# 1

#### The resolution itself is a link. First, it inserts governmentality by using the term “just government.” This insertion of governmentality is the fetish of policy makers who think aggregate action is predictable and government is stable. Second, it creates a so-called “right” to strike. Rights to strike demand regulatory and policing apparatuses to uphold law and order. Strikes and labor negotiations are bio-political exercises in futility. Because of the diffuse nature of the market and the many interactions that make up exploitation of workers, the outcomes of striking and the imposition of a right to strike only hides the face of the sovereign and makes understanding bio-political relations impossible. Attempts to combine approaches create “disciplinary” pressure undermining bio-political analysis. Means perms fail.

Kennedy 2014 [Duncan, Pf Law Harvard] “The Stakes of Law, or Hale and Foucault!” **Harvard Legal Studies Forum** <http://iglp.law.harvard.edu/wp-content/uploads/2014/10/Duncan-Kennedy-Stakes-of-Law-excerpts.pdf/EM>

Foucault’s understanding of power might have led him to explore economic life, including institutions like the factory and the firm, and the role 354 Legal Studies Forum of law in the outcomes of public conflict. He believed that disciplinary power was a “fundamental instrument in the constitution of industrial capitalism” (Foucault 1980, 105). In “The Subject and Power” (1989) he proposes a scheme of dimensions for the study of power that treats the economic as strictly parallel to the specialized institutional domains that mainly interested him. Moreover, he presents laws and legal institutions as elements in power situations without sharply distinguishing them from other elements, such as professional knowledge and disciplinary authority (see Foucault 1989, 792). But this passage, the closest (so far as I know) that he got to Hale’s analysis, is truly exceptional in Foucault’s work. He almost never focuses on the exercise of power in a bargaining situation in which the bargainers are cooperators in producing a joint product. Negotiation in the shadow of the law is just not part of his project. Neither are strikes, legislative reform movements, the transformation of the material conditions of working-class life, the vulgar category of distribution of income. When he focuses on the family, it is on the control of infantile sexuality, say, rather than the division of housework through a process that includes recrimination, slacking, and explosive anger, all against the background of legal rules as well as the background of disciplines. Foucault takes, over and over again, the first step across this gap by listing the factory or the workshop as one of the disciplinary institutions11. In Discipline and Punish he takes a second step, explicitly linking the development of disciplinary power/knowledge to the accumulation of capital and the modern transformation of the techniques of production: “[T]he two processes -- the accumulation of the men and the accumulation of capital -- cannot be separated; it would not have been possible to solve the problem of accumulation of men without the growth of an apparatus of production capable of both sustaining them and using them; conversely, the techniques that made the cumulative multiplicity of men useful accelerated the accumulation of capital,” and technological change as well (see Foucault 1979, 221, 224-25). The third step should be to incorporate worker activity and resistance into the story of the factory, and the personal/political battle between men and women into the story of domestic production. Foucault repeatedly insists that there is no power without resistance, never a one-way imposition from above (see Foucault 1978, 92-96; 1979, 26-27; 219, 285-92; 1977, 148-52; 1988, 780-81, 190-95). The outcome of these confrontations is both the distribution of income and wealth between classes through bargaining, and the concrete forms of disciplinary power/knowledge in the presence of resistance. The two kinds of outcomes are related; the distributional outcome affects the forms of power/knowledge, and vice-versa. To understand both, we need to bring the law back in. We need to bring it back in as rules and enforcement institutions that condition the struggle, in The Stakes of Law, or Hale and Foucault! 355 the mode of Hale. Foucault doesn’t do this, perhaps because the factory and marriage play compromised roles in his theory; they are unquestionably “like” the other disciplinary institutions, but at the same time operate under a legal/ideological regime that sharply distinguishes them. The objects of discipline in the prison, the mental hospital, the barracks, and the school do not yet have, have never had, or have forfeited “normal” contractual capacity and many other rights as well. Workers and wives are supposed to be “free,” in the sense of enjoying the “universal” rights of the citizen in a liberal state. Foucault might have responded that this is a liberal distinction without a difference, that the appearance of bargaining and negotiation, of limits on mutual coercion in the style of Hale, is an illusion; the reality is discipline. There would have been an analogy to Marx’s account of worker powerlessness in the first volume of Capital. And sometimes this seems to be just what he is doing. The problem is that his critique of legalist mystification of relations of domination applies equally to all disciplinary institutions. He doesn’t take seriously the liberal claim that the factory and the suburban bungalow are different from the mental hospital or the barracks. The disciplines should be regarded as a sort of counter-law. They have the precise role of introducing insuperable asymmetries and excluding reciprocities. First, because discipline creates between individuals a “private” link, which is a relation of constraint entirely different from contractual obligation; the acceptance of a discipline may be underwritten by contract; the way in which it is imposed, the mechanisms it brings into play, the nonreversible subordination of one group of people by another, the “surplus” power that is always fixed on the same side, the inequality of position of the different “partners” in relation to the common regulation, all these distinguish the disciplinary link from the contractual, and make it possible to distort the contractual link systematically from the moment it has as its content a mechanism of discipline. We know, for example, how many real procedures undermine the legal fiction of work contract; workshop discipline is not the least important (Foucault 1979, 222-23).

