

# **Activism, Inclusion, and the Challenges of Deliberative Democracy**

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## Introduction

ON AUGUST 9, 2014, Michael Brown, an unarmed Black eighteen-year-old, was shot and killed by a white police officer in Ferguson, Missouri. Responding to a report of a minor theft from a QuickTrip convenience store, the officer stopped Brown in the street. After a brief exchange, he shot at Brown six times: first from inside his cruiser and then in the street after a short pursuit. Witnesses stated that Brown had his hands in the air when the officer fatally shot him, accounts that led to an FBI investigation of the officer's actions. With Brown's body left in the street for four hours midday in the August heat, crowds gathered, and protests and government responses began. By the time the National Guard withdrew from Ferguson almost two weeks later, the city had seen numerous protests, rioting, and looting. Local police imposed a curfew and deployed officers in riot gear. The police arrested over 150 people, largely for participation in peaceful protests and on "failure to disperse" charges.<sup>1</sup> These events drew significant and sustained national media attention, strengthening and popularizing the activist movement Black Lives Matter (BLM), which Patrisse Khan-Cullors, Alicia Garza, and Opal Tometti formed in 2013 in response to the acquittal of George Zimmerman, who in 2012 shot and killed Trayvon Martin, another unarmed Black teenager.<sup>2</sup>

The widespread media attention, BLM's cementing into the national discourse, and subsequent investigations into police brutality make the Ferguson protests, and BLM itself, particularly relevant for deliberative democracy. As one of many activist examples I examine here, BLM is part of a dialogue of the type that deliberative democratic theorists aim to capture with the recent move to evaluate deliberative democracy's inclusivity and success in a wide social and political context, a macro context that highlights protest for its contributions. As I demonstrate, BLM illustrates the democratic and justice-based value of activism while simultaneously exposing the limited ways in which deliberative democratic theory engages with activists. The recent "systemic turn" embraced by theorists attempts to expand the scope of deliberative democracy to better include activism, but it does so, I argue, in ways that significantly undervalue contestation and fail to challenge deliberative democracy's oversight of challenges to democratic engagement.

The systemic turn is broad in scope, moving away from examining how well (or poorly) deliberative democracy might work in relatively small instances of deliberation and shifting to macro deliberations, which are far more flexible than micro deliberations in evaluative criteria. These “deliberative systems” take an expansive view of the various ways in which democratic deliberation might, and should, work. They focus on a wide variety of activities and institutional arrangements that perform differing tasks, only some of which are explicitly deliberative. As both a normative approach that offers expansive and diverse understandings of inclusion and deliberative democratic engagement, as well as recognition of the real-world contexts in which deliberative democracy unfolds, deliberative systems consider how micro deliberations, decision-making bodies, institutional actors, activists, and larger publics might fit together. Collectively, these produce deliberative systems, which are multiple, may overlap, can function in a number of ways, come in lots of different sizes, and operate in a range of contexts. Indeed, their intentional flexibility and responsiveness to a variety of concerns, contexts, participants, and methods of participation are part of what gives deliberative systems their appeal. Their move to embrace activism is lauded as a strength. As they evaluate deliberative democratic success on a macro level, the contributions of activists receive consideration for their ability to confront exclusions, include marginalized people, draw attention to gaps in dominant perspectives, and encourage democratic uptake.<sup>3</sup> In the deliberative context, deliberative democratic theorists identify the activism of groups such as BLM as positive examples of deliberative systems’ ability to respond to real-world contexts, to extend inclusion and accommodate activism, and to do so while strengthening the contributions of deliberative democracy.

In this book, I focus on activism, and the challenges it poses to deliberative democratic theory, rather than on protest. I do so for several reasons. First, activism has a far-reaching scope. It encompasses a wide range of actors, actions, and tactics. Whether conducted by individuals, groups, or organizations, it works to bring about social and political change. Some activists may seek change quietly, in ways that the general public may not recognize as “proper” activism, such as adopting (relatively) waste-free lives in an effort to live sustainably and to take climate change seriously. Some may use personal interactions (the “everyday life” activist) to speak out against injustices and will urge others to reconsider their views,<sup>4</sup> whereas some may engage in advocacy within, or directed at, institutions. Activism includes protest, ranging from writing letters to MPs or joining marches and other forms of mass assembly (usually with permits) to illegally blockading major transport routes and occupying property. These latter forms may fall under the banner of civil disobedience (an appeal

to the spirit of the law and democratic ideals in an effort to change unjust laws) or militant resistance. Tactics differ widely, and context – as well as activists’ dispositions – often determines how activists try to effect change. Moreover, they espouse a wide variety of end goals. Some concentrate on effecting change in their own lives, whereas others focus on social and political change, such as adjustments in laws and practices. They might urge coffee shops to sell fair trade coffee, attempt to ensure that sports teams are open to everyone, and work to prohibit the denial of services on the basis of race, sex, gender, sexuality, or ability. Some call for separation (as in women- and Black-only collectives), and some reject a state’s claim to legitimacy, as in Indigenous responses to settler states formed on unceded land. Activism’s broad scope captures the complexities of contestation: the fact that it appears in numerous everyday contexts demonstrates its prevalence and counters the widespread misperception that – in contrast with protest – it is atypical and only supplementary to more “acceptable” deliberative and democratic activities. A focus on activism also enables us to draw attention to systemic oppression, while emphasizing the significance of activists who call for an overhaul – or rejection of – particular systems.

Deliberative democratic theorists see protest in terms of its potential challenges to deliberative democracy, yet they ultimately emphasize its benefits to deliberative systems. Given the extensive range of activism, this narrow focus on protest illuminates the limitations of their approach to democratic contestation. Perhaps the intent of concentrating on protest actions that break the law, and that may be deliberately coercive,<sup>5</sup> is to provide a sufficiently robust response, negating the need to justify less contentious instances of activism. They may also view the scope of deliberative democratic politics as sufficient to exclude protest against the system itself, or at least to relegate it to a separate category, one that is outside their own democratic reform-based examination of protest. However, this approach misunderstands the nature of the challenge. Ultimately, deliberative systems aim to find a place, and a justification, for protest within a deliberative democratic system. This is the problem. The complexities and varying degrees of activism underscore the need to examine all kinds of activism (including protest) and, importantly, to do so from *outside* deliberative democracy’s framework, particularly outside one whose focus is inclusion. After all, given that some forms of activism reject broader frameworks themselves, they are incompatible with deliberative democratic theory’s impetus to find a “place” for activism within deliberative systems. The prevalence of activism, which this approach to democratic contestation highlights, also pushes theorists to recognize something that they do not address – namely, the widespread and systemic nature of oppression, which I foreground in my analysis of activism in, and against, the context of deliberative systems. It is not possible to respond properly

to protest – or, more accurately, to activism – without considering activism on its own terms and recognizing that deliberative systems are incapable of doing so, given their focus on including it.

