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Economy and Society

Publication details, including instructions for authors and subscription information:

<http://www.informaworld.com/smpp/title~content=t713685159>

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To cite this Article Humphrey, Mathew and Stears, Marc(2006) 'Animal rights protest and the challenge to deliberative democracy', *Economy and Society*, 35: 3, 400 – 422

To link to this Article: DOI: 10.1080/03085140600844969

URL: <http://dx.doi.org/10.1080/03085140600844969>

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Animal rights protest and the challenge to deliberative democracy

Mathew Humphrey and Marc Stears

Abstract

Political theorists are increasingly investigating the tensions between the ideal of deliberative democracy and the practices of radical political activists. This paper seeks to contribute to that debate by analysing deliberative democrats' disagreements with one particular group of political protestors – animal rights activists. The paper concentrates on two major areas of contention between these two groups: the idea of politics as a process of levying costs on opponents and the idea of a moral economy of disagreement. We then examine the circumstances of deliberation, suggesting that problems with the use of ideal theory as a standard against which to judge existing practice. The paper concludes by arguing that, despite recent amendments by its proponents, deliberative democracy remains an overly prescriptive approach to democratic politics.

Keywords: animal rights; deliberative democracy; protest; moral disagreement; cost-levying; ideal theory.

Introduction

In July of 2004, the British Prime Minister Tony Blair and then Home Secretary David Blunkett published a strategy paper entitled *Animal Welfare – Human Rights: Protecting People from Animal Rights Extremists*. The paper outlined what the government saw as a perilous threat to the healthy democratic politics of the United Kingdom: an explosion in

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‘despicable’ campaigning practices by groups of ‘animal rights extremists ... organized in a quasi-terrorist cellular structure across the country’ (Blair and Blunkett 2004: 9).¹ The law would need to be changed, Blair and Blunkett contended, in order to clamp down more effectively on these groups. It would be necessary, they charged, to limit the animal rights extremists’ ability to disrupt the operation of animal experimentation laboratories, university research groups, supermarkets and meat manufacturers, and, perhaps, even to restrict their rights to engage in large-scale demonstrations of the sort which have characterized the campaign for animal rights for many years.

Whatever the rights and wrongs of this particular policy document, it is characteristic of a particular moment in the world of democratic politics. The behaviour of animal rights activists has received a remarkable amount of attention, an amount far outstripping that which would normally be expected from analysis of the actual number of criminal offences committed or the numbers of activists who engage in regular protest.² Animal rights activists currently inhabit a space immediately behind Islamic terrorists in terms of their perceived threat to the stability of the democratic order. They feature as political pariahs not just in government documents, but in many areas of the press, in the literature of academic organizations and scientific research councils, and even in popular television soap operas.³ Such notoriety no doubt springs from many sources – the groups’ actual threat to the operation of the day-to-day activity of some powerful economic interests perhaps chief among them – but one of the reasons that animal rights protestors have cast such a shadow on contemporary politics is their peculiar relationship to a number of key norms of democratic political practice. Animal rights activism today is associated with a whole series of political devices that appear to hover on the boundary of acceptability. Theirs is a politics of direct action, protest, even intimidation, in an age when those devices are increasingly critically received by political leaders concerned more with order and security than with dissent and political dynamism. Democracy itself, it is frequently charged, needs protection from these misleadingly ‘cuddly’ extremists (Owen 2005).

Nor is this simply the conservatism of those in power, for the form of political engagement embraced by most animal rights protestors does not just stand in contrast to the expectations of mainstream politicians. It also stands importantly at odds with the expectations of most normative theorists of democracy. As is widely noted, since the early 1990s, the normative theory of democracy has taken what has become known as a ‘deliberative’ turn. Under the tutelage of theorists such as Amy Gutmann, Dennis Thompson, John Dryzek and Joshua Cohen, and inspired by the work of Jurgen Habermas, political theorists have re-conceived the essence of democratic process, seeing it now less in the counting of votes or the aggregating of preferences than in the ability of reasonable citizens to explain themselves to each other and to engage in mutually responsive discussion about the key political, economic and moral concerns that exercise them. Although there are some important

differences between advocates of this deliberative democracy, all agree that it involves the discursive pursuit of substantive agreement between citizens where such agreement is possible and the discursive delimitation of agreeable disagreement where it is not. As such, it places a series of demands upon citizens as they engage in political action. Citizens of an ideal deliberative democracy will not seek to prioritize their own limited conception of the good at the expense of others nor will they seek to impose their will on others who could not understand, let alone agree, with their demands. The good citizen explains herself to others and presents those others with arguments for particular courses of action that are grounded in widely acceptable forms of public reason (Dryzek, 2000: v). All of this, of course, seems a long way removed from the everyday politics of animal rights protest.

Animal rights activists themselves, though, are unwilling to accept the 'non-democratic' label applied to them by the advocates of deliberative democracy. Instead, they often present the non-deliberative elements of their approach as necessary components of democratic politics. Indeed, they cast such activity as directly connected to a struggle for essential democratic rights. As Steve Best of the American Animal Liberation Front contends, if 'it is not already obvious, the struggle for animal rights is intimately connected to the struggle for human rights – for free speech, freedom of association, freedom from search and seizure, and so on . . . in order to fight for animal rights we have to fight for democracy'.⁴ By contrast, Western governments are seen as subverting the 'very principles and logic of democracy'; indeed, they are said to be waging a 'new war *against* democracy'.⁵

We are left then with a rather peculiar tension: for the deliberative democrats the most strategically important behaviours that animal rights protestors engage in stand in stark opposition to good democratic practice; to the protestors themselves this behaviour is, in many ways, the essence of democratic politics itself. This sort of tension is not new in itself, of course. Indeed, this general disagreement between activists of various sorts and deliberative theorists has increasingly provided a focal point for new scholarship of late. Stanley Fish (1999), Archon Fung (2005), Jane Mansbridge (1996), John Medearis (2004), Ian Shapiro (1999), and Iris Marion Young (2001) have all recently drawn attention to the difficulties of reconciling deliberative democratic expectations with the practices of actual democratic politics, and many deliberative democrats themselves have sought to respond (see Dryzek 2005). But the gulf between deliberative democrats and this group of activists is not only more striking than many of these tensions, it is also potentially very revealing. An examination of the relationship between animal rights activists and deliberative democrats, then, allows us not only to criticize or bemoan actually existing protesting practice – even if that is what we conclude by doing – but also to cast into critical scrutiny the claims of deliberative democracy itself.

In this paper we seek to address this issue by contrasting animal rights activists' and deliberative democrats' attitudes to democracy. We do so in four

sections. First, we introduce the central elements of the debate, outlining briefly the ways in which animal rights protestors and deliberative democrats stand opposed to each other. Then, the next two sections each examine a particular method of political engagement embraced by animal rights activists and rejected by deliberative democrats: one known here as ‘cost-levying’ and the other called the ‘exaggeration’ or ‘non-economy’ of moral disagreement. These two sections also both contend that the animal rights activists are able to offer powerful reasons for embracing political methods that seem at odds with deliberative democratic expectations. These arguments are followed by a fourth section which examines whether the defence of these political strategies is itself dependent on a set of contingent political circumstances. This section asks, in particular, whether animal rights activists would be able to justify their political strategies in political conditions that democratic theorists might describe as ‘ideal’. Having argued in this section that some of the animal rights activists’ arguments would hold even in such ‘ideal’ circumstances, the paper finally concludes by drawing out the implications of this discussion for future research in democratic theory.