#### The plan’s deployment of rights does not limit sovereign power, but rather reinforces the power of exception which legitimizes abuses in the first place. Turns case into a circular endeavor. No solvency and link. Also proves the perm will fail.

Kohn 2006 (Margaret, assistant professor of political science at the University of Florida-Gainesville, “Bare Life and the Limits of the Law,” *Theory and Event* 9.2 (2006): Project Muse)

6. At this point it should be clear that Agamben would be deeply skeptical of the liberal call for more vigorous enforcement of the rule of law as a means of combating cruelties and excesses carried out under emergency powers. His brief history of the state of exception establishes that the phenomenon is a political reality that has proven remarkably resistant to legal limitations. Critics might point out that this descriptive point, even if true, is no reason to jettison the ideal of the rule of law. For Agamben, however, the link between law and exception is more fundamental; it is intrinsic to politics itself. The sovereign power to declare the state of exception and exclude bare life is the same power that invests individuals as worthy of rights. The two are intrinsically linked. The disturbing implication of his argument is that we cannot preserve the things we value in the Western tradition (citizenship, rights, etc.) without preserving the perverse ones. 7. Agamben presents four theses that summarize the results of his genealogical investigation. (1) The state of exception is a space devoid of law. It is not the logical consequence of the state's right to self-defense, nor is it (qua commissarial or sovereign dictatorship) a straightforward attempt to reestablish the norm by violating the law. (2) The space devoid of law has a "decisive strategic relevance" for the juridical order. (3) Acts committed during the state of exception (or in the space of exception) escape all legal definition. (4) The concept of the force-of-law is one of the many fictions, which function to reassert a relationship between law and exception, nomos and anomie. 8. The core of Agamben's critique of liberal legalism is captured powerfully, albeit indirectly, in a quote from Benjamin's eighth thesis on the philosophy of history. According to Benjamin, (t)he tradition of the oppressed teaches us that the 'state of exception' in which we live is the rule. We must attain a concept of history that accords with this fact. Then we will clearly see that it is our task to bring about the real state of exception, and this will improve our position in the struggle against fascism. (57) 9. Here Benjamin endorses the strategy of more radical resistance rather than stricter adherence to the law. He recognizes that legalism is an anemic strategy in combating the power of fascism. The problem is that conservative forces had been willing to ruthlessly invoke the state of exception in order to further their agenda while the moderate Weimar center-left was paralyzed; frightened of the militant left and unwilling to act decisively against the authoritarian right, partisans of the rule of law passively acquiesced to their own defeat. Furthermore, the rule of law, by incorporating the necessity of its own dissolution in times of crisis, proved itself an unreliable tool in the struggle against violence. 10. From Agamben's perspective, the civil libertarians' call for uniform application of the law simply denies the nature of law itself. He insists, "From the real state of exception in which we live, it is not possible to return to the state of law. . ." (87) Moreover, by masking the logic of sovereignty, such an attempt could actually further obscure the zone of indistinction that allows the state of exception to operate. For Agamben, law serves to legitimize sovereign power. Since sovereign power is fundamentally the power to place people into the category of bare life, the law, in effect, both produces and legitimizes marginality and exclusion.