In this book, I challenge praise for deliberative systems' expansive understandings of inclusion. I target what I call the "inclusion framework," the emphasis on bringing activists and a wider range of actors in general into deliberative systems. This does activism a disservice, and despite its intent, it does not enable deliberative systems to treat all people as moral and political equals. The problem is multi-layered. From a normative point of view, any appeal to incorporate activists into deliberative systems is inherently flawed, given that the systems are themselves characterized by oppression and injustices. Bringing activists into macro applications of deliberative democracy, when the background systems against which they take place devalue and oppress people, simply perpetuates devaluation and the inability to participate as equals. If the frameworks themselves are unjust, no amount of bringing people in can fix the problem. When it comes to analyzing what activism, as a distinct set of activities, contributes to democratic engagement, it becomes clear that activists need the space to confront unjust systems and practices from outside of, and in opposition to, these structures. Deliberative systems, as they attempt to bring activism into these very systems (though hoping to reform them), fail to recognize this. Lastly, as deliberative democratic theorists characterize deliberative systems and the contributions of activists, they fail to recognize the deep structural problems that activists must overcome to participate as equals. As I demonstrate, deliberative systems do not register the severity of this problem and are not conceptualized to dismantle it. Deliberative systems literature rarely mentions oppression, let alone offers a sustained analysis of systemic oppression. This presents a significant obstacle to the successes of deliberative systems.

These weaknesses are evident in the Ferguson example. On its face, the Ferguson protests and the influence of BLM illustrate the benefits of deliberative systems. The national media attention revealed that activism can initiate and sustain significant conversations. BLM made Michael Brown a household name, an important development in itself, given that Black people who are killed by the police receive little press coverage. Its critiques illustrate activism's capacity to draw attention to significant omissions in national dialogue. The complex ways in which activists participated in the Ferguson protests also demonstrated the flexibility of this macro approach: both younger and an "old guard" of activists were involved,<sup>6</sup> and their differing contributions fit easily into the multi-layered processes of deliberative systems. BLM is notable for its shrewd use of social media, with organizers harnessing the "organic, democratic growth" of these networks<sup>7</sup> to great effect. Other successes expanded space

for dialogue: when people complained that the protests were clogging highways and causing other “inconveniences,” Cleveland’s mayor, Frank Jackson, retorted, “That’s the inconvenience of freedom.”<sup>8</sup> The visibility of the protests also prompted the state governor to establish the Ferguson Commission, an independent panel composed of a majority of Black members, tasked with examining race relations and a number of associated social and economic issues. President Barack Obama made a public statement addressing the lack of trust between the police and the Black community in Ferguson.<sup>9</sup> Media attention and BLM critiques also led to data collection, including the *Washington Post* story “How Many Police Shootings a Year? No One Knows.”<sup>10</sup> The *Post* team won the Pulitzer Prize for National Reporting for its coverage of police shootings and for gathering data crucial in identifying the depth of the problem.<sup>11</sup> Collectively, these contributions and developments suggest that activism may, as a number of deliberative democratic theorists point out in their overview of deliberative systems, “begin to correct inequalities in access to influence by bringing more voices and interests into the decision-making processes.”<sup>12</sup>

However, the limitations of activism within deliberative systems are visible when we push on the wider context. One key aspect that deliberative systems do not address is how systemic injustices curtail what they can do. This problem cannot be explained away by suggesting that deliberative systems must be given time to unfold and *really* succeed. At its core, BLM criticizes institutional and systemic oppression. Increased publicity and media attention to institutional racism, a growing national dialogue, and practical steps such as gathering data to document institutional racism offer proof that activism plays an important role in deliberative systems. However, systemic racist biases substantially restrict the broader impact of BLM activism in the contexts of deliberative systems. The important roles that deliberative systems carve out for activism are inherently constrained by activism’s inclusion in (deeply racist) democratic systems that necessarily form the background to the deliberative systems that theorists construct. To begin with, the Ferguson protests captured national media attention, not because the media were galvanized by (yet another) fatal police shooting of an unarmed Black man or because Brown’s body was left lying in the street for hours, indeed, what caught attention was “the [white] community’s enraged response – broken windows and shattered storefronts” after the QuickTrip store was destroyed in the protests.<sup>13</sup> White anger – not at racist police brutality, but at local Black responses to it – turned the media’s gaze. Governments responded, but little changed: the white officer was later indicted, and though the Department of Justice’s investigation of the Ferguson Police Department found significant problems with police culture, little was done about it.<sup>14</sup> Even a statement from President Obama illustrated the continued dismissal of institutional

and systemic racism: he described the problem as one of “mistrust” between “the community” and the police,<sup>15</sup> a characterization that erased anti-Black racism and oppression and ignored the widespread and structural nature of the problem. In a number of areas, the pervasive anti-Black racism underscored by BLM fell out of view, illustrating a widespread resistance to taking anti-Black oppression seriously. Brown’s death was processed as a specific institutional failure instead of as a manifestation of a far more profound problem: systemic anti-Black racism. And even then, national media attention to the event – an unnecessary and racist police shooting, one instance among many in a long-documented history of institutional racist state violence – failed to galvanize institutional change. As Pulitzer Prize-winning journalist Wesley Lowery notes, “even after more than a year of protest and outrage, police nationwide were on pace to take more lives in 2016 than they had in 2015.”<sup>16</sup>

Several key organizers from Ferguson have since been shot to death in their cars.<sup>17</sup> A year after the formation of BLM, its founders pointed to activism’s shortcomings, stating, “if our goal is to change the culture, to even get people to believe in and speak the words Black Lives Matter, that first year is one of fits and starts.”<sup>18</sup> These limitations are traceable to anti-Black racism that is institutional, systemic, and highly resistant to change. Social and political responses mask the magnitude of oppression and the corresponding refusal among the powerful to identify and engage with pervasive racism and white privilege. As BLM activists assert, “there is something quite basic that has to be addressed in the culture, in the hearts and minds of people who have benefited from, and were raised up on, the notion that Black people are not fully human.”<sup>19</sup> This lesson is one that deliberative systems, with their emphasis on inclusion – into real-world systems where deliberative democratic theorists focus applications of deliberative systems principles – have yet to learn. If deep-rooted inequalities and oppression are not actively challenged, inclusion into deliberative systems – ones that map onto existing structural white privilege – cannot live up to the principle that everyone must be treated as equals. Deliberative systems do not successfully incorporate activism; instead, their inclusion framework obfuscates the foundational reasons for its existence.