The non-deliberative politics of animal rights

This paper uses animal rights activism as a case study for the examination of the relationship between the normative recommendations of deliberative democracy and the activities and beliefs of a group who are in strong moral disagreement with current, ‘democratically legitimated’, policy. This inevitably leaves open the question of which findings might apply only to animal rights activists (or at least some of these) and which may apply to other groups opposing, say, legal abortion or campaigning for national independence. Nonetheless, animal rights activists make an excellent case study for the further examination of this relationship, and they do so for two reasons. First, they profess support for a substantive moral claim which many of their fellow citizens are either doubtful about or neutral towards but which relatively few appear to find entirely repulsive. They advance a series of moral and political claims, that is, that few fully accept (they are controversial claims) but that few deem entirely unreasonable. We should, therefore, be able to analyse their political techniques in relative isolation from their substantive claims. Second, they not only possess a clear substantive agenda of their own, but they practise the art of democratic politics in a peculiarly self-referential way. Animal rights protestors, that is, think, speak and write about democratic politics a good deal, and as they do so they articulate a very different vision of a democratic political order from that advanced by advocates of deliberative democracy. We should, therefore, be able to analyse their views about democracy relatively directly.

One disadvantage of analysing animal rights activists is the fact that they have been remarkably innovative over a range of political strategies which

means, in turn, that they have been extremely hard to categorize in terms that are understandable in relation to normative democratic political theory. Animal rights protestors thus intentionally hover on the very edge of the generally 'acceptable' in contemporary democratic political practice, accepting some aspects of the democratic order as it is currently understood, while standing in sharp opposition to other elements. On the mainstream side, they are by and large non-violent in their conduct and certainly have little desire to overthrow whole political regimes. Animal Liberation Front (ALF) guidelines, for example, endorse only 'non-violent direct actions and liberations', and suggest taking 'all necessary precautions against harming any animal, human and non-human'.⁶ What this means is that, while some of their number do try to plant incendiary devices in animal laboratories or stores selling fur products, the vast majority of active animal rights protestors do not engage in out-and-out violence or insurrection. At times, indeed, they can be found in persuasive dialogue with their opponents, presenting their case in (quasi-)scientific terms on the broadcast media or in public forums. They can, then, sometimes look like the ideal deliberators of democratic theory.

This is not to say, however, that they occupy anything approaching a conventional space in the democratic spectrum. Rather, the vast majority of actively engaged animal rights protestors are clear in their advocacy of methods of 'direct action'. The same ALF guidelines quoted earlier also endorse the 'damage and destruction of property' in pursuit of the ALF's aims. They have been known to harry and intimidate animal experimenters, actively disrupting the work of those whom they oppose, and they seek to persuade doubters with rhetoric that paints their opponents in the starkest possible terms. Moreover, they are explicit in their rejection of the usual channels of representative liberal democracy. 'If the parliamentary system worked, if the law makers took notice of majority opinion', Melanie Arnold of the British Animal Liberation Front argues, 'there would be equal pay for women, the health service would be adequately funded, hunting [of all sorts] would be banned, fur would be outlawed, live exports abolished, vivisection banished to the annals of history. It is simply not going to happen.'⁷

Such a breadth of positions is exacerbated by the fact that the animal rights movement in all the advanced democracies is inherently diverse. The movement is made up of a number of competing organizations and those organizations themselves are often to be found shifting tactics in response to changing events, personnel and public responses. As with all complex social movements, this is not a unitary phenomenon.⁸ Despite this diversity, there are at least two political strategies that are common to a number of elements of the animal rights movement and that can be used to highlight their differing conception of democratic politics to that offered by deliberative democrats. The first is what we shall call the politics of 'cost-levying'. The second involves a certain rhetorical strategy that might be called the 'exaggeration of moral disagreement'. As we shall see, neither of these strategies fits well within a

deliberative democratic norm, but both might cause us pause for thought about that norm itself.

Cost-levying and democratic politics

Cost-levying is perhaps the central element of the political repertoire of animal rights activists. At its most simple it involves the sense that opponents in political life can be encouraged to behave in ways other than they would first wish if the costs of their initial preferences are increased. In practice, it can proceed in at least three ways. First, it can be directly focused on a group of whom one disapproves: the constant breaking of a company's windows increases their insurance charges, for example, and might lead them to reconsider their actions. Second, it can be indirectly focused on them: protestors might seek, that is, to make it more difficult in various ways for people to do business with corporations who behave in a manner of which they disapprove. Or, third, it can be focused on the state or broader society itself: protestors might thus try to increase the costs on third parties, holding them to ransom, as it were, until those third parties themselves turn on the objects of the protestors' ire and get them to change their ways. Whichever of these three forms it takes, though, cost-levying is a relatively simple political device, one premised on the assumption that the incentive structures for particular courses of action can be directly altered by a politically engaged group of citizens if those citizens target their behaviours in the right sort of way.⁹

In the world of political theory, all deliberative democrats are firm in their opposition to politics of this sort. Their most frequently articulated objection to it is rooted in the conviction that it is a form of politics that reflects existing imbalances in the distribution of political power. Amy Gutmann and Dennis Thompson thus argue that cost-levying is a form of the politics of 'bargaining' that 'accepts the current distribution of resources and power as a baseline, the place to begin the negotiations' (2004: 114, a point repeated on 148–9). As such, 'even under unjust conditions' the politics of 'deliberation' is preferable to direct cost-levying in that it 'can make a... positive contribution to the elimination of injustice' (ibid.: 42). Joshua Cohen similarly rejects this form of political endeavour because 'inequalities in effectiveness' of cost-levying are likely to correspond to 'underlying social or economic inequalities in society' (1996: 107). Politics as cost-levying, then, appears to reward those who have money, time, status and wherewithal, and disempower those who do not. Seen as such, the value of political equality – the notion that each should count for one and none for more than one – renders it an inappropriate form of democratic political activity. Put most simply, the more time, resources and skill one has the more one is likely to be able effectively to levy costs but if one believes in political equality one cannot consistently believe that initial inequalities should be the determinants of political decision-making.

All that seems relatively straightforward at first glance; it is difficult to see how one could remain a democrat of any sort and explicitly reject the idea of political equality or question the notion that one's political influence should reflect the force of one's cause rather than size of one's wallet. But, on closer inspection, the inequality objection seems rather an odd one in this case. For the resources at the disposal of the protesting groups under examination here – say those opposed to animal experimentation or to the trade in meat products – clearly do *not* surpass, or even equal, those of their opponents. Indeed, in this case the protestors are more than likely to be vastly less wealthy than the governments, supermarkets, universities or biomedical researchers that they take on. They are outnumbered and out-resourced in all sorts of ways, lacking access not only to financial resources but also to the formal and informal mechanisms of political power. It is not animal rights activists who are invited to lunch with civil servants and government ministers, nor is it animal rights activists who write policy documents or university research protocols. Rather, it is those who are committed to animal experimentation of various sorts who inhabit these particular corridors of power. Indeed, if this is politics as David and Goliath struggle, then it is the protestors who are the Davids and their opponents who are the Goliaths.