#### Every reform has a bio-political component which mutes its ability to address aggregate concerns. The assumption of aggregation is the problem. Reform efforts are excuses to create a “civilian military assemblage” that increases state power. This thwarts the innovative potential of the affirmative and causes bio-political failure.

**Ryan, 2016** (Barry, Senior Lecturer in International Relations at Keele University, “Becoming Motenegrin: biopower, police reform and human rights.” The International Journal of Human Rights 21 March 2016) 3-5

Adopted for hospitals, schools and factories, the Panopticon became a more generalised schematic of governance that gradually ‘spread throughout the social body’ to strengthen society, ‘increase production, develop the economy and raise the level of public morality’. 19 The major contribution Foucault made through these studies was to show how techniques of military discipline liberalised and infiltrated civilian institutions and later became embedded throughout society. This rationality of governance, which he termed biopolitics, The came to constitute a mode of political power exercised through modern Western societies, producing through law, custom, force and ethics to produce calculable, rational, governable liberal subjects.20 The schematic of Bentham’s Panopticon, Foucault argued, ought to be understood as a metaphor for the profound epistemological shift in the exercise of sovereign power that occurred with the rise of liberal values in the nineteenth century. As Foucault outlines, the liberal state differed from its predecessor in terms of its methods to secure space. The problem of sovereignty, he wrote, is ‘no longer of fixing and demarcating the territory, but of allowing circulations to take place, of controlling them, sifting the good from the bad, ensuring that things are always in movement … but in such a way that the inherent dangers of this circulation are cancelled out’. 21 Early radical liberalism conferred on this emergent modern subject rights that were irreducible to an economic model premised on the productive power of societal and individual freedom.22 Sovereignty had become a managerial rather than a patrimonial exercise of power under the cameralists of the eighteenth century, who saw the state as a machine and the ruler as the foreman for whom rule emanated from committees, bureaux, inspectors, statisticians and by other experts.23 As mercantilism gave way to free trade the break with the authoritarian decisionism of the Leviathan sovereign ruler who ruled down on a passive society was no longer appropriate to a framework of governance that required self-governing, responsible, disciplined, and above all, rational rights bearing subjects. In Foucault’s lecture series, On the Birth of Biopolitics, 24 he argues that two conceptions of freedom arose from this epistemological break in sovereign rationality: a revolutionary juridical definition of freedom where the individual was deemed to be in possession of certain freedoms; and a utilitarian definition of freedom which asserted a limit on the practices of public authorities over the civil society. These two accounts of freedom, Foucault insists, had heterogeneous histories. Nonetheless it was the latter formation which persisted to mark out modern freedom, so that governmental utility is used to gauge the juridical limitation of public authorities. ‘Since the beginning of the nineteenth century we have been living in an age in which the problem of utility increasingly encompasses all the traditional problems of law’. 25 The important implication arises that sovereignty is not so much a question of legitimacy, but of effect, of success. Contemporary sovereignty therefore serves to administer life as a sort of economic asset amidst the turbulence and uncertainty generated by the market based economy. In other words, an awareness of biopolitics allows us to contest the idealism of a linear rule of law dividing wrong from right. Instead it outlines a complex assemblage of pragmatic discretionary powers; a non-linear radically contingent array of interventions and orders that are continuously shifting in a grey zone where wrong and right is subject to the interpretative capacity of administrative, technical and security experts.26 It is in such conditions of liquid modernity27 that the rule of law contends with, supports and is utilised by what Walter Benjamin termed the rule of police. 28 Nikolas Rose has pointed out that the rationality of governing through the norm of freedom required a thorough knowledge of the population of the sort that only a policing agency could collate and process.29 Consequently, police power, understood as the activity of data gathering and sharing, includes not only the police officer, but, for example, the social worker, the psychiatrist and the probation officer. Thus an assemblage of police relationships can be found, as Foucault recounts, at the birth of modern police in the eighteenth century.30 Importantly, the rise of police power coincides with, indeed participates in, the discovery of ‘population’ as an object of statistical survey. Based on the assumption that by knowing the essence of things one can improve them so as to maximise their potential for economic and political utility, liberalism requires knowledge for ceaseless reforming. 4 B. J. Ryan Downloaded by [University of Otago] at 17:34 04 June 2016 Biopower is constituted by the capacity to improve minds and bodies by tinkering with the institutions and agencies that regulate human behaviour.31 Dillon reminds us that a liberal life cannot be guaranteed without a security apparatus which regulates life around a terrain of values, demarcated as being the essence of a (good) human.32 More importantly it must gather this knowledge, from a distance, without disturbing the flow of people and things that maintain the health of the economy. As Bell describes it; ‘biopolitical governance emphasizes indirect forms of rule through state agencies that govern “at a distance” through various regulatory protocols’. 33 Law enforcement is consequently less concerned with upholding timeless, fundamental ideals, than it is with the pragmatics of configuring a network of relationships to more effectively know and manage the life processes of its population. Brodeur has referred to this in terms of a policing web34 – a civilian-military assemblage that processes what has been described as the ‘production of freedom’. 35 As Evans forcefully argues, ‘biopolitical regimes of security governance have always revolved around threats to existence’. 36 If needs be, such a regime ought to withdraw these freedoms until such time as the environment is once again safe. The imperative to secure these rights, which form the existential undercurrent of a liberal market economy, demands a highly integrated, dynamic, networked police apparatus formed around knowledge, planning, surveillance and, of course, intervention.