This book is about activism, deliberative democracy, and the relation between them. It contests the dominant approach, in which activism is an essential element of a well-functioning democracy that takes justice seriously and as a remedy that can be applied if people are excluded from democratic processes. Although deliberative democratic theorists deal primarily with protest, I discuss their responses to activism, both to maintain consistency as I examine activist challenges to deliberative democracy and to demonstrate that, even if theorists

were to concentrate on activism, it would nonetheless suffer from the same limitations of protest, due to the inclusion framework of deliberative democracy. In the dominant account of activism, people have a right to engage in it, but its legitimacy and desirability arise in response to democratic failures. The problem with this view is its suggestion that given the right conditions of inclusion, we would not need activism. Even the deliberative systems approach, which recognizes the value of activism and encourages deliberative democrats to incorporate it, treats it as something that improves imperfect deliberative systems. In the systems themselves, the overwhelming response is either to value activism's additive contribution as it enriches inclusiveness or, for those who take a summative approach, to underscore the ways that activism changes the "timbre" of the systems, enhancing their democratic capacity as it does so.<sup>20</sup> Although deliberative systems view activism positively, they are also limited by the desire to incorporate it *into* themselves – albeit in new and improved forms. This response thus shares with previous iterations of deliberative democracy the suggestion that deliberative democracy benefits from amplified inclusion, whether this entails incorporating a greater number of people from many backgrounds, involvement in differing forums, and of diverse forums, or a broad range of goals and actions that are not explicitly deliberative and that aim at enhancing the democratic aspects of deliberative democracy.

The central concern of this book is what an emphasis on including activism means for deliberative democracy, which has made a major effort to treat all people as equals by extending meaningful and effective inclusion to marginalized groups. As valuable as this may be, the inclusion framework has a serious problem. Accompanying the tendency to bring activists, or their arguments, into micro deliberations or deliberative systems is a certain attitude about the relationship between activism and deliberative democracy. Here, activism has a distinct and important role: it is not, however, a *deliberative* role. Both micro deliberations and deliberative systems measure the value of activism via its contribution (whether additive or summative) to broader outcomes, ones that improve the quality of deliberative democracy but that typically do so by non-deliberative means.<sup>21</sup> These contributions are democratic in nature, and they are praised for making deliberative systems more inclusive as they interrupt exclusionary exchanges, bring in people and arguments, and highlight omissions and injustices. Systems-level contributions do a great deal to address critiques of deliberative democracy's shortcomings and to enhance the quality of deliberative processes. This inclusion framework makes activism an important part of deliberative systems, yet it unintentionally puts activists at a significant disadvantage. In many respects, they are distanced and alienated from the more explicitly *deliberative* and decision-making components of deliberative

systems – which is ultimately where evaluative power lies. This poses a problem, even if we acknowledge that deliberation is just one goal of deliberative systems.<sup>22</sup> Although we may view deliberation as one of many contributors to the health of deliberative democratic systems, this is not enough unless we simultaneously evaluate how deliberation connects to other, democratic, goals to determine how well the systems live up to the principles that originally inspired deliberative democracy. Moreover, this is a problem exacerbated by the structural ways people who experience oppression are excluded from, and negated within, the multiple spaces and dialogues that constitute deliberative systems themselves.

In addressing the newest iteration of deliberative democracy, John Parkinson describes a deliberative system as “deliberative to the extent that it connects claims with reasons, and listens and reflects in a deliberative way; it is democratic to the extent that it includes, decides, and endorses.”<sup>23</sup> As he suggests, these fit together at the systems level, and it is here that we need to evaluate success.<sup>24</sup> Thus, deliberative systems do not have one “correct” way of unfolding, but rather are intentionally dynamic.<sup>25</sup> Despite this necessary flexibility, certain aspects require evaluation (lest a series of shortcomings ruin the quality or “timbre” of the systems). The first is the contribution of systems’ deliberative and democratic elements, as well as the ways that these interact. The problem here lies with the opportunity for systematic exclusion because each component of a system is not required to include all affected people or arguments,<sup>26</sup> and because the flexibility for differing systems’ configurations – many of which may overlook, dismiss, or otherwise bar people and arguments – cannot reliably protect against such exclusions. These exclusions are exacerbated by the problem with the second aspect: the ways in which components combine *into* deliberative systems. The problem here is a core one: deliberative systems unfold against a background of systemic oppression. The pervasiveness of racism, sexism, colonialism, homophobia, transphobia, ableism, and many other injustices is not comprehensively addressed by deliberative systems, even though such oppression is at odds with the principles of deliberative democracy. The combination of deliberative systems’ shortcomings and the oppression that underpins deliberative systems limits the reach of the inclusion framework. This remains true regardless of how much we may wish that oppression didn’t – or didn’t need to – affect deliberative systems, how much hope deliberative democratic theorists may have for principles of inclusion and equality, or how much idealism goes into discussing the potential contributions of activist components. The problem with the inclusion framework persists despite all the work that deliberative democrats have done, and continue to do, to examine how power functions in deliberative contexts, and despite efforts to address problems with issue framing, agenda setting, participation, representation, and inclusion and

exclusion more broadly. Systemic oppression is a particular – and surprisingly overlooked – element of power in deliberative democracy: one that is urgently in need of sustained analysis.<sup>27</sup>

An inclusion framework prevents deliberative democracy from responding to activism as something that is in dialogue with deliberative exchanges and decisions though necessarily outside of and in opposition to them. The external and engaged parts of activism are crucial to addressing the oppression that affects every component (and the overall timbre) of deliberative systems. Given that oppression is so pervasive, it will continue to determine who can and cannot participate in the various components of systems and will affect how the components shape – or cannot shape or restructure – a larger system. The omission of activism – understood as external and ultimately contestatory – poses a distinct democratic challenge to deliberative democracy. The book examines this problem. It views external activism as a normative requirement in democratic theory and as something that deliberative democrats need to address on its own terms, not as part of deliberative systems. Moving beyond an inclusion framework enables deliberative democracy to offer this type of response and to strengthen its legitimacy in the process. I show why this is the case and detail what needs to happen to make it possible.

