differences within the body of work typically labeled "deliberative democratic theory." Doing so will help highlight what is distinctive about deliberation-based accounts of the nature, the value, and the institutional implications of modern democracy.

At least three sets of differences separate deliberative from what deliberative democrats often term "aggregative" accounts of democratic politics. The first centers on political-psychological assumptions about how people understand their interests and/or their preferences, and about what motivates people to participate in political processes. By the aggregative view, the interests and preferences that matter the most to political actors are their private interests and their private preferences: what it is that serves their good and/or what they believe it to be that serves their good. The processes through which such interests and preferences are formed are exogenous to most liberal-aggregative models. To the extent that such processes are theorized, interests and preferences are assumed to be more or less stable across political interactions. Political actors, meanwhile, are assumed to be motivated to advance their private interests and preferences, even if—by some accounts, especially if—those are at odds with the interests and preferences of others.[5]

By the deliberative view, by contrast, political actors are not only, and not necessarily principally motivated to pursue their private interests and preferences. Instead, they can be motivated to act politically with a view to promoting the good of their political society as a whole and/or the good of all of that society's members. Deliberative democrats assume people can be motivated to pursue the common and/or the collective good, even when doing so undermines their private interests and preferences, as those are understood at the

outset of deliberation. They can be so motivated (deliberative democrats assume) because interests and preferences are fluid over the course of political interaction. Interests and preferences are assumed, in particular, to be capable of changing—and in some nontrivial subset of cases in fact to change—in response to the reasoned exchange of opinions and arguments.[6]

A second set of differences separating deliberative from aggregative accounts of democratic politics centers on the normative value accorded democratic institutions and democratic practices. By the aggregative view, democracy's value lies principally in its capacity to track people's interests and to track them equally, and/or to fairly aggregate the expressed preferences of those governed by some set of collective norms. To paraphrase Robert Dahl, people value democratic institutions and democratic practices (by this view), if and to the extent that they believe the interests and preferences of all subject to a collective decision should count equally in the process of making that decision.[7] Democracy's value, then, lies in its capacity to protect and to promote the interests and the preferences of all.

Deliberative dissatisfactions with this normative vision are, by now, well known. For a range of reasons, deliberative democrats emphasize, people's expressed preferences may not accurately reflect their real needs or their real wants. Even if expressed preferences accurately reflect what people want, what is more, those preferences may be morally repugnant, or they may be otherwise unworthy of (equal) consideration. More generally, deliberative theorists worry that (to borrow Jon Elster's language) aggregative accounts of democracy's value conflate the logic of choice appropriate to the market with the logic of choice appropriate to the forum.[8] In a political decision-making context, their claim is—that is, in a context in which the choices people make affect not only themselves, but all who are subject to the rules and the laws they help determine—private interests and preferences do not necessarily merit (equal) consideration. Instead, legitimate political decisions are decisions informed by public-regarding interests and by public-regarding preferences. Democracy's value lies principally in its capacity to help uncover these. Democratically legitimate processes are not those that fairly aggregate individual choices or individual votes, but rather those that filter from collective decision making nonpublic claims and nonpublic reasons, pushing politics to approximate as closely as possible an ideal of collective self-government through rational argumentation oriented toward agreement about ends and means.

A third set of differences follows logically from these first two. Aggregative and deliberative democrats elaborate distinct sets of practical and institutional implications for their respective empirical claims and normative ideals. If people are motivated politically to advance their private interests and

preferences, and if the aim of democratic politics is to fairly aggregate those interests and those preferences, then the best means to realize that aim is the familiar arsenal of liberal democratic institutions and processes. In a large and complex modern democracy, this arsenal includes various forms of representative government, in which citizens elect those who rule them, and then hold their rulers politically accountable. It includes free and fair elections, adequate and equal political rights, and a legal system centered on the principle of rule of law. If, by contrast, people can be motivated to pursue shared interests and/or to advance the common good, and if the aim of democratic politics is to foster mutual agreement about collective decisions, then the best means to realize that aim will be deliberative practices and deliberative institutions. These include norms of public reason-giving in juries, in constitutional courts, and in legislatures, and more generally laws and other institutions that enable and motivate people to engage in the free and equal give-and-take of public reasons.

Consider the case of African Americans in the contemporary United States. Black Americans are a geographically concentrated numerical minority, structurally disadvantaged vis-à-vis the majority (white) population. In particular, African Americans are disproportionately concentrated in the central sections of older U.S. cities and in older "inner-ring" suburbs: areas characterized by aging infrastructure, high rates of unemployment and underemployment, high rates of poverty and social problems associated with concentrated poverty, and underfunded and underperforming public services, including public schools. In thinking about African Americans, a theorist of aggregative democracy likely would assume that both members of this structurally disadvantaged minority group and also members of racially privileged groups who form the numerical majority are motivated principally to advance their private interests and preferences.[9] Based on this assumption, and on her normative commitment to political equality, she would look for institutional mechanisms to ensure that the interests and preferences of the former are adequately weighed. She may look, for instance, to institutions that promote what some call "descriptive representation," such as quotas, or majority–minority electoral districts, or some form of proportional representation, to encourage the representation of urban blacks by people who share their interests and their political preferences.[10]

A deliberative democrat, by contrast, would search for ways to bring African Americans who are disadvantaged by structural inequalities into public deliberation with those whom structural inequalities privilege: face-to-face participatory forms of deliberative engagement, for example. Even in those instances in which the deliberative democrat looks to institutions similar to

those the aggregative democrat recommends, she does so for different reasons. A deliberative democrat might make a case for the descriptive representation of African Americans, for instance, on the grounds that it brings to deliberative fora people who share at least some of their relevant experiences and perspectives, and who therefore are best positioned to persuade the racially privileged to sacrifice their private interests and preferences for the good of all, and/or to reconceptualize their interests and their preferences in public-regarding ways.[11] In any case, her aim would be, not simply to ensure that the interests and preferences of black Americans count, but also—and principally—to ensure that members of this structurally disadvantaged group are enabled and encouraged to engage the privileged in political processes through which they might persuade the latter to change how they understand their interests and preferences, by advancing claims and reasons they might accept.

Democratic Theories of Multicultural Accommodation

What of the advocate of multicultural accommodation? How might she approach a case such as this one? Like the deliberative democrat, the theorist of multicultural accommodation departs from conventional liberal democratic theory, both in her psychological assumptions about the interests and the preferences of political actors, and also in her normative claims about the value of democratic government. Her view departs from that of the deliberative theorist along these dimensions, as well, and it does so in ways that push her to elaborate a distinctive set of practical and institutional implications for democratic commitments. Before addressing these implications, I want to introduce (as I did in the previous section) a stylized sketch of "the" argument for the democratic accommodation of difference: a sketch that I modify and complicate in the third section.

   One important starting point for theories of multicultural accommodation is the claim that, as we think about what it is that serves people's interests, what people want politically, and what motivates them to participate in politics, we need to consider them, not only as individual political agents and as members of a political society, but also as members of one or more of the particularistic groups that comprise the political society to which they belong. An important part of "who I am" as an individual, the multiculturalist claim is, is "who we are": how I identify with particular others. Hence my good is, in significant part, a *collective* good. Some of the ends that are most crucial to my personal well-being, in other words, are ends I can only realize together with others. The integrity of my social group, to cite one important example,

or the survival of the community that helps define my sense of who I am, plays a powerful role in promoting my good as an individual agent.