#### No value to life in a biopolitical framework—everyone is exposed to the possibility of being reduced to bare life in the name of instrumentality

Agamben 1998 [Giorgio, professor of philosophy at university of Verona, Homo Sacer: Sovereign Power and Bare Life, pg. 139-140]

It is not our intention here to take a position on the difficult ethical problem of euthanasia, which still today, in certain coun­tries, occupies a substantial position in medical debates and pro­vokes disagreement. Nor are we concerned with the radicaliry with which Binding declares himself in favor of the general admissibility of euthanasia. More interesting for our inquiry is the fact that the sovereignty of the living man over his own life has its immediate counterpart in the determination of a threshold beyond which life ceases to have any juridical value and can, therefore, be killed without the commission of a homicide. The new juridical category of “life devoid of value” (or “life unworthy of being lived”) corre­sponds exactly—even if in an apparently different direction—to the bare life of homo sacer and can easily be extended beyond the limits imagined by Binding. It is as if every valorization and every “politicization” of life (which, after all, is implicit in the sovereignty of the individual over his own existence) necessarily implies a new decision concerning the threshold beyond which life ceases to be politically relevant, becomes only “sacred life,” and can as such be eliminated without punishment. Every society sets this limit; every society—even the most modern—decides who its “sacred men” will be. It is even pos­sible that this limit, on which the politicization and the *exceprio* of natural life in the juridical order of the state depends, has done nothing but extend itself in the history of the West and has now— in the new biopolitical horizon of states with national sovereignty—moved inside every human life and every citizen. Bare life is no longer confined to a particular place or a definite category. It now dwells in the biological body of every living being.

#### The role of the ballot becomes a negotiation of knowledge, a deciding of axes and boundaries. Evaluate our critique by its ability to reorient political perception and action.