### **Activism's Role in Deliberative Systems**

Activism is commonly perceived as fundamentally connected to democratic progress. From nationwide and global movements to smaller, local efforts, it contests the status quo. As activists challenge policies and practices, they often attempt to convince the majority to change its opinions and thus the prevailing political and social order. Other activists do not struggle for democratic reform and may reject this order altogether. Activists typically seek social justice, although such is not always the case. As the emergence of men's-rights and white-supremacy movements illustrates, challenges to the status quo can also turn away from social justice and from the core values of deliberative democracy, which emphasize the inclusion of all people as equals. Activism that pursues exclusion (and hatred) undermines deliberative democracy, but it also plays an important role: as John Stuart Mill suggests, the exchange of ideas – however terrible they may be – and the process of refutation are necessary for individual freedom and the enrichment of society.<sup>28</sup> Activists contribute to social and political reform as their actions, along with media coverage, appeal to influential and larger audiences, all with an eye to addressing issues on platforms that could generate serious discussion and change. Their effectiveness relies upon recognition that their communication methods and their arguments have a legitimate claim on the political process. Their methods, and all they entail regarding

distancing from “proper” deliberation, as well as procedural challenges, pose a concern to deliberative democrats, whose overwhelming drive is to find a place for activism. Whereas developments in deliberative democracy now mean that this place is within deliberative systems (and some micro deliberations), activist involvement is non-deliberative for the most part. Although this enhances the ability of activists to underline omissions and injustices, and serves a distinctive purpose in deliberative systems, it comes at the cost of a significant power imbalance. Ultimately, micro-deliberative and decision-making components evaluate the objections of activists, without ever having to engage with the activists themselves. To properly evaluate activism’s role in deliberative systems, we need to examine the goals and limitations of activism in the democratic context.

Activists may challenge the democratic majority for a number of reasons. When it comes to making institutions more inclusive, they are often instrumental. Groups that are excluded from power may mobilize to change the terms of the democratic process. Suffrage and vote-reform movements pursued this goal, as did tens of thousands of anti-corporate globalization protesters who blocked the thirteen entrances to the Convention Centre in Seattle, Washington, for the World Trade Organization’s (WTO) opening meetings on November 30, 1999. They denounced the secrecy of the talks and the undemocratic nature of a process that affected them but upon which they had virtually no influence. Through a series of affinity groups and activist hubs, the Direct Action Network managed to maintain a blockade, with new waves of protesters replacing people who were tear-gassed, shot with rubber bullets, and arrested. The “Battle of Seattle,” which essentially shut down the city, changed the nature of the globalization discourse.<sup>29</sup> It led to the expansion of the WTO and other international organizations, which now do more to make their work accessible and to engage in public forums with non-governmental organizations and international non-governmental organizations.<sup>30</sup>

In an era of deliberative systems, overt inclusion and exclusions are less stark than in the past, yet there are nonetheless important reasons to change the terms of deliberative processes. Whereas the formal exclusion of activists is unlikely to occur in deliberative systems, which incorporate them in an attempt to achieve more inclusive deliberative processes and outcomes, systemic sexism, racism, and homophobia reflect ongoing – and profound – failures of our social, political, and economic institutions. The victories of inclusion described above are affected by this, as the suffrage movement was infused with racism and colonialism, a fact that is often downplayed, as we saw in centennial celebrations of women’s enfranchisement. Systemic oppression pervades institutions, policy, and everyday interactions, affecting both deliberative and democratic activities. Deliberative systems include activism in dominant frameworks that remain

affected by this oppression, but they don't acknowledge the full depth of institutional obstacles to equal participation. Nor, in bringing activism in, do they make use of its full range of contestatory benefits.

Activism frequently tackles systemic exclusion. Feminist mobilization concentrates not only on formal inclusion and equal rights, but also on challenging the sexism that underlies unequal pay, glass ceilings, reduced autonomy, rape culture, and limited societal understandings of “acceptable” women’s (and non-binary) appearance and behaviour: exclusions that permeate social, political, and economic landscapes. For example, feminist activists have targeted gender-specific clothing, which often convey sexist messages, such as identifying boys as superheroes and girls as their love interests, or boys as “little scholars” and girls as “social butterflies.”<sup>31</sup> They may criticize dress codes in both schools and workplaces, as these are commonly gendered to perpetuate rape culture and victim blaming, as well as to restrict women’s movement.<sup>32</sup> Activists denounce victim-blaming views regarding the connection between clothing and sexual assault.<sup>33</sup> To make their point, they use a variety of tactics, including petitions, media satire, shaming via social media, boycotts, walk-outs, and global protests such as Slutwalk. All aim to combat power imbalances and draw attention to the systemic nature of sexist oppression, with varying degrees of success. A recent example includes the move by UK department store John Lewis to remove gendered labels from its clothing and to eliminate separate girls and boys sections in its shops.<sup>34</sup> Another is the resurgence and now widespread popularity of the #MeToo movement, which, though influential, continues to struggle with taking intersectional experiences seriously. This was clear in the initial failure to recognize the movement’s founder, Tarana Burke, and the relative lack of attention to Black women survivors, which is compounded by public dismissals of their #MeToo disclosures.<sup>35</sup>

Because they resulted in some public discussion and a degree of change, the above examples of activism fit readily into a deliberative systems approach. Nonetheless, two overarching problems remain. First is the larger, structural environment that elevates some activists and their critiques over others. Deliberation on activist issues occurs within deliberative systems, but it does so alongside sexism and racism, which influence the discussion’s framing and sustain marginalization. Feminist critiques face frequent dismissal, and white privilege compounds this, further marginalizing arguments by non-white activists. This coexistence reveals the insufficiency of an inclusion framework. Activism, it seems, “works” within systems that, for those who are subject to racism and sexism, are themselves broken.