Granted, to state this view at such a level of abstraction is to fail to attend to nontrivial differences among theorists of multicultural accommodation. Hegelian-inspired thinkers, such as Charles Taylor, emphasize the social-psychological significance of intercultural respect and understanding. For Taylor, because people forge their understandings of who they are "dialogically," that is, because they learn their identities through interactions and exchanges with others, "[a] person or group of people can suffer real damage, real distortion, if the people or society around them mirror[s] back to them a confining or demeaning or contemptible picture of themselves."[12] For liberal multiculturalists like Will Kymlicka, by contrast, the well-being that recognition can secure takes the form of key liberal values and goods, such as individual autonomy. In Kymlicka's words, liberal societies should recognize (some) minority groups "because it's only through having a rich and secure cultural structure that people can become aware . . . of the options available to them, and intelligently examine their value."[13] Post-Marxist theorists, such as Iris Young, offer yet another rationale for multicultural accommodation. They emphasize that recognition can help challenge and overturn established social hierarchies.[14]

As noted above, I complicate my account of theories of multicultural accommodation in the section that follows. First, however, I want to draw attention to their overlapping assumptions about the significance of particularistic identities, as well as their overlapping normative concerns and implications for institutions of governance. For theorists of multicultural accommodation, collective identities have a very different political status than do most political interests and preferences. The former, multiculturalists emphasize, are exceedingly difficult to abandon or to break away from or even to radically reinvent, without incurring nontrivial costs. Hence, although multiculturalists who are also democrats share with theorists of aggregative and deliberative democracy a commitment to basic democratic principles—political equality, for instance, and collective decision making that is inclusive of all affected—their normative vision is distinctive in its commitment to an additional principle of multicultural accommodation.

The institutional implications of this principle are different for different thinkers. For many, the principle directs democratic state actors and members of dominant identity-groups to *recognize*—that is, to acknowledge and positively affirm the particularistic identities of—marginalized or minority group members, by granting them special legal exemptions, rights, and/or privileges.[15] In its more narrowly political interpretation, the accommodation of

minority groups requires recognizing particularistic identities, if and to the extent that recognition is necessary for political equality and inclusiveness in a multicultural democracy. Thus Iris Young makes the case for her vision of "differentiated citizenship" and a "heterogeneous public" by stressing that politically egalitarian democratic processes require the recognition of (some) groups.[16] In her words, "Political processes of discussion and decision-making [should] provide for the specific representation of those groups in the society who are oppressed or disadvantaged, *because a more universal system of representation is unlikely to include them in a manner or numbers sufficient to grant their perspective political influence*."[17] Will Kymlicka agrees. In addition to "representation rights" of the sort Young considers, he makes the case that "national minorities" often demand, and often have a legitimate claim to, "self-government rights," such as the devolution of authority from a national government, and that "ethnic groups" often demand, and often have a legitimate claim to "polyethnic rights," such as the legal accommodation of, and public support for, group practices.[18]

In each case, an important aim of recognition is to enable members of particularistic groups to enjoy full inclusion and political equality as citizens of their democratic political societies, without having to revise or suppress deeply constitutive identities. Absent recognition, a theorist of multicultural accommodation likely would reject many of the institutions and the political processes that deliberative democrats recommend. Her principal worry would be that such institutions and processes, even when formally egalitarian and even when, on their face, culturally unbiased, in the sense of neutral vis-à-vis particularistic identities, can embody a false universalism that privileges members of dominant groups, while marginalizing the perspectives, voices, and experiences of others.[19] Consider, once more, the contemporary United States: a prominent example of a multicultural society that is, allegedly, a "civic nation." As others have argued, even in the United States (and in other supposedly civic nations, such as France), political culture is firmly anchored in a dominant national culture: one that is *not* neutral vis-à-vis particularistic identities, and which unavoidably inflects democratic institutions and democratic processes.[20]

In the case of African Americans, the theorist of multicultural accommodation likely would underscore the ways in which minority status and position of structural–material inequality undermine the formal political equalities won through the Civil Rights struggles of the 1960s and 1970s. She likely would note that minority status and structural inequality are intertwined with, and complicated by, various forms of cultural inequality, for instance, the false universalization of dominant communicative dispositions,

and the corresponding devaluation of habits and patterns of speech identified as "black." Indeed, an established body of social-psychological research shows that linguistic and other communicative dispositions vary systematically with racial and other particularistic group memberships, and that they affect how listeners perceive both speakers and the messages speakers communicate.[21] Hence even under near-ideal deliberative conditions, including conditions of formal participatory parity, social inequalities in the capacity to engage in effective argumentation (to pose problems and to advance claims and arguments that engage one's fellow citizens in ways they might find persuasive) can translate into nontrivial political inequalities.[22]

The theorist of multicultural accommodation, then, would argue for supplementing—and in some instances, for supplanting—institutions of aggregative and deliberative democracy with institutions designed to ensure the political recognition of particularistic group difference. As noted above, the possibilities are many. They include various forms of group rights; group veto power in contexts in which the members of a group would be disproportionately affected by a proposed decision; and even, in the case of autonomist groups, broad and relatively enduring powers of group self-government. To be sure, the practical differences among these ways of elaborating institutional implications for multicultural democracy are substantial. In each case, however, the guiding principle is the same: the public acknowledgment and the political accommodation of particularistic group identities, with a view to promoting inclusive and egalitarian collective norm making in a multicultural political society.

Recognition as Nondomination

It is not difficult to appreciate the tension between the deliberative and the multicultural approaches to the case at hand. To aim for mutuality in political life (the multiculturalist worry is) puts undue pressure on structurally disadvantaged minorities to conform to dominant deliberative norms, including dominant definitions of rationality and reasonableness. "Why," a multiculturalist might ask, "should the burden fall on African Americans to persuade their racially privileged fellow citizens that laws and policies that meet their needs *also* promote 'the common interest,' or 'the good of all'"?

Yet, by the same token, to institutionally recognize particularistic identities (the deliberative democratic worry is) may militate against the construction of common interests and public-regarding preferences. "Why," a deliberative democrat might counter, "should extant definitions of racial (and other) identities be institutionalized in American politics, rather than subjected, along with other collective norms, to democratic deliberation?" Recognition, the

worry is, undermines the forms of political communication through which democratic citizens might forge a public will across the particularistic identities that divide them.

Thus characterized, the multicultural and the deliberative democratic ideals seem at loggerheads with one another. In this section and the section that follows, however, I want to consider the ways in which, notwithstanding the real differences that separate them, theories of deliberative democracy and theories of multicultural accommodation are, at least on some readings, compatible. I noted above that both multicultural and deliberative democratic theories comprise internally complex bodies of work. I now explore just one dimension of that complexity within each literature, drawing attention to what I want to suggest is a key concern—a concern with political freedom—that links (at least some versions of) the two.