It is necessary to ask why, then, the animal rights activists appear committed to a style of politics which ill-suits their position *vis-à-vis* their opponents. Why do they not choose to advocate the politics of deliberation which would explicitly seek to level the playing field and allow them to engage in a process of reason giving in ways that are designed to reduce the impact of existing resource differentials? One possible answer is that animal rights activists of the sort we are concerned with here are simply incapable of engaging in the sort of reason-giving politics that deliberative democrats advocate. Seen this way, the protestors are best understood as unreasonable, even 'fundamentalists'. If this were the case, they would be incapable of offering explanations for their particular political protests, or at least incapable of doing so in terms that their fellow citizens might be expected to understand or endorse. The politics of 'cost-levying' is thus the only route available to them, even if it is a route which is unlikely to prove productive for people as weakly positioned in the political hierarchy as they are.

But there is another answer available too. That answer begins with the recognition that small, or relatively unpopular, groups of political activists must find ways of placing their issues on the political agenda; they must somehow find leverage out of their otherwise uninfluential political position. In some cases, they might do so simply by explaining their case particularly well: by somehow persuading their fellow citizens to change their minds and thus change their actions by the force of their arguments or the power of their reasons. But these cases are always likely to be rare if only because citizens of all sorts are simply unlikely to change their minds and behaviours very often and they are particularly unlikely to change their minds in ways that require a

significant reshaping of their fundamental worldviews or their ways of life. It is very difficult – or very costly, one might say – for citizens to alter established patterns of behaviour or to question deeply held views or cognitive styles. If recent political and social science has taught us anything, it is that such ‘stickiness’ is a central characteristic of the politics of modern democratic societies (see, for example, Pierson 2000).

The task facing all relatively small or (initially) unpopular groups, therefore, is to find a means by which to at least kick-start the process of reconsideration; a means which is effective, that is, in leading others to consider alternative modes of thought or behaviour to those to which they are habituated. It is in this regard that a particular set of cost-levying strategies have become the hallmark of an enormous number of relatively poorly situated political groups. At essence, such strategies are efforts to alter the cost-benefit calculation of other citizens by undermining the advantages that accrue to habituated patterns of thought and behaviour. Such a general strategy often takes a fairly precise range of forms. One such form is what the political sociologist Sidney Tarrow has called the tactic of ‘disruption’. Disruption, as Tarrow summarizes, is a form of political behaviour that intentionally seeks to obstruct ‘the routine activities of opponents, bystanders, or authorities’ and thus forces ‘them to attend to protestors’ demands’ (1998: 96). Activists thus seek to get their issues on the agenda, and lead others at least to think seriously about their concerns, on this model by getting in the way of the normal day-to-day behaviour of a range of other citizens, unsettling their practices and thus waking them up to the protestors’ existence and their demands. As Habermas has suggested, the ‘activated periphery’ often need to introduce issues ‘via parliamentary (or judicial) sluices . . . in a way that *disrupts* the latter’s routines’ (1996: 358).

Rendering the expected unexpected in this way enables two advantages to follow: attention is drawn to the protestors’ concerns and the costs of continuing with the currently acceptable practice are increased. The appeal of such a tactic lies, then, in the fact that it is capable of reducing the advantages that accrue to a particular mode of thought or action simply by virtue of citizens’ habituation to that mode. It thus appeals to the small or the initially marginalized precisely because it enables them to place their favoured options on a more equal footing with those of their more established counterparts. What all this goes to show is that, if political equality was indeed the primary consideration of deliberative democracy, then particular cost-levying behaviours, such as disruption, should often be advocated rather than condemned. Many groups turn to the tactic, after all, precisely because they can find no other way of getting their opinions listened to, or of advancing their cause, because they suffer as a result of currently existing political inequalities, especially inequalities brought about due to the habituation of citizens to particular ways of being or modes of thought.¹⁰ As John Medearis has recently argued, political strategies of the disruptive kind are often specifically ‘oriented towards transforming [the] unequal social power-relations that disadvantage

some groups, hindering their equal inclusion in political contention and undermining democracy' (2004: 69). If political equality is really our concern, therefore, then empowering activists to challenge the advantages of entrenched patterns of behaviour would appear to be a desirable rather than an undesirable form of democratic political action.

The politics of moral disagreement

Cost-levying does not exhaust the animal rights protestors' strategic repertoire, for in addition to 'direct action' most animal rights activists also engage in more explicitly 'persuasive' forms of political activity. Animal rights protestors are frequently to be found on street corners explaining their views and attempting to build coalitions of support for their recommended reforms, they make frequent appeals through the mass media and the internet, and seek to utilize the normal range of deliberative forums to shape on-going dialogue and debate when the issue of animal experimentation breaks into mainstream politics. This use of potentially 'persuasive' approaches to politics, however, does not make them 'deliberators' in the recognized sense. For, as they engage in dialogue, they tend to employ a range of rhetorical strategies that would not endear them to deliberative democrats. Most notably, they are often to be found dramatically maximizing the differences between their position and the position of their rivals. They do not seek compromise or agreement nor do they even often outline criteria for evaluation that could be shared with their opponents; they aim, instead, to demonize what they see as unacceptable practices in order, as the Animal Liberation Front suggest, to 'dramatize issues and place them before the public when they otherwise would be ignored'.¹¹ And they are often remarkably effective at so doing.¹²

Such a strategy stands in sharp opposition to the norms advanced by most supporters of deliberative democracy. In outlining the ways in which deliberative democratic politics should proceed, and the ways in which it is to be further differentiated from politics as a process of cost-levying on opponents, the theorists of deliberative democracy are usually to be found demanding that democratic practitioners cultivate certain dispositions towards their political opponents, dispositions which incorporate the need to foster an 'enlarged mentality' or to 'economize' on moral disagreement with rivals. For Joshua Cohen this disposition is to regard one another as equals, and to argue 'in terms of considerations that others have reason to accept'. This in turn affects the kinds of reasons that can be put forward in an 'idealized' deliberation – only those that are 'compelling' to others; otherwise reasons can be rejected as unacceptable (Cohen 1996). Even more radical deliberative democrats, such as Seyla Benhabib, are to be found calling for an 'enlarged mentality', which involves 'reasoning from the standpoint of all involved' (1996: 72). Graham Smith similarly notes the deliberative democrats' demand

for enlarged mentality, claiming that it 'entails a degree of moral courage to appreciate the force of arguments offered by people with whom we disagree' (2003: 60).