Bleiker 2000 [Roland, coordinator of the Peace and Conflict Studies Program @ U of Queensland, Popular Dissent, Human Agency, and Global Politics]

Describing, explaining and prescribing may be less unproblematic processes of evaluation, but only at first sight. **If one abandons** the notion of **Truth,** the idea that an event can be apprehended as part of a natural order, authentically and scientifically, as something that exists independently of the meaning we have given it – if one abandons this separation of object and subject, then **the process of judging a** particular approach to describing and explaining an event **becomes a** **very muddled affair. There** is **no** longer an **objective measuring device that can set the standard to evaluate whether or not a particular insight into an event**, such as the collapse of the Berlin Wall, **is true or false**. The very nature of a past event becomes indeterminate insofar as its identification is dependent upon ever-changing forms of linguistic expressions that imbue the event with meaning.56 The inability to determine objective meanings is also the reason why various critical international relations scholars stress that there can be no ultimate way of assessing human agency. Roxanne Doty, for instance, believes that the agent–structure debate ‘encounters an aporia, i.e., a self-engendered paradox beyond which it cannot press’. This is to say that the debate is fundamentally undecidable, and that theorists who engage in it ‘can claim no scientific, objective grounds for determining whether the force of agency or that of structure is operative at any single instant’.57 Hollis and Smith pursue a similar line of argument. They emphasise that there are always two stories to tell – neither of which is likely ever to have the last word – an inside story and an outside story, one about agents and another about structures, one epistemological and the other ontological, one about understanding and one about explaining international relations.58 The value of an insight cannot be evaluated in relation to a set of objectively existing criteria. But this does not mean that all insights have the same value. Not every perception is equally perceptive. Not every thought is equally thoughtful. Not every action is equally justifiable. How**,** then, can one judge? **Determining the value** of a particular insight or action **is always a process of negotiating knowledge, of deciding where its rotating axes should be placed and how its outer boundaries should be drawn.** The actual act of **judging can** thus **be made in reference to the very process of negotiating knowledge**. The contribution of the present approach to understanding transversal dissent could, for instance, be evaluated by its ability to demonstrate that a rethinking of the agency problematique has revealed different insights into global politics. The key question then revolves around whether or not a particular international event, like the fall of the Berlin Wall, appears in a new light once it is being scrutinised by an approach that pays attention to factors that had hitherto been ignored. Expressed in other words, knowledge **about agency can be evaluated by its ability to orient and reorient our perceptions of events and the political actions that issue from them**. The lyrical world, once more, offers valuable insight. Rene´ Char: A poet must leave traces of his passage, not proofs. Only traces bring about dreams.

#### Alternative is “problematization.” I introduce bio-politics into the discussion and we understand the true diffuse nature of power which makes the statements made by the 1AC very problematic. The affirmative attempt to simplify it into basic terms of the mechanisms of power is inadequate. Problematization is key to activist movements, also challenges the effectiveness of non-reformist reforms

Terwiel, 2020 (Anna, Professor of political theory at Trinity College that focuses on carceral feminism and prison abolition, “Problematization as an Activist Practice” Theory and Event, Vol 23 NO.1 January 2020 68-70