For purposes of the discussion that follows, I define political freedom as *nondomination*: that state of power relations in which all are socially enabled to participate effectively in making and remaking the institutions, the policies, the laws, and the other social norms that define their terms. Political freedom thus understood obtains when all participants in a power relation are free from rule by other agents who have disproportionate power to set the terms of the relation *and* when the participants in the power relation, *considered together*, achieve collective agency vis-à-vis those terms. I develop and defend this understanding of freedom as nondomination in the remainder of this essay. For the moment, suffice it to underscore that nondomination is *social*; it is the product of, not natural capacities and incapacities, but rather actions agents take, including codified and institutionalized human actions. Nondomination is *relative*: a matter of, not either/or, but more and less. And although nondomination can be, it *need not* be, the intended product of people's conscious choices.[23]

As emphasized in the second section, contributors to the literature on multicultural accommodation stress the importance to individuals of particularistic group identities. An important part of "who I am" and of what serves my good (their claim is), is "who we are" and what serves our good: as a group, as a nation, as a people. Not only individual-level experiences, but also collective values, perspectives, and traditions shape political needs, claims, and desires.

At the same time, however, many multiculturalists acknowledge that social groups are *not* naturally occurring entities, clearly bounded, static, and internally homogenous. As Monique Deveaux has observed, for at least a decade now, contributors to this debate have attended closely to "the *internal* differences of social and cultural collectivities . . . view[ing identity] as a dynamic and changing phenomenon, and cultural practices and arrangements . . . as

sites of contestation."[24] Groups, Deveaux and others argue, are social and political constructs.[25] They are constructs that change over time, even if only gradually. They are constructs that, at their edges, intersect with and overlap with one another and that, internally, are heterogenous and often hierarchical. These characteristics of groups create what Ayelet Shachar has identified as a paradox within theories of multicultural accommodation.[26] Although recognition can help level hierarchies *among* groups, at the same time it can facilitate the internal policing of group boundaries and group members, replicating *within* marginalized communities the very inequalities it aims to eradicate.

Theorists who share Shachar's concerns tend to conceptualize group identities in a consciously and explicitly anti-essentialist manner. It is not the case, they underscore, that identities (including not only racial identities, but also ethnic and national identities) reflect underlying cultures that take the form of practices, beliefs, and values shared by all who "have" them. Nor is it the case that people need for their well-being and flourishing the *particular* identities socially ascribed to them, let alone those particular identities in their orthodox, or in their currently dominant form. To be sure, people need identities, and all people construct identities in particular social and political contexts, which position them in relation to particular others. People categorized "black" in the United States construct their identities in the context of (among other relations) the racial relations in which they find themselves situated. Yet people's social group identities never capture fully and precisely their personal identities: their unique ways of making sense of their experiences in the social world. Nor does any group identity capture *all* of an individual's social identities. Hence forms of recognition that pressure members of a particularistic group to conform to some canonical definition of that identity can be—no less so than practices or institutions that pressure structurally disadvantaged minorities to assimilate to a dominant and/or majority culture—nontrivial forms of domination.

Let me illustrate by returning to the example of black racial identities in the United States. The legal theorist Richard Thompson Ford has advanced a compelling case against what he characterizes as legally inscribed "rights to difference," including (but not limited to) rights to racial difference.[27] Arguing against legal protections for differences that are presumed to be rooted in the distinctive cultures of racial groups (from aesthetic differences, such as an alleged African American preference for a "corn row" hairstyle, to ethical differences, such as an alleged African American acceptance of early and single motherhood). Ford makes the case that such forms of recognition do not simply affirm and acknowledge but instead help produce and reproduce

the very differences they protect.[28] In so doing, rights to difference function, in his words, as "exercises of power—attempts to legitimate a particular and controversial account of group culture over the objection of those who would reject or challenge that account."[29] In a democratic political society, Ford's claim is, law should aim, not to protect and to preserve alleged cultural differences that distinguish races (or others groups), but rather to reverse deeply entrenched patterns of racial (and other forms of) inequality and subjugation.

For theorists of multicultural accommodation who accept this line of critique, recognition in its specifically democratic form aims, not to ensure the survival or the stability or the integrity of particular groups, so much as to subvert hierarchical relations of power. Its end is political freedom, as defined at the start of this section: nondomination, or a state in which all who are (potentially) affected by a collective norm are enabled to participate in its making and remaking. Institutions associated with the recognition of (some) particularistic groups are often key to promoting political freedom thus understood, but precisely *because hierarchical relations of power tend to follow group lines*. In a multicultural political society, members of particularistic groups often have distinctive perspectives on political life. They very often have distinctive experiences, interests, preferences, and needs. They often have distinctive understandings of collective problems, as well, and also of possible and desirable solutions to those problems.

For these reasons, nondomination can require (some forms of) recognition. It can require group representation, for instance, or other (political) group rights. Nevertheless, because power relations do not stop at the boundaries that define particularistic groups, political recognition, when understood as a means to promoting nondomination, requires attention to the power relations within, as well to those that cross, social group boundaries. It is this insight that most clearly distinguishes recent, expressly anti-essentialist theorists of multicultural accommodation from the strong multiculturalists (such as Taylor) who launched the contemporary debate on "the politics of recognition."

Deliberation as Nondomination

I want to return now to deliberative democratic theory, in order to highlight what I will suggest is a similar complexity within that body of work: a complexity centered on, not assumptions about political identities and motivations, so much as normative democratic principles themselves. The complexity internal to deliberative democratic theory centers, in particular, on the normative status of a political orientation toward mutual agreement.

Almost all deliberative democrats acknowledge that on many questions, and in many political contexts, mutual agreement or the consensus of all affected may be unrealizable. In John Dryzek's words, "The ideal of consensus has long been rejected by most deliberative democrats, even those sympathetic to the Habermasian tradition where consensus once played a central role in the counterfactual standard of the ideal speech situation, though their opponents have not always noticed."[30] Many nonetheless aspire toward a politics that *approximates as closely as possible* what they characterize as a democratic norm of uncoerced rational agreement. By their view, democratic legitimacy is a function of the minimization in political decision making of all force except (to quote Jürgen Habermas's oft-quoted slogan) "the force of the better of the argument." Although participants in collective decision-making processes need not actually *reach* consensus in order to arrive at collective decisions that are democratically legitimate (the claim is), they should engage in decision-making processes that are *oriented toward* achieving agreement. Ideally, each participant should internalize such an orientation. Each should be internally motivated, that is, to advance political claims and reasons that all affected might, in principle, accept. Each should be internally motivated, as well, to listen receptively to such claims when they are advanced by others. If, as is often the case, participants are *not* motivated to deliberate in ways that are "reasonable" in this (Rawlsian) sense of that word, then they should be constrained by procedural rules and by other political institutions to do so.[31]

Such is the position to which many who call themselves "deliberative democrats" subscribe. Still, at least some theorists of democratic deliberation have moved away from this consensualist reading of the deliberative ideal. At least some deliberative democrats, in other words, not only acknowledge disagreement as an *empirical fact* about democratic politics, but further assign to disagreement *positive value*. James Tully, to cite one prominent example, adopts this position. He makes the case that a contestatory or an agonistic engagement among subjects is neither an obstacle to be overcome nor a mere means to a (consensual) end, but an inherently valuable part of deliberative democratic engagement.[32]