Of all the leading deliberative democratic thinkers, though, it is Amy Gutmann and Dennis Thompson who have done most to advance this sort of dispositional demand. In their latest contribution, *Why Deliberative Democracy?* (2004), Gutmann and Thompson place considerable emphasis on what they call an 'economy of moral disagreement'. This 'economy' is understood in two ways by Gutmann and Thompson. First, it requires that deliberators seek to minimize the distance between their own moral position and that of their opponents. As Gutmann and Thompson put it, in seeking to minimize disagreement and maximize political agreement we should 'affirm that we accept significant parts of the substantive morality of fellow citizens to whom we may find ourselves deeply opposed' (2004: 89). In other words, deliberators should remind themselves that even when they have vehement differences with their fellow citizens they nonetheless share many moral assumptions and beliefs as well. This leads to the second aspect of the idea, which involves an injunction that an opponent's views on issue one particular issue should not affect how they are treated across any of a range of other issues. This second aspect is a demand for the separation of spheres of moral concern, rather than the minimization of difference over a particular moral dilemma *per se*. It implies that, if you and I disagree fundamentally about, say, abortion, that should not affect our relationship with regard to educational opportunities, equality before the law, access to health care and so on.

These two versions of 'the economy of moral disagreement' are, of course, analytically distinct: neither logically implies the other. Citizens may seek to minimize their moral differences with each other on issue x but allow this disagreement to bleed over into differential treatment of each other according to matters y and z . Alternatively, they may compartmentalize in accordance with the demands of the second version but actually seek to maximize their moral disagreement with each other on issue x itself. In developing their account, Guttmann and Thompson generally emphasize the importance of the first version, arguing that one of the aims of democratic deliberation is to foster a 'politics of mutual respect' and that the possibilities for such respect are undermined by polarized moral argument. Nonetheless, as Gutmann and Thompson note, the politics of mutual respect is 'not always pretty', and in any democracy there will be times when citizens will feel it necessary to make 'extreme and uncompromising statements' in order to get their points across. Such statements operate some distance away from the principle of the economy of moral disagreement (even if they may not take us all the way back to cost-levying), yet Gutmann and Thompson believe they are occasionally justified. Citizens are permitted to polarize their disagreements with other citizens, they contend, if, and only if, in doing so they draw attention to a 'legitimate' position which would otherwise be 'ignored' and if they also 'promote mutual respect in the long run' (2004: 89).

Such a response, however, raises a number of further questions. Most worryingly, it remains unclear what constitutes a 'legitimate' position for which polarizing forms of argument are justified. How can those considering whether or not to engage in non-deliberative forms of politics know, in advance, that what they do will 'promote mutual respect in the long run' or 'lead to future occasions for deliberative criticism of injustice'? Such questions are particularly troubling for deliberative democrats, because legitimacy is generally itself to be derived from public deliberation on their account. The whole thrust of Gutmann and Thompson's argument against 'perfectionist' liberals, for example, relies upon a distinction between political and private morality by which the former is crucially dependent upon a notion of public justification (2004: 43–5). It follows that we cannot determine what a 'legitimate' political position is without the public justification that comes about as a result of deliberation, and therefore there cannot be, in the political sphere, an *a priori* 'legitimate' position that would 'otherwise be ignored' if it was not promoted by 'extreme' views. If there are no such 'legitimate' positions, but merely positions, prior to deliberation, then the supporters of such positions could never know whether they would be justified in employing non-deliberative means. The public justification of such a position is precisely what is likely to be at issue under circumstances of public moral disagreement.

If the 'legitimacy' of the position does not help then perhaps the interest in promoting mutual respect in 'the future' might do the job. Indeed, it is a constant refrain of much deliberative theory that non-deliberative means may be justified when they 'promote mutual respect in the long run', or, as with cost-levying, 'lead to future occasions for deliberative criticism of injustice'. If, therefore, protestors could be sure that such outcomes will prevail, then it might make sense for deliberative democrats to say that they have justification for using non-deliberative means now. There remain, however, serious difficulties with this position too. In particular, it appears to place an insuperable epistemological barrier between the protestors and the *justification* open to them for employing non-deliberative means.¹³ It will surely, that is, be almost impossible for any individual or group to be certain that a particular form of non-deliberative action taken now will lead to increased opportunities for deliberative criticism and/or mutual respect between parties in 'the long run'. Furthermore, if non-deliberative means of political protest are likely to lead to more mutual respect in the future, then the general argument for an 'economy of moral disagreement' becomes all but redundant, as it has to be the case for Gutmann and Thompson that non-deliberative forms of politics must be expected, under most conditions, to lead to a decline in mutual respect.

Such an argument brings us to a more fundamental question still: when activists are considering whether or not to employ non-deliberative means to promote a political cause why should they accept the need to 'promote mutual respect' or 'lead to future occasions for deliberative criticism of injustice' anyway? And if these criteria themselves can be undermined, then so is the case for adopting the economy of moral disagreement as a principle by which

to evaluate citizen behaviour. To begin to address this question, we need to consider why a political agent might consider rejecting the economy of moral disagreement.

As we noted at the outset of this section, violations of the principle occur during what might loosely be called 'deliberation' itself: an activist who rejects the economy of moral disagreement but who stops short of cost-levying seeks simply to put their arguments in terms that do *not* seek to minimize moral disagreements but might, rather, seek to maximize them. Gutmann and Thompson suggest that agents might choose to act in this way because they are pursuing sectional interests, rather than seeking the common good, and the naked pursuit of sectional interests is, of course, precisely what deliberative democracy is designed at least to handicap, if not eradicate, from democratic politics. The failure of sectional interests to pursue their objectives in terms of the common good entails that, for deliberative democrats, they fail the test of legitimacy. As with cost-levying, however, there are more interesting reasons why some groups may choose to pursue their objectives by maximizing rather than minimizing moral disagreement. Where citizens are making what they see as a moral case (understood in terms of the 'public good') but where the values being promoted are sufficiently at odds with dominant moral norms, 'shock tactics' may well be thought to be an effective medium of communication. Animal rights activism is a good example of exactly this kind of moral position. The moral position being put forward is highly controversial; it challenges extremely deeply entrenched moral views about the ethical status of animals. Why should potentially polarizing methods not be endorsed, then, merely because they are seen as effective ways of changing how people think, particularly when the very issue of what constitutes an 'injustice' as at stake? It might, after all, be only if the question of justice in the relationship between humans and animals is raised in the starkest possible terms that there can ever be a possibility of 'injustice' in the relationship being recognized in the future. And protestors today can never be sure that such an outcome will follow.

Animal rights protestors' tendency to draw parallels between our current treatment of animals and the Nazi Holocaust exemplifies exactly such a tactic.¹⁴ The analogy is designed to shock and confront, not to pursue common moral ground with 'animal abusers'. Many people will doubtless find a comparison between the raising of livestock for meat and the murder of millions of human beings reprehensible, but for the animal rights protestors this is precisely the desired effect. The comparison forces people to think about livestock farming in a way they never would have before if they had not been presented with this image. It is not promoted in order to minimize the moral difference between animal rights activists and the wider public, but to maximize and highlight it. The reaction of one reader who found *Eternal Treblinka* 'a mind-shaking, life-changing book' is exactly what animal rights discourse is intended to foster.¹⁵ Furthermore, such a move is not conducted in order to promote deliberation in the 'long run' but simply to change the way people think about a moral problem and bring them closer to what the animal

rights activists see as the 'correct' view. It is hard to see why this approach should be considered unjustifiable *merely* because it does not have the explicit aim of fostering future deliberation.