Relatedly, including activism in deliberative systems affects our responses to ongoing disagreement. Sometimes, the interests of activists are diametrically

opposed. For example, there are major campaigns on both sides of the abortion debate: anti-abortionists frequently engage in actions ranging from peaceful, silent vigils to the display of images of fetuses paired up with those from genocides. Graphic – and blatantly misrepresentative – images appear on Operation Rescue’s “truth trucks,” as well as in the 1991 “Summer of Mercy” campaign in Wichita, Kansas, and the annual “40 Days for Life” campaigns.<sup>36</sup> At the most extreme end, activists target abortion providers, assassinating doctors and bombing clinics.<sup>37</sup> Pro-choice supporters also engage in a variety of strategies, ranging from distributing condoms at national protests, escorting women into abortion clinics, and illegally assisting them in obtaining abortions.<sup>38</sup> Others physically force debate at the highest institutional levels: in Canada, activists chained themselves to the parliamentary gallery in 1970, closing down the House of Commons (for a historic first time).<sup>39</sup> More recently in the United States, Senator Wendy Davis filibustered to stop a majority passing severe restrictions on abortion access.<sup>40</sup> There is constant support and criticism for both sides of the debate, as well as a continual, and shifting, string of victories and losses. No matter what pro-choice and anti-abortion activists do, one side or the other will always be on the losing side of abortion policy because their interests are so opposed. Thus, there will always be reasons to engage in activism. Including activism in deliberative systems contains it in a way that activists may find unhelpful, especially if deliberants note the unavoidable background of dissent as a reason to limit engagement with activists.

The second problem is that contentious tactics and conflicting activist goals sit uncomfortably with the idea that activists contribute to deliberative democratic ends.<sup>41</sup> The fact that activists sometimes fail to contribute to a healthy democratic society and can even go so far as to undermine it poses a difficulty for the inclusion framework. This reinforces a core problem with the framework: that activism has a role to play in deliberative systems, but one that is determined – and constrained – by those who benefit from existing institutions that coexist with systemic oppression.

On this second point, activists organize if a democratic majority gives legitimacy to a policy or practice they deem unjustifiable, or if it fails to address a significant issue in a certain way. This motivation is compatible with deliberative democracy, at least in principle, but some activists rely on tactics and rhetoric that overtly reject compromise and good faith deliberation.<sup>42</sup> This is true of some environmentalist and animal rights activists, who stress the difficulty of effecting the desired policy change and are convinced that appeals to the majority will not work.<sup>43</sup> Some conclude that legitimate democratic procedures are unjustifiable and often engage in highly visible and controversial actions, ones that challenge deliberative democratic norms.<sup>44</sup> Although this is not necessarily

a problem for deliberative systems, which accept that activists can make important contributions even if their behaviour is coercive,<sup>45</sup> hesitation about the ways in which it might be coercive, or might be perceived as such, reinforces the first problem. By definition, activists fight an uphill battle. This is not a new observation, but it does upset the role that proponents of deliberative systems hope activism will play. A tension remains between the expected (or rather hoped for) activist contributions and the structural obstacles that, in reality, steadily minimize activists' impact on the system.

These social and political actualities form the background context to deliberative democracy. The injustices that motivate activists remind us that our current systems – which deliberative systems necessarily function within – continue to fail marginalized groups. Ongoing conflict underscores the limitations of attempting to include activists, who will never unanimously see policies as inclusive or just, and not all of whom will really be heard. Deliberative systems hope to use activist mobilization to amplify marginalized voices, thereby improving both deliberative and democratic processes and outcomes. However, the inclusion framework manages activism, drawing from activist critiques as deliberants and decision-makers deem appropriate. This reduces activism's more contestatory aspects and, albeit unintentionally, sustains a broader exclusionary environment. As platforms for ongoing and effective activism, deliberative systems are unlikely to satisfy those who not only wish to express their dissent, but who also see justice as requiring a substantive response from “proper” deliberants and those with decision-making power.

How, then, do we move beyond this? I argue that instead of including activism in deliberative systems, we should develop connections between the two. Moreover, the way we do this needs to strengthen the democratic contestation at the heart of activism, which an inclusion framework cannot manage. A robust approach to democratic contestation requires a shift in our understanding of activism's role in democratic processes, as well as rethinking what it means to accommodate disagreement and challenge oppression. On this first point, activists must be part of a vigorous democratic process, both with their traditional push for inclusion in democratic processes and policies and externally as they try to hold actors in unresponsive and systemically unequal deliberative systems accountable. In terms of persistent disagreement, this approach highlights the need for an arrangement that better enables ongoing debate. Challenging oppression necessitates meaningful accountability, framings and platforms that acknowledge the problem, and interacting with those who are affected by structural inequalities. The common thread connecting systemic inequalities and exclusions is the type of inclusion that deliberative systems champion. Because they see activism as a component in larger deliberative systems – ones

that exist to pursue deliberative values and outcomes – the resulting, and ultimately constrained, justifications for activism deny those who are oppressed a meaningful platform to contest processes and outcomes. This, I argue, allows deliberative systems to avoid substantive democratic contestation and to coexist with ongoing oppression. In the long run, it fails to offer meaningful democratic legitimacy for all affected. Moving beyond this situation entails rethinking what it means for deliberative democracy to accommodate disagreement – and indeed, why the focus is on accommodation. More importantly, it means acknowledging that deliberative democracy cannot – and should not – attempt to make everything fit into deliberative systems.