At first blush, it may seem odd to characterize such a position as a form of deliberative democracy, since many of those who argue for contestatory versions of democratic politics take pains to contrast their views with the deliberative democratic ideal.[33] One can usefully distinguish, however, between what we might call "radical agonists" and contestatory deliberative democrats by focusing on the value each assigns to political contestation. Radical agonists value contestation principally because they value the destabilization

and the repeated revision of laws and other collective decisions.[34] Theorists of contestatory deliberation, by contrast, value agonism because they understand contestation to be a necessary condition for democratic freedom in political life. In Tully's words, "The democratic freedom to disagree and enter into agonistic negotiations over the prevailing constitutional arrangements (or some subset of them) and the dominant theory of justice that justifies them . . . is precisely the practice of thought and action that keeps them from becoming sedimented—either taken for granted or taken as *the* universal, necessary and obligatory arrangements."[35] By this view, in any political context characterized by plurality and interdependence, people cannot be free, in the negative sense of "not interfered with."[36] Nor can they be free in the positive sense of "governed only by laws and rules to which they consent."[37] Instead, the democrat takes as her normative end a specifically *political* freedom: a social capacity to participate as an agent in the making and the remaking of relations of power, that is, to participate in free and equal struggles over the moral and ethical principles, and over the laws and other collective decisions through which they govern their lives together.

If we conceptualize freedom this way—as nondomination—we can understand the impulse (shared by many deliberative democrats) to maximize political agreement, to get as close as possible to full consensus about collective ends and collective means, as a response to one important dimension of political unfreedom. Call this dimension *inter-agentive domination*. This form of unfreedom, and its inverse—inter-agentive political freedom—are functions of the *distribution among agents* of the social capacity to influence the terms of collective life. I am unfree (along this first dimension) if and to the extent that I am ruled over by an individual agent or by a collective agent who is unresponsive to my values and principles, my political claims, my interests and needs. It is this dimension Philip Pettit has in mind when he cites Thomas Paine's contemptuous definition of monarchy: "It means arbitrary power in an individual person; in the exercise of which *himself*, and not the *res-publica*, is the object."[38] I am unfree along this dimension if the king is enabled to make decisions that affect me "arbitrarily": that is, according to his own wishes and desires, and without reference to mine.[39] Or, to cite an example from a democratic political system: I am unfree along this first dimension if I am a member of a structurally disadvantaged minority group in my political society, and if collective decisions are made in a strictly majoritarian fashion, such that my input never counts.

Along this first dimension, my freedom requires my effective participation and/or representation in the processes that determine the laws and the rules by which I am governed. Along this first dimension, *our* freedom—your government

and mine in ways are responsive to your claims *and* mine—is necessarily enhanced when we engage one another in ways that yield (or at least, that bring us as close as possible to) mutual agreement about shared ends and means. If you and I agree about what our moral and ethical principles are, and about how we should interpret and prioritize those principles, if you and I agree about what our collective problems are, and about how we should address those problems, then when we make decisions together, and when we act together on the decisions we have made, neither one of us dominates the other. Realizing consensus eliminates, and approximating consensus diminishes, the distributive problems associated with inter-agentive political freedom.

But, as Tully underscores, and as many deliberative democrats no doubt would acknowledge, there is a second dimension to both political freedom and unfreedom. It is this second dimension—call it *systemic (non)domination*—to which the contestatory deliberative theorist draws attention. People can be unfree, even when they are not subjected to the will of some other person or persons. People can be unfree when they are subjected to social, yet impersonal forms of power, like the power of deeply entrenched constitutional arrangements, or unquestioned principles, or norms that have been sacralized or naturalized or otherwise universalized. Hence the contestatory democrat worries, not only about the *distribution* in (and beyond) a given political society of the capacity to challenge and to change institutions, laws, and norms, but also about the overall or the *social level* of that capacity. She worries, in other words, about the malleability of power relations: about their responsiveness to the human subjects whose lives they govern.[40]

This second dimension of (non)domination is analytically distinct from the first. Although inter-agentive and systemic nondomination very often appear together, they need not. Systemic domination can equally affect *all* participants in a power relation, as when, for example, all believe and conform to a religious doctrine that, let us stipulate, is false. Systemic domination can equally affect all participants in a power relation characterized by inter-agentive domination, as well. Suppose, for example, all men and all women in a patriarchal society regard gender norms as natural, because biologically rooted, and as invulnerable to critique, challenge, and change. If so, men are dominated systemically, as participants in power relations defined by norms of femininity and masculinity. Men are dominated systemically, even as the terms of power relations enable them to dominate women inter-agentively. In short, to the extent that people fail to act to challenge and change particular norms, principles, and institutions because they regard them as natural, inevitable, or otherwise unalterable, they are (along this second, systemic

dimension) unfree. They are unfree even if they are privileged agents, in the sense that they are advantaged by extant rules and relations.[41]

It is worth underscoring that, in positively valuing this second dimension of political freedom, contestatory democrats are far from anti-deliberative. Indeed, their claims fit squarely with key arguments advanced by mainstream theorists of democratic deliberation. It is, after all, not only the force exerted by other human agents, but also the force exerted by deeply ingrained habits, by unexamined traditions, and by excessive routinization that Habermas and Habermasians oppose to "the force of the better argument."[42] Still, by drawing attention to such impersonal forms of (non)domination, contestatory democrats raise important questions about the value to democracy of an orientation (whether internally motivated or externally induced) to mutual agreement. The more settled, the more institutionally safeguarded, the more *doxic* a given set of collective ends, norms, or values, their claim is, the more likely it is that a constraint to deliberate with a view to achieving agreement will promote *unfreedom* along this systemic dimension. Democrats, they argue, should encourage and support not only forms of political engagement and communication that are reasonable in the Rawlsian sense, but also unruly forms of engagement, and consensus-disrupting forms of communication: political practices aimed less at persuading one's opponents, or moving with them toward consensus, than unsettling the terms of long-standing relations of power. The politics that best guard against impersonal or systemic domination are politics in which opponents struggle with one another to critique or to defend, and sometimes to transform, the power relations in which they participate.

Inter-agentive and Systemic (Non)domination

Democrats aim, then, for at least two analytically distinct forms of political freedom: two dimensions of nondomination that do not covary. (Some) democratic theorists of multicultural accommodation and (some) theorists of democratic deliberation aim for freedom from rule that is arbitrary, in the sense that it does not track the claims or the interests of all. Stated positively, they aim for political inclusiveness and equality in collective norm making. Consider, again, the democratic argument for the political recognition of African Americans. This argument is an argument for advancing inter-agentive nondomination, by ensuring that the claims and interests of members of this structurally disadvantaged minority group count in the processes of making the collective decisions that affect them. To the extent that political inclusion requires adherence to the particularistic standards and values of the racially dominant, black

Americans are unfree along the first, inter-agentive dimension. They are ruled over by people whose particularistic ends, experiences, and values effectively set the terms of collective debate and decision.

When deliberative democrats take up a case like this one, they worry, as well, about inter-agentive political freedom. Black Americans are ruled over, deliberative democrats reason, if they are made, as the result of decision procedures that simply aggregate people's private preferences, to endure what they regard to be unacceptable collective decisions: unjust distributions of resources and opportunities, for instance. The democratic argument for deliberation across lines of racial difference follows from the intuition that decision processes oriented toward mutual agreement will, by mitigating crude majoritarianism, promote inter-agentive nondomination.