In contrast with such a position, a politics which took the dispositional demands of deliberative democrats seriously would encourage a strongly conservative bias in debates about political morality, limiting the possibilities for transformative forms of politics. If those who seek to transform public morality are limited to making their public case in terms most acceptable to their opponents, they will have to adopt a reformist agenda, seeking ameliorative changes to existing institutional systems. Animal rights activists can and do make the argument, for example, that laboratory tests on animals for pharmaceutical purposes are frequently a waste of time and resources, yielding few results that are actually beneficial. This argument brings them onto the ground occupied by those who defend animal experimentation, suggesting that it may be legitimate if the benefits to humankind are sufficiently high. It is unclear, however, why animal rights activists should be expected to occupy this territory. Why, instead, should drugs companies not be forced to argue in terms of justice in the treatment of animals? In other words, it surely has to be asked *who* it is that has to practise the economy of moral disagreement. The conventional morality sediments into the institutions and practices of a society, and thus it will always be those seeking radical change in political morality who will be forced onto the territory of those seeking to defend the status quo (see Scott, 1990); the relatively powerless must conform themselves to the dispositional demands of deliberative democracy, and that takes us back once again to the necessities of disruption and to the problems inherent in the argument from political equality. Putting all of that another way, the economy of moral disagreement penalizes the democratic innovator and rewards the democratic compromiser; it is not a principle that radicals such as animal rights activists can be expected to endorse.

The ideal and non-ideal circumstances of democratic politics

The above discussion raises a fundamental question regarding the divide between the theory of democratic deliberation and the approach of activists in 'actually existing democracies'. We have suggested that those, like animal rights activists, who are seeking radical reorientations in public policy and political understandings have good cause to turn to the politics of cost-levying and the rhetoric of profound moral disagreement in order to try to overcome the challenges they face in the contemporary political arena, even when such a politics clashes with the demands and expectations of deliberative democrats. We have contended, to put that another way, that animal rights activists should not feel the need to adhere to the prescriptions that deliberative democrats lay down when they describe good (or even 'acceptable') democratic practice.

One possible objection to this line of thought is to suggest that there is a categorical distinction to be drawn between the ideas of activists labouring under non-ideal, real-life, political circumstances and the recommendations of normative political theorists seeking to construct an 'ideal theory' of democracy. Indeed, such a distinction often features prominently in deliberative democratic writing. For Joshua Cohen and his colleagues, then, it is only under idealized conditions that citizens are bound to make arguments that 'others have reason to accept' and, as such, it is only under such ideal conditions that we can expect arguments such as those put forward by animal rights campaigners to be treated on their merits, rather than excluded from consideration due to imbalances in power and wealth. As such, it may appear that the apparent contradictions between the recommendations of deliberative theorists and the beliefs and practices of animal rights campaigners melt away, with the former addressing a world that has yet to be constructed.

Compelling as this concern is, however, there are several reasons why the challenge that animal rights activists pose to deliberative democrats might be thought to be rather more profound than they admit. Those reasons concern the uses of non-ideal theory in much contemporary deliberative democratic political theory, the nature of the non-ideal/ideal distinction itself and the role that disruptive, non-deliberative politics might continue to play even in an 'ideal' political environment. A closer examination of the power of the ideal/non-ideal distinction to dispel the difference between the two groups is thus required.

To open this analysis, it is important to note that if deliberative democrats wish to place normative weight upon the ideal/non-ideal distinction then they need to be clear and consistent in its use. If moves away from the ideal are held to release participants from the normative constraints of democratic deliberation, then the extent to which this is so and the degree to which such normative constraints still apply need to be stated systematically. With a few notable exceptions, however, such systematic renderings are extremely rare (see, however, Fung 2005). Indeed, quite to the contrary, deliberative democrats are far more often to be found collapsing the distinction. Perhaps the most parlous recent example of such a collapse is to be found in Gutmann and Thompson's treatment of the public justifications for the 2003 Iraq war: justifications which are described as an example of 'imperfect' deliberation, consistent with many of the strictures of their theory because the US government provided reasons for its chosen course of action that others could have accepted (Gutmann and Thompson 2004: 2). Such a claim is, of course, remarkable at a number of levels. Quite apart from the depressing prospect of having to rediscover Marx and Engels' theory of ideology in order to understand how 'reasons' can sometimes work as a mask for rather less benign 'interests', it is clear that Gutmann and Thompson suggest that their theory has application in the actual world of US politics as it exists in the present, rather than simply in some idealized future. Even under conditions where the reasons for going to war are based on secret intelligence, the validity

of which no opponent is allowed to assess, the justificatory discourse of the war in Iraq is held to constitute an example of deliberation in action. There is no reason to suppose, therefore, that the discourse around animal rights (generally more open than that surrounding intelligence) is not also to be held to be such an example of deliberation, and such a judgement should, of course, lead deliberative theorists to suggest that animal rights activists should desist from practices such as cost-levying and the exaggeration of moral disagreement.

Despite such vagaries, deliberative democrats do nonetheless occasionally invoke the ideal/non-ideal distinction in order to give more leeway to protesting groups than standard deliberative recommendations would allow. Gutmann and Thompson thus insist that deliberative democracy does not entail that 'every political activity itself be deliberative' (2004: 56). Rather they suggest, as was indicated in the section above, that a wide variety of political strategies may be invoked in response to unfair circumstances as long as those strategies provoke 'better' deliberation in the long run. 'When non-deliberative politics are necessary to achieve deliberative ends', they thus conclude, 'deliberative theory consistently suspends its requirement for deliberation' (2004: 51; see too Medearis 2004: 69–71). Such an idea may owe much to Jurgen Habermas, who notes that it can require a 'long struggle for recognition' in order to get issues considered in the political realm and also that it 'is only through their controversial presentation' that 'such topics reach the larger public and . . . gain a place on the public agenda' (1996: 314, 381). It is possible, then, that, insofar as tactics such as 'disruption' succeed in placing issues on the table that had been unfairly excluded from consideration, they can indeed be supported by deliberative democrats, rather than rejected, and, as such, invocation of the ideal/non-ideal distinction could indeed narrow the apparent gap between non-deliberative activists and deliberative democrats.