Rather than seek solutions to practical policy questions, problematization aims to disrupt how problems and solutions alike are perceived. Such disruption, Foucault suggests, enables a radical rethinking of an issue and the creative development of new approaches. Problematization is usually understood as a style of philosophy that allows individuals to engage in ethical practices of self-transformation.[12](https://muse.jhu.edu/article/747095" \l "f12) Foucault's archaeologies and genealogies, for instance, can both be seen as forms of problematization: they use different methods to "clarify and intensify" the problems of our time and thereby make room for "experimentation on what we take to be the limits of our selves."[13](https://muse.jhu.edu/article/747095" \l "f13) However, scholars have not yet pursued Foucault's suggestion that problematization can also be [End Page 67] understood as an activist practice.[14](https://muse.jhu.edu/article/747095" \l "f14) Specifically, Foucault described the Prisons Information Group [Groupe d'Information sur les Prisons or GIP], an activist collective he co-founded in the early 1970s, as "an initiative of 'problematization.'"[15](https://muse.jhu.edu/article/747095" \l "f15) This article considers Foucault's late work alongside his writings for the GIP to theorize problematization as a collaborative activist practice. Problematization is activist because it seeks to enable social change, and collaborative because theorists are seen as "relays" in problematization rather than its originators. As I describe in greater detail below, the GIP formed in a moment of intense political contestation of the prison and tried to help translate prisoners' grievances, protests, and uprisings into a more generalized and widely shared "active intolerance" of the prison and punishment. Bringing together insights from the GIP's activism and Foucault's philosophical writings, I theorize problematization as a way of responding to protests that seeks to affirm and amplify their disruptive power by unsettling the ways of thinking used to adjudicate them. This interpretation of problematization, I will suggest, has the advantage of more clearly connecting the work of radical thinking with practical efforts at change than Foucault himself was able or willing to. Moreover, it expands the relevance of Foucault's work to prison politics beyond the tendency to use either specific Foucauldian concepts (such as biopower or neoliberalism) or scholarly methods (such as genealogy) to analyze punitive practices.[16](https://muse.jhu.edu/article/747095" \l "f16) And in the context of contemporary debates about mass incarceration, a problematization approach can help energize critiques of the prison while resisting their limitation to demands for better prisons.[17](https://muse.jhu.edu/article/747095" \l "f17) More generally, this essay proposes to consider Foucauldian problematization alongside other approaches that challenge justification and problem-solving as the primary contributions of political theory. Akin to Judith Butler's critical analysis of the "frames" that justify state violence and reproduce unequal vulnerability to death across the globe, problematization urges theorists to consider how dominant ways of thinking enable some practices and lives while obscuring or eliminating others.[18](https://muse.jhu.edu/article/747095" \l "f18) Butler's work further highlights the importance of problematizing the norms of gender, sexuality, and race that enable state violence and the unequal distribution of precariousness. Such problematization takes us beyond Foucault's own analyses of punishment to intersectional feminist analysis,[19](https://muse.jhu.edu/article/747095" \l "f19) critical trans politics,[20](https://muse.jhu.edu/article/747095" \l "f20) and other scholarly and activist efforts to "trouble the system we have."

Foucault depicts the work of diagnosing and defamiliarizing our ways of thinking—problematization—as a crucial part of collective efforts to change practices (such as punishment) and institutions (such as the prison). Intellectuals, he suggests, should work alongside "very different people such as magistrates, penal law theorists, penitentiary practitioners, lawyers, social workers, and persons who have experienced prison" in a shared "endeavor of reflection and thought."29 While these categories are by no means mutually exclusive—just think of the work of (formerly) incarcerated intellectuals such as George Jackson, Angela Davis, and Assata Shakur—I will focus, in this essay, on how theorists on the outside can contribute to prison activism.30 Yet problematization is not typically seen as a collaborative activist practice. Rather, scholars tend to interpret it more narrowly as a form of philosophy that can inspire ethical self-transformation. In the most in-depth analysis to date, Colin Koopman, for instance, depicts problematization as a type of genealogy that, by tracing the emergence of our ways of thinking, provides the materials needed "to constitute ourselves otherwise" or "rework[…] ourselves."31 The philosopher's diagnostic work, Koopman argues, should be "followed up by self-transformative responses," i.e. by "experimentation on what we take to be the limits of our selves."32 Foucault indeed often mentions the transformative effects of philosophy on the self, and his last published works analyze ethical practices through which individuals shape their subjectivity, such as dieting and regulating one's sexual appetites.33 But as I have begun to show, there are grounds for a more political reading of problematization also, which Koopman does not pursue. My aim is not to draw a sharp line between ethics and politics, or between individual and collective change, but to ask: What are the political and theoretical costs of restricting our understanding of problematization to individual ethics? What possible responses to mass incarceration open up when we approach problematization as a collaborative activist practice instead? One risk of restricting problematization to individual ethics is that we inadvertently reinforce the belief that problematization is inappropriate [End Page 70] for politics, understood as a domain that demands practical solutions to policy issues

# Case

#### First, don’t allow AC offense weighing:

#### Your aff analysis starts from the wrong point, that’s an epistemological indict, all your offense just feeds back into bio politics.

#### Reject their method:

#### Even if the state can be good in some instances, the links isolate reasons why the aff’s use of the state specifically is bad. Prefer the links on specificity

#### The granting of right implies the ability for the sovereign to grant right, which means they can take them away. Means the aff can just be circumvented or altered.