At the same time, however, many recent democratic theorists of multicultural accommodation and at least some recent theorists of democratic deliberation aim for political freedom along the second (systemic) dimension sketched above. Aspirations for systemic nondomination spawn complexities internal to debates within both deliberative and multicultural theory. Table 1 represents these complexities.

The top right corner represents the multiculturalist's aspiration to systemic nondomination. If democratic theorists of multicultural accommodation aspire for all to enjoy an agentive relation to the terms of the power relations in which they participate—to the laws, rules, conventions, and other collective norms through which they govern their lives—then, of course, they aspire for such a relation to the standards and values that define identities. As argued in section three, most contemporary democratic theorists of multicultural accommodation aim *not* for identities that are fixed or static—identities people passively inherit, or that they experience as quasi-natural—but for affiliations that agents interpret, evaluate, and re-create, acting together with others toward whom they feel a solidaristic attachment. To continue with the example of African American racial identity, even theorists who stress the importance of the social acknowledgment and the affirmation of the "cultural" aspects of black American identity do not assume it to be, and do not hope it will become, so firmly rooted in tradition as to be unresponsive to internal critique and reinterpretation. Instead, many multiculturalists see African American identity (like other identities) as an affiliation that actors can—and that they should—interrogate and challenge: as one they should refashion, through collective decisions about how to relate to those traditions and those customs that at present define it.

In a similar vein, many theorists of deliberative democracy aspire for participants in political deliberation to have an agentive relation to both the

Table 1. Complexities Internal to Debates within Deliberative and Multicultural Democratic Theory

	Aspiration to inter-agentive nondomination	Aspiration to systemic nondomination
Theories of multicultural accommodation	Concern to protect group rights/promote group recognition	Concern to enable collective challenge and revision to group identities and boundaries
Theories of deliberative democracy	Concern to promote an orientation toward mutual agreement	Concern to promote the contestation of principles, rules, and other norms

outcomes of deliberative processes and also the standards that guide those processes. This aspiration is represented by the bottom right corner of the table. In a deliberative exchange centered on how to distribute resources and opportunities, for example, most deliberative democrats would reject as illegitimate any exchange that resulted in the unreflective endorsement of a putatively just distribution. Their hope is that the rules that govern the distribution of goods in (and beyond) a given society, as well as the procedural rules that govern the processes through which that distribution is determined, are rules that are, or that in principle could be, freely endorsed by all affected after full and rational consideration of their costs and consequences.

The left-hand column represents multiculturalist (top) and deliberative democratic (bottom) aspirations to inter-agentive nondomination. In neither case, it is worth noting, do the aspirations that follow from positively valuating both dimensions of political freedom stand in a *necessary* opposition to one another. Across the bottom (deliberative) row, one can at least imagine a fully reflective and contestatory democratic politics that yields a Rousseauian General Will, engendering nondomination along both the inter-agentive and systemic dimensions. Government, in a case like this, would promote the good of all. No individual or collective agent would rule over another without tracking her interests, *and* each person would stand in an agentive relation to the laws and the other norms that govern her life. Similarly, across the top (multiculturalist) row, one can imagine an open and inclusive process of (re) defining some particularistic identity, which produces agreement among all about group norms and boundaries. If such agreement were accompanied by the political recognition of the (uncontroversial) identity, then aspirations for inter-agentive and systemic nondomination would be realized.

In every existing political society, however, these two aspirations *do* stand in tension to one another, because of the plurality of material interests, social solidarities and attachments, and ethical values. In every existing political society, then, critical reflection about the terms of power relations, and inclusive and egalitarian processes centered on defining and redefining those terms, will lead different actors to will different political outcomes. Hence the paradox for democrats who value human plurality (democrats, i.e., who not only acknowledge plurality to be a fact about the human condition but also view it as an important and worthwhile aspect of human beings) is that the very trait we prize militates against resolving the tension at the heart of our political aspirations.

How should such democrats approach the task of evaluating and (re)designing institutions and practices? We should do so with a view to ensuring people can act on the terms of the power relations in which they participate. Recall the discussion, in the first and second sections, of arguments for the "descriptive representation" of African Americans. In the United States today, the single-member plurality (or "first-past-the-post") electoral system is an important example of an institution that contributes to the political unfreedom of black Americans. Because voters in congressional districts each cast a single ballot, and because in each district the candidate with the largest share of votes wins, African Americans (along with other structurally disadvantaged minorities) are underrepresented in the national legislature.[43] After the Voting Rights Act (VRA) of 1965, and especially the 1982 amendments to the VRA, much of the focus of institutional reform has been on "race-conscious" or "majority–minority" districting: a change that, evidence suggests, does increase the number of African American representatives elected to Congress.[44] But critics argue that race-conscious districting trades (to use the terminology introduced above) one form of inter-agentive domination for another. It grants disproportionate power to political conservatives, and in particular to conservatives who oppose civil rights legislation, social welfare policies, and other laws and policies favored disproportionately by black voters, because it concentrates the latter, rather than spreading them across multiracial districts, where they can form majorities with liberal whites.[45] What is more, critics charge, because it reduces the percentage of black constituents in majority-white districts, race-conscious districting encourages white representatives in such districts to ignore black voters' claims and interests.[46] Race-conscious districting promotes systemic domination, as well, other critics argue, because it requires state actors to categorize voters by race, institutionalizing extant definitions of racial identity and difference.[47] A better alternative is a system of proportional representation (PR),

which promotes electoral success for minority and structurally disadvantaged groups, while permitting people to form into constituencies (based on any particularistic identity, or on none) voluntarily.[48]

To be sure, different contexts will require different institutional remedies. As noted above, for groups whose members aim to achieve political autonomy, promoting inter-agentive and systemic nondomination may require establishing entirely separate political institutions. In the case of black Americans and other groups that are territorially concentrated, but aim for equal standing rather than autonomy, it will require attention, not only to national, but also to local political institutions. Much attention has been focused on the consequences for African Americans of single-member, compared with at-large electoral districts.[49] Because the American system of local governance is exceedingly fragmented, however, at least as important is local government law, which shapes *inter*-municipal relations of power. The fragmentation of government enables suburban municipalities to make significant political decisions autonomously: decisions to pass exclusionary zoning ordinances, for instance, effectively preventing would-be residents from moving to their jurisdictions, and also decisions to raise and to spend tax monies funding public schools and other services, which they make available to residents only. Fragmentation thus enables the privileged—in the context of state-enabled racial residential segregation, the *racially* privileged—to act in ways that profoundly affect the disadvantaged, and to do so without engaging them politically.[50]

It is for this reason that some make the case for the centralization of governance functions to the metropolitan and/or the regional level, while others argue for redrawing municipal and other jurisdictional boundaries with a view to promoting political equality and inclusiveness in government.[51] While both sets of proposals aim at promoting what I have called inter-agentive nondomination, a third—cross-jurisdictional voting—aims for system nondomination, as well.[52] Much like PR, cross-jurisdictional voting permits people to form and to re-form political constituencies. But it goes further, detaching constituency formation from place of residence.[53]

In the case of the contemporary American metropolis, for example, it would enable city dwellers and residents of inner-ring suburbs to vote in the elections of neighboring affluent suburban municipalities, whose decisions significantly affect where they can live and what public services they can enjoy.