For the activists, however, the difficulty remains on this account that the final goal of disruptive, non-deliberative activity remains an enhancement of deliberation itself. Disruptive tactics are thus desirable (or at least acceptable) when they both place issues on the agenda that might not otherwise be discussed and then give way to a reasonable discussion of the themes, at least in the longer run. It is here, of course, that the activist and deliberative democrat again part company. For the vast majority of animal rights protestors do not understand the role of their political strategies in terms simply of agenda-setting and what might be called deliberative initiation. They might be pleased to promote such a widespread discussion of animal rights and the morality of animal experimentation but they primarily understand their role rather in terms of the potential political *outcomes*. The strategy is not, therefore, one that is to be put aside when 'fairer' deliberation begins, but it is to be employed in order to help obtain a particular political goal. Put another way, as far as the activists are concerned the outcome of an end to animal experimentation might just as well be brought about in the disruption-followed-by-negotiation-followed-by-decision pathway as it could in the disruption-followed-by-deliberation-followed-by-decision pathway, and there is nothing essentially

less democratic in the former than the latter. Such an observation is crucially important for it illustrates that the essential difference between deliberative democrats and the activists under examination here is not undermined by efforts solely to equalize the political playing field and secure fair background conditions. Deliberative democrats remain committed to securing the final goal of better deliberation; animal rights activists do not.¹⁶

This, of course, begs the question of who is on the right side of this distinction. One way of pursuing that question, of course, would be to paint an entirely idealized picture of a polity and to ask whether even in circumstances like that activists could reasonably resist the deliberative imperative. This, however, is to allow the ideal theorists too much room for manoeuvre. There must be some limits on what it is useful to idealize away in this discussion for, if there were not, deliberative democrats could simply remove any of the conceivable obstacles to their argument and demand that we accept that deliberation would prevail in their (entirely fantasized) ideal condition. Such limits themselves are, though, notoriously difficult to set: one theorist's plausible ideal, after all, is another's helplessly utopian fantasy. Political theorists have, however, grappled with the issue a good deal in recent years. John Rawls, for example, delimits the realm of helpful 'ideal theory' in terms of a 'realistic utopia', where 'political philosophy is realistically utopian when it extends what are ordinarily thought to be the limits of practicable political possibility, and, in so doing, reconciles us to our political and social condition' (1999: 11). Habermas offers a similar understanding; approaching 'ideal' theory as a form 'methodological fiction' which enables us to identify the avoidable and the 'unavoidable' in what he calls 'social complexity' (1996: 287). The task, then, for such an ideal theory is to distinguish between those elements of our social and political order which are contingent on prevailing but alterable approaches and practices (and could thus conceivably be changed) and those things which are inherent in the nature of a social and political order *per se*. A useful ideal theory will constrain itself to the former category.

Once recognized as such, it appears that there are at least two elements of our inherent social and political condition that animal rights activists could employ in defence of the claim that non-deliberative strategies should be permitted even in (realistically) ideal circumstances. Those conditions are, first, the moral urgency (to at least some participants) of certain political questions and, second, the essential 'stickiness' of certain cognitive frames. Neither of these conditions will disappear simply by changing the fabric of political institutions, the distribution of wealth and opportunity, or even the prevailing political culture. And yet both provide ample reasons for activists to be wary of the deliberative democrats' demands.

The former is important because moral urgency places strain upon of the most important reasons offered by deliberative democrats for playing their particular version of the democratic game. Deliberative democrats of all stripes claim that democratic decisions, even where controversial, should be accepted,

and deliberative strategies rather than disruptive ones employed in opposition to them, at least in part because those decisions are revisable in the future. As Seyla Benhabib argues, a key defence of deliberative democracy's restrictions lies in the fact that there is an 'equal chance of all affected to initiate such discourse as deliberation' because '*no outcome is prima facie fixed* but [all] can be revised and subject to re-examination' (1996: 72). Habermas similarly suggests 'the fallible majority opinion may be considered a reasonable basis for a common practice until further notice, namely, until the minority convince the majority that their [the minority's] views are correct' (1996: 306; see too Rehg 1997; Gutmann and Thompson 2004: 6–7). In contrast, though, reference back to the parallels animal rights activists draw between the meat trade, vivisection and the Holocaust provides a clear account of why it might be considered unreasonable to be expected to 'wait' for public opinion to catch up with their position. For, if the moral equivalence between the treatment of animals and the Holocaust is taken seriously there is little reason why animal rights activists should patiently wait rather than engage in a more direct effort to shift the costs of political action or to exaggerate the moral case as they see it. A non-deliberative politics (if not an explicitly non-*democratic* one) is thus demanded for the activists by the urgency of the case before them. What remains controversial, of course, is the judgement as to the *actual* moral urgency of the issue at hand; some animal rights activists see a moral equivalence in the mass slaughter of animals and of human beings, most deliberative democratic theorists probably do not. But such deeply felt moral disagreements are likely to be inherent conditions of our social and political order, and are thus unlikely to drop away. A realistically utopian democratic politics, it is charged, will thus have to adapt itself to such deeply felt claims of urgency.

The second set of inherent conditions – those concerning the unavoidable stickiness of cognitive frames – brings us back to the arguments made in defence of cost-levying and the maximization of moral disagreement earlier. In any realistic utopia, that is, there will likely remain deeply entrenched, common frames of reference for thinking about things like principles of justice and there will also remain groups who wish to challenge those frames. As such, there will remain a case for resort to non-deliberative strategies even if opponents are rational, reasonable and committed to open deliberation. Imagine a future world where both the meat trade and animal experimentation are banned, and where it seems 'obvious' that (on, say, the view that animals are appropriate subjects of concern) animals should never be treated in the manner in which they were when these practices persisted. In such a world it may seem equally obvious that animal rights protestors, in seeking to push people's perceptions of justice beyond the prevailing human boundary, were as justified in using non-deliberative tactics as civil rights protestors and antebellum anti-slavery protestors were in their struggles. The point is, however, that such a view can never seem obvious *now*, precisely because animal rights protestors are pushing against entrenched views that are widely

accepted as unarguable 'common sense'. In order to challenge that entrenched view, non-deliberative politics may be necessary. In any 'realistic utopia' there will exist forms of conventional wisdom and widely shared cognitive frames that will inherently disadvantage groups seeking to present alternative conceptions of fundamental moral and political principles. Any theory of democracy that wishes to remain open to such transformative forms of politics, and which values some notion of genuine political equality in public debate, will thus have to be less normatively prescriptive than existing theories of deliberation, even in the ideal.

Animal rights and democratic political theory reconsidered

Animal rights activism is a movement that seeks to transform existing public morality and to impact on collective decision-making as it does so. The vast majority of people in the Western world are not yet vegans and do not object to the meat and dairy trades, yet animal rights activists encourage them to become so, and wish to employ a wide variety of political strategies order to help their cause. Our argument in this paper is not that such activists should necessarily succeed in their mission; we are ambivalent on that point. Rather, it is that they should not be expected to restrain their efforts by accepting the behavioural and dispositional limitations urged upon them by the theorists of deliberative democracy. This argument itself is derived from two interrelated commitments: a commitment to political equality and a commitment to radical innovation. Even in realistically 'ideal' circumstances, that is, there will be groups in society who wish radically to challenge prevailing norms, including prevailing understandings of justice and of the boundaries of inclusion, and there will be groups who suffer from disadvantage because of the very novelty of their ambitions. A decent theory of democracy, we contend, has to allow these groups effective voice; it has to ensure that conventional wisdoms do not predominate simply because they are conventional, and it has to ensure that the groups that challenge those wisdoms have some means of overcoming the disadvantages inherent in their distinctiveness.

Nor is this simply a requirement that deliberative democrats widen the forms of communication that they are willing to accept, as Iris Marion Young and John Dryzek have both otherwise persuasively argued (see Dryzek 2000: esp. 168–9; Young 1996: 120–35). For, in order to be genuinely open to 'the shock of the new', we argue, groups have to be able to employ a broad range of political strategies that may encourage people to abandon established patterns and see things in ways that they are not initially comfortable with. That, in turn, implies that groups must, at least occasionally, be permitted to employ strategies that are designed to change individuals' cost-benefit calculations and unsettle their established modes of thinking.