### **Framing Activism for Democratic Engagement**

The standard approach in assessing the legitimacy of activism is to look to justice- and rights-based arguments.<sup>46</sup> Where people enjoy basic liberties, such as freedom of conscience, speech, and assembly, as well as procedural rights (freedom from arbitrary detention and arrest, the right to a fair process), they are free to partake in activism. Because there is a sphere of basic liberties in which the state cannot interfere, and because activism is an expression of this sphere, it warrants protection as an essential element of a well-functioning democracy. Whenever the majority restricts a minority's basic rights, the foundational basis for democracy – that everyone must be treated as moral and political equals – gives the minority recourse with the legitimization of activism. The right to engage in activism, including civil disobedience, is not only a basic freedom, but it also works “to maintain and strengthen just institutions.”<sup>47</sup> Thus, even when activism transgresses the law, it is nevertheless permissible as “a morally correct way of maintaining a constitutional regime.”<sup>48</sup>

The problem with a standard liberal account of activism, which anchors its legitimacy in rights and frames it as a democratic recourse to exclusion, is that it views activism as valuable insofar as it is a *supplement* to democratic engagement. If the majority fails to respect the equal standing of a minority, it can legitimately employ activism to correct the situation. Although the right to engage in activism is important, relying on a rights-based justification does not do enough to help people who position themselves outside of institutionalized democratic processes and who have good reason for doing so. Having the right to present an argument does not mean that people will necessarily listen to it, let alone engage in a robust way, or that institutions will encourage uptake. Indeed, much activism gains little traction. This is not inevitably lamentable: some arguments simply fail to convince, and others are patently unjust. Examples here include white supremacy, which demands that white people should enjoy political domination over non-whites, and the homophobic Westboro Baptist

Church, which preaches hate, proclaiming that “AIDS Cures Fags.”<sup>49</sup> There is no loss to society if the arguments of these groups do not succeed. In other instances, the compelling justice-based arguments of activists may be ignored, and activists themselves are subject to hostility, dismissal, and violence. Much of BLM activism falls into this category, as society resists meaningful engagement with anti-Black racism and continues to support policies and practices that sustain it, commonly while generating superficial, racist, and often sexist characterizations of the group’s perceived flaws.<sup>50</sup>

As a supplement to democratic engagement, activism requires a receptive audience; this, however, is difficult to secure in societies with structural and systemic problems and deep-rooted power imbalances. The lunch counter sit-in at the segregated Woolworth’s department store in Greensboro, North Carolina (1960), the bombing of a freedom ride bus in Anniston, Alabama (1961), and the nationwide televised footage of police using clubs, firehoses, and dogs on peaceful protesters in Birmingham, Alabama (1963) were all widely publicized, earning civil rights activists considerable public support and contributing to the passage of civil rights legislation in 1964 and 1965. However, lunch counter sit-ins began during the late 1940s, and the first freedom ride occurred in 1947, as a “Journey of Reconciliation.”<sup>51</sup> Although they achieved localized desegregation, they enjoyed only limited success as critiques of nationwide racist policies.<sup>52</sup> And, of course, the victories of the 1960s continue to coexist with widespread state-sanctioned anti-Black racism and violence. BLM and #SayHerName routinely protest this fact, yet little of substance has changed. The problem with activism as a corrective is that too much depends on the willingness of those who possess institutional power to listen to those who do not. When that power is characterized by white supremacy and privilege, the institutional structures are literally built to dismiss substantive structural change.

If activists are to succeed, the democratic majority must become involved in a dialogue that takes their arguments and the background context seriously. Indeed, we need to view activists as doing more than exercising their right to speak – as highlighting an issue that requires engagement and policy consideration, and sometimes an entirely new framework. In the deliberative context, *where* (and how) activists interact with deliberants and decision-makers affects the perception of their legitimacy. Although many deliberative democrats now see activism and deliberation as compatible – moving away from the view that they “cannot usually occur together” – the long-standing position was to reject activist critiques on the grounds that they were weak or unreasonable.<sup>53</sup> Given this, activists either had to reframe their arguments or accept exclusion.<sup>54</sup> (Some deliberative democrats still exclude activism and dissent.)<sup>55</sup> With the advent of deliberative systems, activists not only have a right to speak, but also form an

important component of larger systems. The problem here is with the way in which they are incorporated. Powerful components, much like the democratic majority itself, may not be predisposed to see activist arguments as important or to think that a certain issue needs greater attention – both of which play a big role in determining the uptake of activism. Merely having the freedom to partake in activism, even when deliberative systems encourage it, may achieve very little, given that there is no obligation for others to respond.<sup>56</sup> This undermines a broader democratic recognition of the right to protest. Of course, activists hope that once the majority recognizes the rightness of their arguments, it will change its position (and actions). Similarly, the proponents of deliberative systems hope that deliberative and decision-making components will take activist arguments seriously (when the content warrants it). However, hopes are not synonymous with institutional protections, and they provide a weak response to widespread inequality and oppression. Outlining what *should* happen offers very little to people whose activism fails to garner attention. Ultimately, activism's robust democratic contribution depends on more than the right to engage.

Another standard approach is to view activism as a rejoinder to injustice. With the perpetuation of racist, sexist, religious, homophobic, and gendered discrimination (to name only a few), activism asserts citizens' moral objections to injustices that governments generate or condone in their name. Inequalities of wealth, power, and opportunities contribute to and perpetuate these injustices, and activists target them wherever they occur. When traditional democratic methods of redress fall short, injustices evoke a duty to respond. This is true regardless of whether the problem lies in discrimination against trans people, inequitable incarceration rates for Black and Indigenous people, colonialism, or because powerful elites make decisions on undemocratic grounds, as with the WTO and other multinational organizations. All such examples legitimate activism, which becomes an important tool to secure a more just polity.<sup>57</sup>

However, there is a certain drawback to presenting activism as a way of fixing problems and creating the just society. This view suggests that it would become unnecessary once the right conditions of inclusion were achieved. Indeed, this idea shaped deliberative democracy's early discussion as theorists framed the activist challenge in terms of finding the most appropriate response to instances where deliberative democrats were unwilling to discuss activist demands.<sup>58</sup> The likelihood of finding ourselves in a perfect world aside, assuming that there is a correct way to structure the demos or that we can resolve all politically relevant disagreement poses a core challenge to activism. Whereas deliberative systems create space for activism, this approach still tends to see activists as contributors to deliberative processes, providing "proper" deliberants and decision-makers

with information and motivation to address their concerns.<sup>59</sup> In this view, activists are necessary insofar as they increase the inclusive capacity of deliberative democracy; the aim is not to resolve all disagreement, or phase out activism, but rather to structure deliberative systems to incorporate disagreements within them. There are two main problems with this approach. First is the way that deliberative systems deal with disagreement: while disagreement may occur anywhere in deliberative systems it is still the “properly deliberative” channels that have the power to effect structural change. As long as broader deliberative success is the true target of analysis, the view that activists participate in deliberative systems to enhance them will be insufficient. The second problem is the assumption that all disagreement unfolds (and should unfold) within deliberative systems, which thereby subjects activist contributions to the evaluation of deliberants and decision-makers. This inclusion framework, which underestimates the depth of disagreement and the value of contestation, has clear implications for – or, rather, against – substantive democratic engagement.