Each of these proposals has its practical strengths and its limitations. I will not attempt to evaluate them here.[54] I cite them, instead, because I want to draw attention to the basic principles that animate them: principles that should animate similar attempts to promote political freedom in other contexts. Democratic

institutions and practices should promote inter-agentive nondomination, by enabling *all* to participate in making and remaking the relations of power that affect them. Specifically, they should grant the disadvantaged the capacity to act in concert with others to change (or to maintain) the laws and other collective norms that bind them, and they should constrain the privileged to engage politically those whom their actions affect. In addition, they should promote systemic nondomination, by granting all who participate in power relations—the privileged, as well as the disadvantaged—the collective power to problematize, and to revise or remake them.

Conclusion

The starting point for this essay was an apparent tension between two bodies of theoretical work: between, on one hand, theories of democratic deliberation, and on the other, democratic theories of multicultural accommodation. This tension, I have suggested, is less severe than it may at first seem. There is an important sense in which at least some major contributors to these two schools of thought converge on an ideal of political freedom or nondomination. At the same time, I have drawn attention to nontrivial challenges inherent in efforts to realize this ideal in the context of a modern, multicultural democracy. Democrats want to be free from arbitrary forms of inter-agentive power, I have stressed: an aspiration that urges both the political recognition of particularistic identities and the political cultivation of an orientation toward agreement. At the same time, we want to be free from unreflective adherence to constructed social norms and standards, and from what we might think of as "institutional inertia": an aspiration that urges the critical interrogation of identities and the cultivation of political contest.

What is the best response to the challenge of promoting nondomination in a multicultural democracy? It is to articulate guidelines for developing institutions and practices that help manage the tension between inter-agentive and systemic nondomination under conditions of human plurality. One important guideline is that institutions should constrain those agents who would act in ways that affect collective norms to engage politically the other agents those norms affect. Such engagement should be politically egalitarian; at the limit, no single participant in a relation of power, and no subset of participants, should be enabled to act unilaterally to affect its terms. A second guideline is that institutions should render the terms of power relations *in principle* open to political challenge and revision. To say so is not to imply that constant change is necessary, or desirable. But change must be possible. To the extent

that the terms of power relations are removed from the reach of some or all participants, the political freedom of those agents is abridged.

In this essay I illustrated these guidelines by applying them to a single case: power relations involving the racially privileged and the racially disadvantaged in the contemporary United States. Of course, which particular institutions these principles recommend will vary with case and with context. In some instances, the political recognition of particularistic group identities may be key to promoting nondomination. In others, it may be important for democrats to cultivate the public give-and-take of reasons. As argued above, however, simply recognizing extant identities, or simply encouraging political interaction oriented toward agreement will rarely, if ever, suffice. The challenge, instead, is to structure institutions and practices such that they encourage inter-agentive and systemic political freedom, promoting egalitarian and open struggles over principles, and over collective ends and means.

Acknowledgments

Declaration of Conflicting Interests

Funding

Notes

1. Face-to-face deliberative fora, e.g., or rights to group self-government.
2. Literary traditions, e.g., linguistic practices, and black churches and educational institutions. On "linked fate," see Michael Dawson, *Behind the Mule: Race and Class in American Politics* (Princeton, NJ: Princeton University Press, 1994). On being identified by others, see Iris Marion Young, "Polity and Group Difference:

A Critique of the Ideal of Universal Citizenship," *Ethics* 99, no. 2 (January 1989): 250-74.

3. Every identity group is characterized by internal differentiation, not only because members are unique individuals, but also because they are members of *other* identity-groups. The experiences, perspectives, and needs of middle-class African American men thus differ from those of poor African American women, e.g., notwithstanding the fact that African Americans as a group—regardless of gender, social class, and other forms of internal differentiation—share the experience of being subjected to racial discrimination.

4. Hawley Fogg-Davis, "The Racial Retreat of Contemporary Political Theory," *Perspectives on Politics* 1, no. 3 (September 2003): 555-564, here 557.

5. See Clarissa Hayward, "Making Interest: On Representation and Democratic Legitimacy," in *Political Representation*, ed. Ian Shapiro, Susan Stokes, Elizabeth Jean Wood, and Alexander Kirshner (Cambridge, UK: Cambridge University Press, 2009), 111-35, on which this discussion draws. For a comprehensive treatment of this understanding of democratic politics, see Robert Dahl, *Democracy and Its Critics* (New Haven: Yale University Press, 1989).

6. Important statements of this position include Seyla Benhabib, "Toward a Deliberative Model of Democratic Legitimacy," in *Democracy and Difference: Contesting the Boundaries of the Political*, ed. Seyla Benhabib (Princeton, NJ: Princeton University Press, 1996), 67-96; Jon Elster, "The Market and the Forum: Three Varieties of Political Theory," in *Deliberative Democracy: Essays on Reason and Politics*, ed. James Bohman and William Rehg (Cambridge, MA: MIT Press, 1997), 3-34; Jürgen Habermas, "Three Normative Models of Democracy," in *Democracy and Difference*, 21-30; and Bernard Manin, "On Legitimacy and Political Deliberation," *Political Theory* 15, no. 3 (August 1987): 338-68.

7. This principle is sometimes called the "principle of affected interest." Dahl's early formulation of the principle reads, "Everyone who is affected by the decisions of a government should have the right to participate in that government." Robert Dahl, *After the Revolution? Authority in a Good Society* (New Haven: Yale University Press, 1970), 49. His later "principle of equal consideration of interests" emphasizes that equal weight should be given to the interests of all affected by a collective decision. Dahl, *Democracy and Its Critics*, 85-86. For a critical discussion of various interpretations of the principle, see Robert Goodin, "Enfranchising All Affected Interests, and Its Alternatives," *Philosophy and Public Affairs* 35, no. 1 (2007): 40-68.

8. Elster, "The Market and the Forum."

9. Of course, the American metropolis is home to more than two racialized groups, none of which is internally homogenous. Although I illustrate with this simplified

example, the logic of the argument can be extended to multiple groups structured around racial (and other) relations of power.

10. The term "descriptive representation" is from Hanna Pitkin, who is famously ambivalent toward this form of representation. See Pitkin, *The Concept of Representation* (Berkeley, CA: University of California Press, 1967), chap. 4. For compelling arguments in favor of descriptive representation, see Suzanne Dovi, "Preferable Descriptive Representatives: Will Just Any Woman, Black, or Latino Do?" *American Political Science Review* 96, no. 4 (December 2002): 729-43; Jane Mansbridge, "Should Blacks Represent Blacks and Women Represent Women? A Contingent 'Yes,'" *Journal of Politics* 61, no. 3 (August 1999): 628-57; Anne Phillips, *The Politics of Presence* (Oxford: Clarendon Press, 1995); Melissa Williams, *Voice, Trust, and Memory: Marginalized Groups and the Failings of Liberal Representation* (Princeton, NJ: Princeton University Press, 1998); and Iris Marion Young, *Justice and the Politics of Difference* (Princeton, NJ: Princeton University Press, 1990), chap. 6.