This is not, however, to endorse the 'agonistic' approach to democracy widely associated with deliberative democracy's most vocal critics, such as

Bonnie Honig, James Tully, William Connolly and Chantal Mouffe. For agonists, deliberative democrats' primary error lies in their apparent claim that the processes of deliberation could result in a substantial 'agreement' between citizens on matters of fundamental moral importance. As Chantal Mouffe outlines, the suggestion that 'a universal rational consensus could be produced by an undistorted dialogue... is only possible at the cost of denying the irreducible antagonistic element present in social relations' (Mouffe 1993: 140). Agonists are committed to rejecting such a suggestion. They find the idea of widespread agreement of this sort both unlikely and undesirable; it is unlikely because it overlooks the irreducible pluralism of value on questions of fundamental importance and it is undesirable because, even if such a consensus could be reached, it would have to come at the expense of the creative independence that gives so much value to individuals' lives in the modern world. Democratic politics, on this view, should be a politics that embraces disagreement and dissent, even in very vigorous forms, as it is only that kind of politics that reflects the real diversity that exists among the citizens of modern societies while also giving room for those individuals' creative flourishing. The 'main task for democracy', on such a view, is not to pursue agreement, but to learn to live with difference and even to enable such difference to enrich our lives. These thinkers, thus, wish 'to convert antagonism into agonism, enemies into adversaries, fighting into critical engagement', as John Dryzek has helpfully summarized, and a healthy democracy is the process which enables us to do just that (Dryzek 2005: 220; see too Stears forthcoming).

The difficulty with this argument from the perspective of activists such as those in the animal rights movement is, of course, its ambivalence on the issue of collective decision. Deliberative democrats, after all, are committed to the idea that processes of politics should be capable of forging a singular decision out of the multiplicity of views that currently obtains in modern society: it is precisely because states must *govern* that we need to be able to reach agreement on the questions that trouble us. In this regard, at least, animal rights activists appear closer to deliberative democrats than to their agonistic critics. They wish, after all, to see certain practices (such as vivisection) prohibited, not just discouraged, through vigorous debate and contestation and (at least in general) they also wish to see that prohibition reached through a recognizably democratic process, rather than through simple state coercion. Unlike agonists, therefore, these activists do long for the day when a particular form of consensus is reached, a consensus on the treatment of animals, and a new form of 'justice' promoted by the power of both public opinion and the state. The disagreement with deliberative democrats, then, flows solely from the contention that the behavioural limitations that deliberative democracy outlines present an unreasonable restriction on their political strategies. A more vigorous, contestatory approach to democratic politics is justified here not by any belief in the necessity of 'agonism' but by the demands of political equality and the requirement that innovative perspectives should be able to influence the decision-making process.

That leaves us, of course, with the question of precisely what kinds of democratic limitations are, or more importantly *should be*, acceptable to activists such as those in the animal rights movement. If these are movements which accept the necessity (indeed, the desirability) of democratic collective decision, and are not rightly to be categorized as ‘terrorists’ or ‘fundamentalists’ who wish to impose their views on others irrespective of others’ positions on the same questions, then they will need also to accept that democratic politics cannot be a politics of ‘anything goes’. A justification for direct action, cost-levying and the polarization of moral disagreement should not, that is, become a justification for indiscriminate action or political violence. A theory of democracy must involve the identification of some sort of behavioural limitation.

In many ways, the further identification of these limitations seems, of course, an enormous project; indeed, it would require the development of a new democratic theory itself. There are, however, two reasons to be optimistic that such a project could be completed. The first reason rests in the observation that the fundamental values of such a democratic theory are relatively easily identified. Such a theory would share the deliberative democrats’ belief in the importance of a democratic process that can lend legitimacy to collective decisions that are imposed on diverse populations, but it would diverge from deliberative democracy’s excessive behavioural limitations and ensure that groups can employ political strategies that can overcome the inequalities generated by the power of ‘conventional wisdom’. Such a democratic theory would, in other words, be informed by the values of political equality and radical innovation that have structured this entire discussion.

The second reason for optimism rests in the observation that much actual democratic politics has operated in precisely this way for generations. Democratic activists seeking to overturn well-established political perspectives, to craft alternative theories of justice, and to persuade their fellow citizens of the necessity of breaking with the values of the past, have long made recourse to a wide range of political strategies – including cost-levying and the polarization of moral disagreement – while also stopping short of insurrection, violence or indiscriminate intimidation. There is, as a result, an enormous store of political wisdom upon which we can draw as we seek to delineate a more reasonable set of behavioural limitations. Activists, such as those in trade unions, in the civil, women’s and gay rights movements, have, that is, long considered how far they should go in seeking to persuade their fellow citizens. They have not, of course, always made the right decisions: their evaluative judgements on political strategy could not always have been just. But then, as we have seen in this article, the deliberative democrats who dominate much of the relevant work in political theory today have gone even further awry. Democracy demands that we ensure that all citizens are granted an equal chance to challenge the conventional wisdoms that govern our society: democratic activists such as those in the animal rights movement have properly recognized that fact, deliberative democrats have not. As we

seek to understand how citizens should behave in a democratic political order, therefore, it is time that political theorists stopped demonizing activists and the strategies they employ and started examining the store of actual practical wisdom from democratic political movements of the past and of the present. It is from that wisdom that a viable democratic theory is most likely to emerge.

Acknowledgements

We would like to thank the following for insightful comments on earlier drafts of this paper: Tony Burns, Michael Freedon, Avia Pasternak, Lizzy Pellicano, Matthew Rendall, Andrew Robinson, Federico Varese, Stuart White and the editor and anonymous referees of *Economy and Society*. We also thank all those who participated in the conferences and workshops at which earlier versions of this paper were delivered.

Notes

1 See too Jim Giles, 'Militant animal rights activists trigger British law change', *Nature*. Available at: <<http://news.nature.com//news/2004/040802/430597b.htm>>.

2 See, for example, the testimony of John E Lewis, Deputy Assistant Director, Counterterrorism Division, Federal Bureau of Investigation to the Senate Judiciary Committee, 18/5/04. Available at: <http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_senate_hearings&docid=f:98179.wais>.

3 For overviews of the animal rights movement and their ideas, see Francione (1996) and Garner (1998).

4 Steve Best, 'The son of patriot act and the revenge on democracy'. Available at: <http://www.animalliberationfront.com/Philosophy/Legal/son_of_patact.htm>.

5 Quotes from Best (ibid.: 3, 5, emphasis added).

6 *The Credo/Guidelines of the Animal Liberation Front*. Available at: <http://www.animalliberationfront.com/ALFront/alf_credo.htm> (accessed 6April 2006).