#### Working within the state is always a solvency deficit to the perm – this allows the state to control what it wants us to understand and learn and means we’ll never learn how to resist and create radical change

#### We’re an impact filter to their framing – we explain how oppression operates and why it exists

#### The role of the ballot precludes your standard for a few reasons.

#### It question our role in debate, the consequences of the plan don’t matter if our orientation in debate is flawed.

#### Is fait is illusory, giving the aff a ballot does nothing outside of the round, the ROB function to alter our perception of thing like political engagement, we need to stop creating mindless drones of the state from debate.

#### Claim about fairness don’t matter a) they don’t spill up b) debate is innately an unfair playing field c) voting on fairness is just the sovereign exercising control over what is fair and what is not, link back into our critique.

#### My role of the ballot is a question of ontology and epistemology – your framework presupposes both epistemology and ontology in the process of making its claims about life. If I win that even ONE of those presuppositions is bad, that’s enough to consider the ROB first.

#### Rights claims uphold masculinist and racist state. Prevents solvency and turns case.

**Bernhardt 2014** (JD, York University) “Rights, Losses and Gains,” **Paper Presented at the ECPR Graduate Student Conference** <https://ecpr.eu/Filestore/PaperProposal/a1bc8b61-14bd-48c3-88a9-0800a309d217.pdf>

Despite Brown’s acknowledgment of the diversity of the state, her depiction of the state is principally antitransformative and favouring stability. Furthermore, for Brown, the ‘contemporary liberal, capitalist, bureaucratic state’ is ‘masculinist.’ “The masculinism of that state refers to those features of the state that signify, enact, sustain, and represent masculine power as a form of dominance” (1995: 167). The masculinism of the state presents severe limits to the viability of a feminist emancipatory project that seeks recognition of gendered injustice and protection from the state. Goldberg explicates the analogous embedded racialization of the liberal state, which succeeds by treating race as morally and irrelevant while entrenching racial norms. As racism is normalized in institutional practices it is rendered both more influential and more invisible. Racial exclusion is further obscured by racialized systems of power, which marginalize and exclude racialized voices from dominant discourses. “Dominant discourses – those that in the social relations of power at some moment come to assume authority and confer status – reflect the material relations that render them dominant” (1993:9). Thus the material relations of gender and race act as unacknowledged, but central, features of the liberal state.

#### Their attempts at creating inclusive reforms always fail in a situation where they reinforce hegemonic political discourse, their political solutions will continue to be conditions by unjust power relations.

**Young, 1**(Iris Marion, “Activist Challenges to Deliberative Democracy”, Political Theory, Vol. 29, No. 5 (Oct., 2001), pp. 670-690)

The deliberative democrat responds to this activist challenge, then, by proposing to create deliberative fora removed from the immediacy of the given economic imperatives and power structures, where representatives of diverse social sectors might critically discuss those imperatives and struc- tures, with an eye to reforming the institutional context. Even at this point, however, the activist remains suspicious of deliberative practices, for still another reason traceable to structural inequality. He worries that the majority of participants in such a reflective deliberative setting will be influenced by a common discourse that itself is a complex product of structural inequality. By a "discourse," I mean a system of stories and expert knowledge diffused through the society, which convey the widely accepted generalizations about how society operates that are theorized in these terms, as well as the social norms and cultural values to which most of the people appeal when discuss- ing their social and political problems and proposed solutions. In a society with longstanding and multiple structural inequalities, some such discourses are, in the terms derived from Gramsci, "hegemonic": most of the people in the society think about their social relations in these terms, whatever their location in the structural inequalities. When such discursive systems frame a deliberative process, people may come to an agreement that is nevertheless at least partly conditioned by unjust power relations and for that reason should not be considered a genuinely free consent. In some of his earlier work, Habermas theorized such false consensus as "systematically distorted com- munication."9 When such hegemonic discourse operates, parties to delibera- tion may agree on premises, they may accept a theory of their situation and give reasons for proposals that the others accept, but yet the premises and terms of the account mask the reproduction of power and injustice.