11. See Williams, *Voice, Trust, and Memory*; Mansbridge, "Should Blacks Represent Blacks and Women Represent Women?"; Mansbridge, "Rethinking Representation," *American Political Science Review* 97, no. 4 (November 2003): 515-28; and Young, *Justice and the Politics of Difference*.

12. Charles Taylor, "The Politics of Recognition," in *Multiculturalism: Examining the Politics of Recognition*, ed. Amy Gutmann (Princeton, NJ: Princeton University Press), 25. See also Axel Honneth, *The Struggle for Recognition: The Moral Grammar of Social Conflicts*, trans. Joel Anderson (Cambridge, MA: Polity Press, 1995).

13. Will Kymlicka, *Liberalism, Community, and Culture* (Oxford: Oxford University Press, 1989), 165. See also Will Kymlicka, *Multicultural Citizenship* (Oxford: Oxford University Press, 1995) and Joseph Raz, *Ethics in the Public Domain: Essays in the Morality of Law and Politics* (Oxford, UK: Clarendon, 1994). Other liberal multiculturalists emphasize other liberal values. For Chandran Kukathas, e.g., not autonomy, but neutrality and freedom of association, are key. See Chandran Kukathas, "Are There Any Cultural Rights?," *Political Theory* 20, no. 1 (February 1992):105-39, and Chandran Kukathas, *The Liberal Archipelago: A Theory of Diversity and Freedom* (Oxford, UK: Oxford University Press, 2007).

14. See Young, *Justice and the Politics of Difference*, and Young, "Polity and Group Difference."

15. E.g., in the case of the 1987 proposed Meech amendment to the Canadian Charter of Rights, Charles Taylor makes the case for recognizing the French-speaking linguistic minority by permitting Quebec to restrict some of the individual freedoms granted by the Charter to all Canadian citizens. See Charles Taylor, "The Politics of Recognition."

16. On "differentiated citizenship," see Young, "Polity and Group Difference." For Young's normative vision of a "heterogeneous public," see Iris Young, "Together in Difference: Transforming the Logic of Group Conflict," in *Principled Positions: Postmodernism and the Rediscovery of Value*, ed. Judith Squires (London: Lawrence & Wishart, 1993), 121-50.

17. Young, "Together in Difference," 135, emphasis added.

18. One of the principal differences between "national minorities" and "ethnic groups," by Kymlicka's view, is that the former often aim to maintain their national distinctiveness, while the latter often seek to assimilate. See Kymlicka, *Multicultural Citizenship*, especially chap. 2.

19. Forceful statements of this view include Margaret Kohn, "Language, Power, and Persuasion: Toward a Critique of Deliberative Democracy," *Constellations* 7, no. 3 (September 2000): 408-29; Lynn Sanders, "Against Deliberation," *Political Theory* 25, no. 3 (June 1997): 347-76; and Young, *Justice and the Politics of Difference*, chap. 4.

20. See, e.g., Veit Bader, "The Cultural Conditions of Transnational Citizenship: On the Interpenetration of Political and Ethnic Culture," *Political Theory* 25, no. 6 (December 1997): 771-813.

21. Clarissa Hayward, "Doxa and Deliberation," *Critical Review of International Social and Political Philosophy* 7, no. 1 (Spring 2004): 1-24.

22. Ibid.

23. It is on the first and third of these points that my view departs most significantly from that of Philip Pettit and other republican theorists for whom domination obtains when (to quote Pettit) one agent has the capacity to interfere with another, arbitrarily, in a way that "makes things worse . . . [where] the worsening that interference involves always has to be more or less intentional in character." See Philip Pettit, *Republicanism: A Theory of Freedom and Government* (Oxford: Oxford University Press, 1997), 52.

24. Monique Deveaux, *Gender and Justice in Multicultural Liberal States* (New York: Oxford University Press, 2006), 1.

25. See, e.g., Seyla Benhabib, *The Claims of Culture: Equality and Diversity in the Global Era* (Princeton, NJ: Princeton University Press, 2002); Susan Okin, "Is Multiculturalism Bad for Women?," in *Is Multiculturalsim Bad for Women?*, ed. Joshua Cohen, Matthew Howard, and Martha Nussbaum, (Princeton, NJ: Princeton University Press, 1999), 7-24; Anne Phillips, *Multiculturalism Without Culture* (Princeton: Princeton University Press, 2007); Ayelet Shachar, *Multicultural Jurisdictions: Cultural Differences and Women's Rights* (Cambridge, UK: Cambridge University Press, 2001); and Sarah Song, *Justice, Gender, and the Politics of Multiculturalism* (Cambridge, UK: Cambridge University Press, 2007).

26. Shachar, *Multicultural Jurisdictions*.

27. Richard T. Ford, *Racial Culture: A Critique* (Princeton, NJ: Princeton University Press, 2005).

28. An African American preference for "corn rows" was alleged by the plaintiff in *Renee Rogers et. al. v. American Airlines, Inc.* Black acceptance of early and single motherhood was alleged by the plaintiff in *Chambers v. Omaha Girls Club*. See Ford, *Racial Culture*, chaps. 1 and 2.

29. Ibid, 41.

30. John Dryzek, "Legitimacy and Economy in Deliberative Democracy," *Political Theory* 29, no. 5 (October 2001): 651-69, here 661. Habermas himself makes this point in his critique of Rousseauian republicanism, which centers on its reduction of legitimate politics to the discovery of collective consensus. See Habermas, "Three Normative Models of Democracy," in *The Inclusion of the Other: Studies in Political Theory*, ed. Ciaran Cronin and Pablo De Greiff (Cambridge, MA: MIT Press, 2001), 244-45.

31. Important statements of this view include James Bohman, *Public Deliberation: Pluralism, Complexity, and Democracy* (Cambridge, MA: MIT Press, 1996); Amy Gutmann and Dennis Thompson, *Democracy and Disagreement* (Cambridge, MA: Belknap Press of Harvard University Press, 1996); and Manin, "On Legitimacy and Political Deliberation." "Reasonable" in the Rawlsian sense means, roughly, concerned to live with others on terms they might accept. See John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993), 48-54.

32. James Tully, "The Agonic Freedom of Citizens," *Economy and Society* 28, no. 2 (May 1999): 161-82; James Tully, "Struggles over Recognition and Distribution," *Constellations* 7, no. 4 (2000): 469-82; and James Tully, "The Unfreedom of the Moderns in Comparison to Their Ideals of Constitutional Democracy," *Modern Law Review* 65 (March 2002): 204-28. Other statements of this view include Seyla Benhabib, "Communicative Ethics and Contemporary Controversies in Practical Philosophy," in *The Communicative Ethics Controversy*, ed. Seyla Benhabib and Fred Dallmayr (Cambridge, MA: MIT Press, 1990); John Dryzek, "Legitimacy and Economy in Deliberative Democracy," and Patchen Markell, "Contesting Consensus: Rereading Habermas on the Public Sphere," *Constellations* 3, no. 3 (January 1997): 377-400.

33. See, e.g., Chantal Mouffe, *The Democratic Paradox* (London: Verso, 2000).

34. For them, democracy is (to borrow Sheldon Wolin's language) "fugitive," in the sense that it appears only during those "rebellious" episodes when people use collective power to un-do some entrenched political system or some established political order. Sheldon Wolin, "Fugitive Democracy," in *Democracy and Difference: Contesting the Boundaries of the Political*, ed. Seyla Benhabib

(Princeton, NJ: Princeton University Press, 1996), 31-45. See also William Connolly, *Identity\Difference: Democratic Negotiations of Political Paradox* (Ithaca, NY: Cornell University Press, 1991).