7 Melanie Arnold at <http://www.nocompromise.org/issues/o5flames_mel.html>.

8 For a discussion on movement diversity, see Della Porta and Diani (2001: esp. 33–6).

9 For recent examples of such cost-levying practices, see the debate over primate experimentation labs at the Universities of Oxford and Cambridge, described at <<http://www.typead.com/trackback/463789>> and Payne (2004). See also the John E. Lewis testimony to the Senate Judiciary Committee cited in note 2.

10 Which is not to suggest that all groups who turn to 'disruptive' tactics do so because they suffer from the consequences of significant political inequalities.

11 Animal Liberation Front, FAQs. Available at: <www.animalliberationfront.com/ALFront/ARActiv.htm>. See, too, the discussion in Gillan (2002).

12 For an excellent overview of this tendency, see Owen (2005).

13 It is important to understand that this is a question of justification, not motivation. Nobody is arguing that protestors should be motivated to promote future deliberation when they engage in protest action, but for deliberative democrats this is the line of justification that is open to them for doing so.

14 See, for example, Patterson (2002) and Davis (2004). Although the word 'holocaust' has etymological roots in the immolation of sacrificial animals, the parallels being drawn in this literature are to the mass murder of human beings.

15 Available at: <<http://www.amazon.co.uk/exec/obidos/ASIN/1930051999/qid%3D1115907541/202-9437706-4073424>>.

16 Such a view has been crucial to political activists of many different kinds for generations. As Martin Luther King observed 'you are quite right in calling for negotiation. Indeed, this is the very purpose of direct action. Nonviolent direct action seeks to create such a crisis and foster such a tension that a community which has constantly refused to negotiate is forced to confront the issue' (King 1963). Of all the deliberative democrats, it is again Jurgen Habermas who comes closest to endorsing this strategy. Habermas is still, however, a little unclear as to whether such an approach is acceptable in 'ideal' circumstances as well as 'non-ideal' ones. In considering Habermas' position it is vital to recognize his crucial distinction between acceptable forms of politics for the informal public sphere, where dramatization and disruption are acceptable, and for the formal democratic sphere, where they generally are not. It is also important to recognize that, despite this distinction, Habermas does always retain room for political 'negotiation' and bargaining, even in the ideal, as long as the conditions of bargaining are fair. Such a view clearly places Habermas much closer to the position of the activists than most Anglo-American political philosophers, although the dispositional demands of his discursive democracy may still present problems to many actual activists. For a close discussion of this theme, see Chambers (1995: esp. 247).

References

- Benhabib, Seyla** (1996) 'Toward a deliberative model of democratic legitimacy', in S. Benhabib (ed.) *Democracy and Difference: Contesting the Boundaries of the Political*, Princeton, NJ: Princeton University Press.
- Blair, Tony and Blunkett, David** (2004) *Animal Welfare – Human Rights*, London: HMSO.
- Chambers, Simone** (1995) 'Discourse and democratic practices', in S. K. White (ed.) *The Cambridge Companion to Habermas*, Cambridge: Cambridge University Press.
- Cohen, Joshua** (1996) 'Procedure and substance in deliberative democracy', in S. Benhabib (ed.) *Democracy and Difference: Contesting the Boundaries of the Political*, Princeton, NJ: Princeton University Press.
- Davis, Karen** (2004) 'A tale of two holocausts', *Animal Liberation Philosophy and Policy Journal* 11: 1–20.
- Della Porta, Donnatella and Diani, Mario** (2001) *Social Movements: An Introduction*, Oxford: Blackwell.
- Dryzek, John** (2000) *Deliberative Democracy and Beyond: Liberals, Critics, Contestations*, Oxford: Oxford University Press.
- (2005) 'Deliberative democracy in divided societies: alternatives to agonism and analgesia', *Political Theory* 33: 218–42.
- Fish, Stanley** (1999) 'Mutual respect as a device for exclusion', in S. Macedo (ed.) *Deliberative Politics: Essays on Democracy and Disagreement*, Oxford: Oxford University Press.
- Francione, Gary L.** (1996) *Rain without Thunder: The Ideology of the Animal Rights Movement*, Philadelphia, PA: Temple University Press.
- Fung, Archon** (2005) 'Deliberation before the revolution', *Political Theory* 33: 397–419.
- Garner, Robert** (1998) *Political Animals: Animal Protection Politics in Britain and the United States*, New York: St Martin's Press.
- Gillan, Tony** (ed.) (2002) *Animal Experimentation: Good or Bad?*, London: Hodder Murray.

- Gutmann, Amy** (1996) 'Democracy, philosophy, and justification', in S. Benhabib (ed.) *Democracy and Difference: Contesting the Boundaries of the Political*, Princeton, NJ: Princeton University Press.
- Gutmann, Amy and Thompson, Dennis** (2004) *Why Deliberative Democracy?*, Princeton, NJ: Princeton University Press.
- Habermas, Jurgen** (1996) *Between Facts and Norms*, Cambridge: Polity Press.
- King, Martin Luther** (1963) Letter from Birmingham Jail. Available at: <<http://www.almaz.com/nobel/peace/MLK-jail.html>>.
- Mansbridge, Jane** (1996) 'Using power/fighting power: the polity', in S. Benhabib (ed.) *Democracy and Difference: Contesting the Boundaries of the Political*, Princeton, NJ: Princeton University Press.
- Medearis, John** (2004) 'Social movements and deliberative democratic theory', *British Journal of Political Science* 35: 53–75.
- Mouffe, Chantal** (1993) *The Return of the Political*, London: Verso.
- Owen Ed** (2005) 'The dangers of cuddly extremism', *New Statesman* 12 September: 20–1.
- Patterson, Charles** (2002) *Eternal Treblinka: Our Treatment of Animals and the Holocaust*, New York: Lantern Books.
- Payne, Stewart** (2004) 'Animal rights protest to target Oxford lab', *Daily Telegraph* 22 March.
- Pierson, Paul** (2000) 'Increasing returns, path dependence, and the study of politics', *American Political Science Review* 94: 251–67.
- Rawls, John** (1999) *The Law of Peoples*, Cambridge, MA: Harvard University Press.
- Rehg, W. S. J.** (1997) 'Legitimacy and deliberation in epistemic conceptions of democracy: between Habermas and Estlund', *The Modern Schoolman* 74: 355–74.
- Scott, James** (1990) *Domination and the Arts of Resistance: Hidden Transcripts*, New Haven, CT: Yale University Press.
- Shapiro, Ian** (1999) 'Enough of deliberation: politics is about interests and power', in S. Macedo (ed.) *Deliberative Politics: Essays on Democracy and Disagreement*, Oxford: Oxford University Press.
- Smith, Graham** (2003) *Deliberative Democracy and the Environment*, London: Routledge.
- Stears, Marc** (forthcoming) 'Liberalism and the politics of compulsion', *British Journal of Political Science*.
- Tarrow, Sidney** (1998) *Power in Movement: Social Movements and Contentious Politics*, Cambridge: Cambridge University Press.
- Young, Iris Marion** (1996) 'Communication and the other: beyond deliberative democracy', in S. Benhabib (ed.) *Democracy and Difference: Contesting the Boundaries of the Political*, Princeton, NJ: Princeton University Press.
- (2001) 'Activist challenges to deliberative democracy', *Political Theory* 29: 670–90.

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