Neither rights- nor justice-based arguments fully capture why activism is important. In both instances, activism is secondary to a larger ideal, whether democratic freedom or a perfectly just world. If we focus on rights or justice, we run the risk of downplaying activism’s contribution to democratic theory, accepting it as a right that is ultimately not grounded in a corresponding obligation to listen and engage. Recognizing that democratic societies are not ideal and that we can’t always get what we want (or deserve) leads people to adjust their expectations and dismiss many activist claims. Activists are then unable to advance democratic engagement, and both marginalized groups and the health of democratic society suffer accordingly.

I argue that activism is not merely morally permissible and important from a justice standpoint. Indeed, it is a *requirement* in democratic theory and practice. Thus, deliberative democratic theorists need to pay greater attention to it, and do so on its own terms, not as part of deliberative systems.<sup>60</sup> Democracy cannot escape or resolve all disagreement; nor should we aim for this.<sup>61</sup> Successful activist engagement requires attention to larger questions of framing. If activism is to facilitate democratic debate on contested issues, we must reconceive it as an integral part of substantive democratic engagement, rather than simply as a supplement. Maximizing its contribution requires a focus upon its persuasive elements and ability to confront democratic processes at the level of framing. Doing this requires a close analysis of institutional support for activism, ranging from laws regulating access to public space to the norms that shape views of activism’s legitimacy. Instead of supplementing democratic institutions, activism’s main contribution is its ability to challenge the background to democratic discourse. When it challenges the overarching agenda of democratic processes

and affects people's involvement in them, it plays an integral role in securing democratic legitimacy. The democratic justification for activism, I argue, ought to do more to reflect this. This in turn needs to affect how we conceptualize a deliberative form of democratic engagement and its robust – and necessarily contentious – relationship with activism.

### **Deliberative Systems and Oppression: The Limits of an Inclusion Framework**

The dilemma with including activism, whether in specific deliberations or deliberative systems, springs from the inherent tension between deliberative democracy's strengths and its implications for non-traditional participation (especially by activists) in real-world and deliberative systems' contexts. Deliberative democracy is a theory and practice with a special interest in exclusions and injustices, even if it does not deal well with systemic oppression. Its central concern is with developing a substantive account of meaningful democratic inclusion, which requires the exchange of reasons and justification. Decisions must be ones that all can accept, even if they disagree with them, based on a fair and equal process, and they require mutual justification to ensure that everyone participates as moral and political equals.<sup>62</sup> Deliberative theorists pay attention to the obstacles that deliberants, especially minority groups, may encounter, advocating a broader range of acceptable reasons and ways for deliberants to communicate.<sup>63</sup> They also scrutinize the deliberative environment. The aim is for all people who are affected by an issue to deliberate,<sup>64</sup> to do so effectively, and, with the systemic turn, to enhance the process by incorporating other components, including activism. The attention to exclusions and injustices increases the normative weight of the theory and explains much of the support for the deliberative and systemic turns in democratic theory.

Although deliberative systems purposefully incorporate flexibility into ways of collectively meeting deliberative democratic obligations, they are nonetheless affected by certain norms. These are most apparent in particular components of deliberative systems, notably in deliberative forums, or “mini-publics,” which are inspired by attempts to employ the benefits of deliberative democratic theory in real-world settings. The proliferation of mini-publics carries with it significant attention to institutional design, and these deliberations absorb considerable time and resource commitments. Deliberative practitioners often concentrate on remedying underlying exclusion by carefully selecting participants and emphasizing fair deliberative processes, including mediator- or facilitator-guided processes of mutual justification.<sup>65</sup> These efforts, combined with a stress on political equality, lend considerable legitimacy to deliberative forums and their recommendations.<sup>66</sup> When the forums affect policy – in large part because of

the perceived positive aspects of deliberative democracy – political institutions will benefit. This should make deliberative democrats, and anyone concerned with greater democratic engagement, happy. Yet despite such progress, deliberative democracy does not offer an uncomplicated advancement of democratic engagement. The practical difficulties of activists' appeals, as they attempt to change the framing, process, or content of deliberations, are often overlooked. This diminishes the likelihood that decision-making components, or the democratic majority, will accept activists' criticisms and recommendations. Deliberative systems do enable activists to influence the deliberative democratic outcome, but the practical obstacles involved, especially given that the analyses typically employed by deliberative democrats do not well capture systemic oppression, remind us that power differences still significantly impede deliberative equality.

The activist challenge emerges because the strengths of deliberative democracy work against activists, even when its aim is to include them. Although the proponents of deliberative systems acknowledge the importance of connecting deliberative components to systems' structures and know that work still remains to be done here,<sup>67</sup> they underestimate the impact of power relations on the ability of systems to function in an inclusive way. Where the "future work" identifies the need to develop links between components, it does so, I argue, at the expense of identifying – and reckoning with – a deeper structural problem: that of systemic oppression that undervalues activists' contributions.