35. Tully, "The Unfreedom of the Moderns in Comparison to Their Ideals of Constitutional Democracy," 218.

36. Isaiah Berlin, "Two Concepts of Liberty," in *Four Essays on Liberty*, ed. Isaiah Berlin (Oxford: Oxford University Press, 1969), 118-72.

37. Ibid.

38. Pettit, *Republicanism*, 56, emphasis as in original.

39. Ibid, 55.

40. Hence Roberto Unger's critique of what he calls "entrenchment." See Unger, "Negative Capability and Plasticity into Power: The Core Idea," in *Politics: The Central Texts: Theory against Fate*, ed. Zhiyuan Chi (London: Verso, 1997), 172-223. It is on this point that thinkers like Unger and Tully depart from republican theorists such as Pettit, who asserts that domination cannot be the product of "a system or network or whatever." Pettit, *Republicanism*, 52.

41. See Clarissa Hayward, *De-facing Power* (Cambridge, UK: Cambridge University Press, 2000), especially chap. 6.

42. Hence Habermas's comparison of an agent engaging in rational argumentation to an adolescent moving to a "postconventional" Kohlbergian moral stage. See Jürgen Habermas, "Moral Consciousness and Communicative Action," in *Moral Consciousness and Communicative Action*, trans. Christian Lenhardt and Shierry Nicholsen (Cambridge, MA: MIT Press), 126.

43. This disadvantage is heightened for structurally disadvantaged minority groups that are *not* geographically concentrated. See the essays collected in Wilma Rule and Joseph Zimmerman, eds., *United States Electoral Systems: Their Impact on Women and Minorities* (New York: Praeger, 1992), and Joshua Cohen and Joel Rogers, eds., *Reflecting All of Us: The Case for Proportional Representation* (Boston, MA: Beacon Press, 1999).

44. The amended VRA of 1982 and the ensuing interpretation of that act by the U.S. Supreme Court required the review of proposed electoral institutions, including redistricting plans, to ensure they would not dilute minority voting power. But the 1990s marked a retrenchment on this matter by the Court, which ruled that race-conscious redistricting must be held to a standard of "strict scrutiny" (Shaw v. Reno 509 U.S. 630 [1993]) and that race could not be the "predominant factor" in the redrawing of district lines (Miller v. Johnson 515 U.S. 900 [1995]). (In Bush v. Vera 517 U.S. 952 [1996], however, the Court ruled that "strict scrutiny" applies only when race is the predominant factor in redistricting and race-neutral districting principles are subordinated to race-conscious principles.) On the empirical finding that race-conscious districting increases the number

of African Americans elected, see David Lublin, *The Paradox of Representa-tion: Racial Gerrymandering and Minority Interests in Congress* (Princeton, NJ: Princeton University Press, 1997), and the essays collected in Chandler David-son and Bernard Grofman, eds., *Quiet Revolution in the South: The Impact of the Voting Rights Act of 1965* (Princeton, NJ, Princeton University Press: 1994).

45. See Lublin, *The Paradox of Representation*, and Charles Cameron, David Epstein, and Sharyn O'Halloran, "Do Majority-Minority Districts Maximize Substantive Black Representation?," *American Political Science Review* 90, no. 4 (December 1996): 794-812.

46. David Canon, *Race, Redistricting and Representation: The Unintended Con-sequences of Black Majority Districts* (Chicago: University of Chicago Press, 1999); Lublin, *The Paradox of Representation*.

47. For a helpful discussion of these and other critiques of race-conscious districting, see Melissa Williams, *Voice, Trust, and Memory*, 205-7. More generally, for per-suasive critiques of race-conscious districting as the best means to promote the interests of African Americans, see Lani Guinier, "The Triumph of Tokenism: The Voting Rights Act and the Theory of Black Electoral Success," *Michigan Law Review* 89, no. 5 (March 1991): 1077-1154; and Carol Swain, *Black Faces, Black Interests: The Representation of African Americans in Congress* (Lanham, MD: University Press of America, 2006).

48. There are many forms of PR, but the general idea is that electoral districts are multi-member, so seats go to candidates who win a percentage of the vote much smaller than a plurality. For this reason, PR promotes the representation of *all* under-represented groups: not only structurally disadvantaged minorities, but also structurally disadvantaged groups that are not minorities (such as women), and groups that are simply numerical minorities, but not structurally disadvan-taged (such as minority parties). See the essays collected in Bernard Grofman and Arend Lijphart, eds., *Electoral Laws and their Political Consequences* (New York: Algora, 2003). For arguments for PR in the United States, see Douglas Amy, *Real Choices/New Voices: How Proportional Representation Elections Could Revitalize American Democracy*, 2nd ed. (New York: Columbia Univer-sity Press, 2002); and Robert Richie and Steven Hill, "The Case for Proportional Representation," in *Reflecting All of Us*, ed. Cohen and Rogers, 3-32.

49. Because of racial residential segregation, black representatives win more seats in single-member districts. See, e.g., Melissa Marschall, Anirudh Ruhil, and Paru Shah, "The New Racial Calculus: Electoral Institutions and Black Representation in Local Legislatures," *American Journal of Political Science* 54, no. 1 (January 2010): 107-24; Jessica Trounstine and Melody Valdini, "The Context Matters: The Effects of Single-Member versus At-Large Districts on City Council Diversity," *American Journal of Political Science* 52, no. 3 (July 2008): 554-69; and Susan

Welch, "The Impact of At-Large Elections on the Representation of Blacks and Hispanics," *Journal of Politics* 52, no. 4 (November 1990): 1050-76.

50. On state-enabled racial residential segregation, see Clarissa Hayward, "The Difference States Make: Democracy, Identity, and the American City," *American Political Science Review* 97, no. 4 (November 2003): 501-14.

51. For the case for centralization, see, e.g., Young, *Justice and the Politics of Difference*, chap. 8. For an argument for redrawing municipal boundaries, see Richard Briffault, "The Local Government Boundary Problem in Metropolitan Areas," *Stanford Law Review* 48, no. 5 (May 1996): 1115-71.

52. Richard Thompson Ford, "The Boundaries of Race: Political Geography in Legal Analysis," *Harvard Law Review* 107, no. 8 (June 1994): 1843-1921.

53. On problems with territorially based constituency definition, see Andrew Rehfeld, *The Concept of Constituency: Political Representation, Democratic Legitimacy, and Institutional Design* (New York: Cambridge University Press, 2008).

54. For a discussion and evaluation, see Hayward, "The Difference States Make."

About the Author

Clarissa Rile Hayward, author of *De-Facing Power* (Cambridge University Press, 2000), teaches political theory at Washington University in St. Louis. She is completing her second book, which focuses on the ways the American state shapes racial identity through institutions and spatial forms. Research for this book, which is tentatively titled *Stories and Spaces: How Americans Make Race*, has been supported by the National Academy of Education/Spencer Foundation, the National Endowment for the Humanities, and the Institute for Advanced Study in Princeton.