Perhaps counterintuitively, the structural biases against activists exist because inclusion is a requirement for deliberative legitimacy. These biases manifest in perceptions that because activist arguments largely occur outside of deliberative components, they are somehow inherently less legitimate. Here, the suspicion is that activists tend not to involve themselves in deliberations because they cannot do so effectively and because their arguments are weak, not because of an underlying context of systemic inequality.<sup>68</sup> Given this, when they do choose to participate, they are likely to encounter marginalization and dismissal. Whereas charges of their "unreasonableness" and lack of efficacy were pronounced in early iterations of deliberative democracy, the concern did not disappear with the shift to deliberative systems.<sup>69</sup> Now, activists tend to experience marginalization rather than outright dismissal, as deliberants and decision-makers pick and choose which elements of their critiques – if any – warrant consideration in deliberative systems. Activists may advocate policies, processes, and other changes that the majority ignores or resists, but relying on the powerful to respond positively, without establishing any obligation for them to do so, largely ensures that substantive re-examination and reframing are unlikely. In this situation, deliberative systems leave activists vulnerable to the evaluations

of other people. What activists need instead is a rich deliberative space in which they can make a sustained case themselves, pursuing claims in environments with a real possibility of policy uptake. Lacking this, and when relegated to their “own” sphere in the system, activists will always have to struggle against an ingrained bias that their arguments are flawed and unworthy of attention. When this is compounded by an uneven relationship between components, and when it occurs against a background of oppression, deliberative systems cannot meaningfully fulfill deliberative democratic norms.

Of course, activists are at liberty to contest deliberations and outcomes and can object to the ways in which they are ignored or mischaracterized. They are also free to reject deliberative systems entirely, denouncing the type of inclusion that deliberative democrats extend and calling for a significantly different approach. In this sense, deliberative democracy has the same connection to activism as other democratic theories and practices: there is nothing about it that stops activists from pursuing their own strategies. However, its emphasis upon inclusion and mutual justification puts activists at a disadvantage, particularly when they denounce deliberations and outcomes rather than critiquing (from within) deliberative processes and decisions in the “useful” way that deliberative systems envision. When this happens, the losses of activists become rationalized and justified, whether with respect to the losses themselves or the timeframe for social change, while deliberative systems celebrate their deep inclusion and uphold their own legitimacy.

Several assumptions are implicit in deliberative democratic criteria. First, because deliberative democracy is a largely successful response to injustice and inequalities, it can accommodate activism. Assertions that it can achieve this via deliberative systems raise a second assumption: that deliberative systems treat activists fairly by allowing them to engage, while still ensuring that their arguments affect deliberations. However, hopes for fair and inclusive accommodation overlook the effects of deliberative democratic norms on powerful components’ responses to activism. As micro-deliberative and decision-making components are ultimately responsible for listening to activists (or not), what they deem legitimate still affects how seriously they take activist concerns. The problem is that because deliberative systems give activists even more opportunities to affect broader systems than previous iterations of deliberative democracy, deliberants may readily interpret their inability to do so as proof that their arguments are weak or untenable. As a result, a deliberative systems approach that includes activists as an important component may undermine their chances of affecting institutions – whether they try to do so within the bounds of deliberative systems or from the outside.

Ultimately, claims that inclusion within deliberative systems can accommodate activists fail to capture a core part of activism: the need to conduct necessarily contentious, external critiques of oppressive power structures. Deliberative democracy does have a high standard of justification, but there is no guarantee that deliberants and decision-makers will act on it. We cannot rely on assertions that deliberants will always agree on deliberative framings, remain unaffected by racism and sexism, fairly evaluate reasons, or justify decisions to everyone as a way to draw properly from activist arguments. The problem is greater than one of trying to remedy power imbalances within deliberations until we finally manage to get it right. It is a mistake to think that a fully inclusive version of deliberative democracy can consistently be implemented and can thus satisfy the requirement of treating everyone as equals. Such an approach ignores the inescapable reality of deep and contentious disagreement, as well as systemic inequality and oppression. It also ignores that healthy democracies need a way to deal with substantive contestation and does not recognize the democratic value of the *process* of external activism. If deliberative democracy is to engage substantively with activists on their own terms – in other words, as activists – it cannot expect them to fit into oppressive systems. Although a focus on improving deliberative systems by highlighting activism's contributions is important, it detracts from activism as a contentious – and often unsuccessful – democratic activity. Ultimately, if deliberative democracy ignores external activism, there is a fundamental weakness in a theory and practice that claims to be better than other democratic configurations.

### **Approach of the Book**

The problem forming the basis for this book is the way in which deliberative systems try to make their processes more inclusive.<sup>70</sup> Incorporating activist components into deliberative systems closes off space for democratic contestation and fails to recognize activism as an external phenomenon. When people object to deliberative framings and decisions that are underpinned by unjust power structures and structural oppression, they cannot rely upon deliberative processes – even at a systemic level – to resolve these grievances. A central claim of the book is that a focus upon inclusion is insufficient for a substantive account of deliberative democratic legitimacy. If the concerns raised by activists exist because of structural inequalities, and if deliberative democrats insist that these problems must be resolved in deliberative systems, activists will be seen as weak participants or will be excluded if they reject the terms of debate. When this occurs, the requirement that people effect change from within deliberative systems may be insufficient to address the problem at hand. What people need in this situation is a space *outside* of deliberative systems in which

to engage with and persuade deliberants. Moreover, this space must not reduce activism's value in benefiting ongoing deliberations and activity in deliberative systems.

Deliberative democracy must consider activism as something that enables people to engage with the democratic process itself, rather than with deliberative systems processes, which form only part of broader democratic processes. I suggest that democratic engagement necessitates external contestation and that without it larger questions of framing will be out of reach and deliberative systems will be unnecessarily and unjustly constrained. When there are concerns with deliberative processes, activists should be able to challenge deliberative and decision-making components on the grounds of legitimacy, inclusion, and efficacy, and they should not be expected to enter into deliberative systems, where they may be co-opted, as a prerequisite to do this. The standard inclusion framework offered by deliberative theorists cannot provide a substantive role for activism. Without meaningfully acknowledging and engaging with the arguments of activists, deliberative democracy runs into serious democratic challenges.

The task of this book is to offer an account of deliberative democratic theory that recognizes why activism is important and that can situate it within the theory without co-opting it. To this end, I develop a theory of "activism-as-deliberation," which sets out a conceptual relationship between deliberative democracy and activism, one that I support with proposed changes in deliberative democratic theory and an analysis of oppression in deliberative systems. I draw from primary research conducted on the direct action group AIDS Coalition to Unleash Power (ACT UP), as well as other activism and deliberations, to present arguments for activists' dialogical and practical contributions in larger deliberative polities: spaces that encompass both deliberative systems and society and that are distinct from deliberative systems by their particular conceptualization of the relationship between deliberants and activists.